State of Iowa

1995

ACTS AND JOINT RESOLUTIONS

(Session Laws)

Enacted At The

1995 REGULAR SESSION

Of The

Seventy-Sixth General Assembly

Of The

State Of Iowa

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

REGULAR SESSION BEGUN ON THE NINTH DAY OF JANUARY
AND ENDED ON THE FOURTH DAY OF MAY, A.D. 1995

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 Resolutions in this volume have been prepared from the original enrolled Acts and Resolutions on file in the office of the Secretary of State; are correct copies of those Acts and Resolutions; are published under the authority of the statutes of this state; and constitute the Acts and Resolutions of the 1995 Regular Session of the Seventy-sixth 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 SUPPLEMENT IS PUBLISHED. Changes will be shown in the Tables of Disposition of Acts in the 1995 Iowa Code Supplement.

Typographic style. The Acts and Resolutions in this volume are printed as they appear on file in the office of the Secretary of State. No editorial corrections have been made. Underlined type indicates new material added to existing statutes; strike-through type indicates deleted material. Italics within an Act indicate material item vetoed by the Governor. 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, 1995, 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

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ELECTIVE OFFICERS

Name and Office	County from which originally chosen

GOVERNOR

TERRY E. BRANSTAD	Winnebago
Robert L. Rafferty, Executive Assistant	Scott

LIEUTENANT GOVERNOR

JOY CORNING	Black Hawk
Carol Zeigler, Administrative Assistant	Black Hawk

SECRETARY OF STATE

PAUL D. PATE	Linn
Monty Bertelli, Deputy Secretary of State	Linn
John Gilliland, Deputy, Administration	Black Hawk
Carol Olson, Deputy, Elections	Polk

AUDITOR OF STATE

RICHARD D. JOHNSON	Polk
Warren G. Jenkins, Chief Deputy Auditor of State	Polk
Richard C. Fish, Deputy, Administration Division	Polk
Kasey K. Kiplinger, Deputy, Performance Audit Division	Polk
Andrew E. Nielsen, Deputy, Financial 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
Karl Koch, Chief Finance Officer	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
Judith A. Frazier, Agricultural Development Authority Acting Director	Polk
Steve Pedersen, Agriculture Marketing Bureau Chief	Polk

ATTORNEY GENERAL

THOMAS J. MILLER	Polk
Charles J. Krogmeier, Executive Deputy Attorney General	Story
Gordon Allen, Deputy Attorney General	Polk
Julie Pottorff, Deputy Attorney General	Polk

GENERAL ASSEMBLY

SENATORS

Name and Residence	Occupation	Senatorial District	Former Legislative Service
Banks, Brad ..... Westfield	Farmer	2nd–*Plymouth*, ... Woodbury	73, 74, 74X, 74XX, 75
Bartz, Merlin E. ..... Grafton	Farmer/Laborer	10th–Cerro Gordo, Mitchell, .. *Worth*	74, 74X, 74XX, 75
Bennett, Wayne ..... Ida Grove	Retired 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
Bisignano, Tony..... Des Moines	Project Manager, ... Polk County Board of Supervisors	34th–*Polk*	72, 72X, 72XX, 73, 74, 74X, 74XX, 75
Black, Dennis H. ..... Grinnell	Conservationist	29th–*Jasper*, Mahaska, ... Marshall, Poweshiek	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75
Boettger, Nancy ..... Harlan	Director of..... Education and Human Resource Development, Myrtue Memorial Hospital/Farmer	41st–Audubon, Harrison, ... *Shelby*	None
Borlaug, Allen..... Protivin	Farm Owner/ ..... Licensed Insurance Agent	15th–*Chickasaw*, Floyd, ... Howard, Mitchell, Winneshiek	74, 74X, 74XX, 75
Boswell, Leonard L. ..... Davis City	Farmer	44th–Adams, *Decatur*, Page, .. Ringgold, Taylor, Union	71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75
Connolly, Michael W. ..... Dubuque	Community ..... Relations Coordinator, Dubuque Community School District	18th–*Dubuque*	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75
Dearden, Dick L. ..... Des Moines	Job Developer, ... 5th Judicial District	35th–*Polk*	None
Deluhery, Patrick J. ..... Davenport	Insurance Agent/..... College Teacher	22nd–*Scott*	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75
Douglas, JoAnn ..... Adair	Farmer/Former ..... Teacher	39th–*Adair*, Dallas, Guthrie, .. Madison	None
Drake, Richard F. ..... Muscatine	Farmer	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
Dvorsky, Robert E. ..... Coralville	Job Developer, ... Community Based Corrections	25th–*Johnson*, Linn	72, 72X, 72XX, 73, 74, 74X, 74XX, 75
Fink, William (Bill)..... Carlisle	Teacher	45th–Marion, *Warren*	75
Flynn, Tom ..... Epworth	Business Owner	17th–Delaware, *Dubuque*, ... Jackson	None
Fraise, Eugene (Gene) ..... Fort Madison	Farming.....	50th–Des Moines, *Lee*	71(2nd), 72, 72X, 72XX, 73,74, 74X, 74XX, 75

Name and Residence	Occupation	Senatorial District	Former Legislative Service
Freeman, Mary Lou ..... Storm Lake	Substitute Teacher..	5th–*Buena Vista*, Cherokee, Clay, O'Brien, Plymouth, Pocahontas	75(2nd)
Gettings, Don E. ..... Ottumwa	Retired, John Deere	47th–Jefferson, Van Buren, ... *Wapello*	67(2nd), 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75
Giannetto, Randal J. ..... Marshalltown	Attorney	32nd–*Marshall*, Story	75
Gronstal, Michael E. ..... Council Bluffs	.....	42nd–*Pottawattamie*.....	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75
Halvorson, Rod..... Fort Dodge	Real Estate ..... Investor	7th–Boone, Calhoun, ... Hamilton, *Webster*	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75
Hammond, Johnie ..... Ames	Legislator.....	31st–*Story*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75
Hansen, Steven D. ..... Sioux City	Property ..... Management	1st–*Woodbury*	72, 72X, 72XX, 73, 74, 74X, 74XX, 75
Hedge, H. Kay ..... Fremont	Grain and ..... Livestock Farmer	48th–Keokuk, *Mahaska*, ... Marion, Wapello, Washington	73, 74, 74X, 74XX, 75
Horn, Wally E. ..... Cedar Rapids	Educator.....	27th–*Linn*	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75
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
Iverson, Stewart E., Jr. ..... Dows	Farmer	9th–Franklin, Hamilton,..... Hardin, *Wright*	73(2nd), 74, 74X, 74XX, 75
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
Judge, Patty ..... Albia	Farmer/Mediator	46th–Appanoose, Clarke, ... Davis, Lucas, *Monroe*, Van Buren, Wayne	75
Kibbie, John P. ..... Emmetsburg	Farmer	4th–Clay, Dickinson, ... Emmet, Kossuth, *Palo Alto*	59, 60, 60X, 61, 62, 73, 74, 74X, 74XX, 75
Kramer, Mary E. ..... West Des Moines	Insurance..... Executive	37th–*Polk*	74, 74X, 74XX, 75
Lind, Jim ..... Waterloo	Service Station ..... Owner/Operator	13th–*Black Hawk*	71(2nd), 72, 72X, 72XX, 73, 74, 74X, 74XX, 75
*Lundby, Mary A. ..... Marion	.....	26th–*Linn*	72, 72X, 72XX, 73, 74, 74X, 74XX, 75
Maddox, O. Gene ..... Clive	Lawyer	38th–Dallas, *Polk*	75
McKean, Andy ..... Anamosa	Lawyer/Bed and ..... Breakfast Operator	28th–*Jones*, Linn	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75
McLaren, Derryl ..... Farragut	Farmer	43rd–Cass, *Fremont*, Mills, ... Montgomery, Pottawattamie	74, 74X, 74XX, 75

*Elected in Special Election December 20, 1994

Name and Residence	Occupation	Senatorial District	Former Legislative Service
Murphy, Larry Oelwein	Adjunct College Instructor, Upper Iowa University	14th–Black Hawk, Buchanan, Delaware, *Fayette*	71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75
Neuhauser, Mary Iowa City	Attorney (Currently not practicing)	23rd–*Johnson*	72, 72X, 72XX, 73, 74, 74X, 74XX, 75
Palmer, William D. Pleasant Hill	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
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
Redfern, Donald B. Cedar Falls	Attorney	12th–*Black Hawk*	75(2nd)
Rensink, Wilmer Sioux Center	Farmer	3rd–Lyon, O'Brien, Osceola, *Sioux*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75
Rife, Jack Durant	Farmer	20th–*Cedar*, Clinton, Jones, Scott	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75
Rittmer, Sheldon De Witt	Farmer	19th–*Clinton*, Scott	74, 74X, 74XX, 75
Sorensen, Albert G. Boone	Owner/Operator, Bed and Breakfast	40th–*Boone*, Carroll, Greene	74, 74X, 74XX, 75
Szymoniak, Elaine Des Moines	Retired	36th–*Polk*	73, 74, 74X, 74XX, 75
Tinsman, Maggie Bettendorf	Agribusiness/ Social Worker	21st–*Scott*	73, 74, 74X, 74XX, 75
Vilsack, Tom Mount Pleasant	Lawyer	49th–Des Moines, *Henry*, Lee, Washington	75
Zieman, Lyle E. Postville	Retired Farmer	16th–*Allamakee*, Clayton, Fayette, Winneshiek	75

REPRESENTATIVES

Name and Residence	Occupation	Representative District	Former Legislative Service
Arnold, Richard ..... Russell	Farmer	91st—Appanoose, Clark, ... *Lucas*, Wayne	None
Baker, Tom ..... Des Moines	Self-employed	71st—*Polk*	74, 74X, 74XX, 75
Bell, Paul ..... Newton	Police Officer	57th—*Jasper*	75
Bernau, Wm. (Bill) ..... Ames	Legislator/ ..... Consultant	62nd—*Story*	74, 74X, 74XX, 75
Blodgett, Gary ..... Mason City	Retired ..... Orthodonist	19th—*Cerro Gordo*	75
Boddicker, Dan ..... Tipton	Electrical ..... Engineering Technician	39th—*Cedar*, Clinton, Jones ..	75
Boggess, Effie Lee ..... Villisca	Farmer	87th—Adams, Page, *Taylor*	None
Bradley, Clyde ..... Comanche	Retired U.S. Navy, ... Department of Defense	37th—*Clinton*, Scott	None
Brammer, Philip E. ..... Cedar Rapids	Legislator/Retired	53rd—*Linn*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75
Brand, William J. ..... Chelsea	Human Services ..... Professional	60th—*Benton*, Black Hawk, ... Tama	73, 74, 74X, 74XX, 75
Branstad, Clifford O. ..... Thompson	Farmer	16th—Hancock, *Winnebago*, .. Wright	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75
Brauns, Barry ..... Conesville	Manager, Muscatine County Fair	47th—Johnson, Louisa, ... *Muscatine*	75
Brunkhorst, Bob ..... Waverly	Computer ..... Programmer	22nd—Black Hawk, *Bremer*	75
Burnett, Cecelia ..... Ames	Environmental ..... Education Coordinator	61st—*Story*	None
Carroll, Danny C. ..... Grinnell	Realtor/Farmer	58th—Jasper, Mahaska, ... Marshall, *Poweshiek*	None
Cataldo, Michael J. ..... Des Moines	Vice President, Iowa EPS Products Inc.	68th—*Polk*	75
Churchill, Steven W. ..... Johnston	Fund Raising ..... Consultant	76th—Dallas, *Polk*	75
Cohoon, Dennis M. ..... Burlington	Teacher	100th—*Des Moines*	72, 72X, 72XX, 73, 74, 74X, 74XX, 75
Connors, John H. ..... Des Moines	Labor Arbitrator & .. Retired Fire Captain	69th—*Polk*	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75

Name and Residence	Occupation	Representative District	Former Legislative Service
Coon, Brian A. ..... Carlisle	Mechanical ..... Engineer	89th—*Warren*	None
Corbett, Ron J. ..... Cedar Rapids	Project Manager	52nd—*Linn*	72, 72X, 72XX, 73, 74, 74X, 74XX, 75
Cormack, Mike ..... Fort Dodge	Substitute Teacher/ Youth Baseball Coach	13th—*Webster*	None
Cornelius, Jerry ..... Bellevue	Small Businessman	34th—Dubuque, *Jackson*	None
Daggett, Horace ..... Creston	Retired Farmer	88th—Decatur, Ringgold, ... Taylor, *Union*	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72X, 72XX, 73, 74, 74X, 74XX, 75
Dinkla, Dwight ..... Guthrie Center	Attorney	78th—Adair, *Guthrie*, ... Madison	75
Disney, Larry ..... Pleasant Hill	Realtor	66th—*Polk*	None
Doderer, Minnette ..... Iowa City	Retired	45th—*Johnson*	60X, 61, 62, 63, 64, 65, 66, 67, 67X, 69, 69X, 69XX, 70, 71, 72,72X, 72XX, 73, 74, 74X, 74XX, 75
Drake, Jack ..... Lewis	Farmer	81st—Audubon, ... *Pottawattamie*, Shelby	75
Drees, Jim ..... Manning	Farmer	80th—*Carroll*, Greene	None
Eddie, Russell J. ..... Storm Lake	Retired Farmer/ ..... Business Owner	10th—*Buena Vista*, Clay, ... Pocahontas	72, 72X, 72XX, 73, 74, 74X, 74XX, 75
Ertl, Joe ..... Dyersville	CEO, Scale Models ..	33rd—Delaware, *Dubuque*	75
Fallon, Ed ..... Des Moines	Legislator	70th—*Polk*	75
Garman, Teresa ..... Ames	Farmer/Licensed ..... Realtor	63rd—Marshall, *Story*	72, 72X, 72XX, 73, 74, 74X, 74XX, 75
Gipp, Chuck ..... Decorah	Dairy Farmer	31st—Allamakee, ... *Winneshiek*	74, 74X, 74XX, 75
Greig, John M. ..... Estherville	Farmer	7th—Dickinson, *Emmett*, ... Palo Alto	75
Greiner, Sandra H. ..... Keota	Farmer	96th—Keokuk, Mahaska, ... Wapello, *Washington*	75
Gries, Don ..... Charter Oak	Retired School ..... Administrator	12th—*Crawford*, Monona, ... Woodbury	75
Grubbs, Steve ..... Davenport	Business Law ..... Teacher	40th—*Scott*	74, 74X, 74XX, 75
Grundberg, Betty ..... Des Moines	Business Owner	73rd—*Polk*	75

Name and Residence	Occupation	Representative District	Former Legislative Service
Hahn, James F. ..... Muscatine	.....	48th—*Muscatine*, Scott	74, 74X, 74XX, 75
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
Hammitt, Donna M. ..... Logan	Farmer/Property ..... Management	82nd—*Harrison*	None
Hanson, Donald E. ..... Waterloo	Educator	24th—*Black Hawk*	74, 74X, 74XX, 75
Harper, Patricia M. ..... Waterloo	Retired Educator	26th—*Black Hawk*	72, 72X, 72XX, 73, 75
Harrison, Neil P. ..... Davenport	Lay Professional, ... St. James Lutheran Church, Bettendorf	44th—*Scott*	None
Heaton, David E. ..... Mount Pleasant	Restaurant Owner ...	97th—Des Moines, *Henry*, ... Washington	None
Holveck, Jack ..... Des Moines	Attorney	72nd—*Polk*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75
Houser, Hubert ..... Carson	Farmer	85th—Fremont, Mills, ... *Pottawattamie*	75
Hurley, Charles D. ..... Fayette	Attorney	28th—Buchanan, *Fayette*	74, 74X, 74XX, 75
Huseman, Daniel A. ..... Aurelia	Farmer	9th—Buena Vista, *Cherokee*, O'Brien, Plymouth	None
Jacobs, Libby ..... West Des Moines	Manager, Disability Income Services, Principal Financial Group	74th—*Polk*	None
Jochum, Pam ..... Dubuque	Loras College	35th—*Dubuque*	75
Klemme, Ralph ..... Le Mars	Farmer	4th—*Plymouth*, Woodbury	75
Koenigs, Deo A. ..... Osage	Farmer	29th—Floyd, *Mitchell*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75
Kreiman, Keith A. ..... Bloomfield	Attorney	92nd—Appanoose, *Davis*, ... Monroe, Van Buren	75
Kremer, Joseph M. ..... Jesup	Retired Farmer	27th—Black Hawk, ... *Buchanan*, Delaware	71, 72, 72X, 72XX, 73, 74, 74X, 74XX
Lamberti, Jeffrey M. ..... Ankeny	Attorney	65th—*Polk*	None
Larkin, Rick ..... Fort Madison	Correctional ..... Counselor	99th—Des Moines, *Lee*	75
Larson, Chuck ..... Cedar Rapids	Law Student	55th—*Linn*	75

Name and Residence	Occupation	Representative District	Former Legislative Service
Lord, David G. ..... Perry	Retired Clothier	77th—*Dallas,* Madison	None
Main, Jerry D. ..... Fairfield	Farmer	94th—*Jefferson,* Van Buren, ... Wapello	None
Martin, Mona ..... Davenport	Property ..... Management	43rd—*Scott*	75
Mascher, Mary ..... Iowa City	Elementary ..... Guidance Counselor	46th—*Johnson*	None
May, Dennis ..... Kensett	Farmer	20th—Cerro Gordo, Mitchell, *Worth*	72, 72X, 72XX, 73, 75
McCoy, Matt ..... Des Moines	Human Resource ..... Manager	67th—*Polk*	75
Mertz, Dolores M. ..... Ottosen	Farmer/Legislator	15th—Humboldt, *Kossuth*	73, 74, 74X, 74XX, 75
Metcalf, Janet ..... Des Moines	Legislator	75th—*Polk*	71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75
Meyer, Jim ..... Odebolt	Farmer	11th—Ida, *Sac,* Woodbury	75
Millage, David A. ..... Bettendorf	Attorney	41st—*Scott*	74, 74X, 74XX, 75
Moreland, Michael J. ..... Ottumwa	Attorney	93rd—*Wapello*	75
Mundie, Norman ..... Fort Dodge	Retired Farmer	14th—Boone, Calhoun, ... Hamilton, *Webster*	75
Murphy, Patrick J. ..... Dubuque	.....	36th—*Dubuque*	73(2nd), 74, 74X, 74XX, 75
Myers, Richard E. ..... Iowa City	Business Owner	49th—*Johnson*	75(2nd)
Nelson, Beverly J. ..... Marshalltown	Executive Vice ..... President, Iowa Valley Community College District	64th—*Marshall*	None
Nelson, Linda ..... Council Bluffs	Elementary Teacher	83rd—*Pottawattamie*	75
Nutt, Ronald W. ..... Sioux City	Real Estate ..... Investments	1st—*Woodbury*	None
O'Brien, Michael J. ..... Boone	Teacher	79th—*Boone,* Greene	75
Ollie, C. Arthur ..... Clinton	Teacher	38th—*Clinton*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75
Rants, Christopher ..... Sioux City	Metz Baking Co. ..... Environmental Compliance Projects	3rd—*Woodbury*	75
Renken, Bob ..... Aplington	Farmer	21st—Butler, *Grundy*	68(2nd), 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75

Name and Residence	Occupation	Representative District	Former Legislative Service
Running, Richard V. ..... Cedar Rapids	Quality Control ..... Programmer	54th—*Linn*	69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75
Salton, Bill ..... Ruthven	Farmer/Cattleman ...	8th—Clay, Kossuth, ... *Palo Alto*	None
Schrader, David ..... Monroe	Small Business ..... Owner/Operator/ Legislator	90th—*Marion*, Warren	72, 72X, 72XX, 73, 74, 74X, 74XX, 75
Schulte, Lynn S. ..... Mount Vernon	Computer Consultant	50th—Johnson, *Linn*	None
Shoultz, Don ..... Waterloo	Self-employed	25th—*Black Hawk*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75
Siegrist, Brent ..... Council Bluffs	Educator	84th—*Pottawattamie*	71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75
Sukup, Steven ..... Dougherty	Industrial Engineer	18th—*Franklin*, Hardin	None
Teig, Russell W. ..... Jewell	Farmer	17th—Franklin, *Hamilton*, ... Hardin, Wright	None
*Thomson, Rosemary..... Marion	Educator-Prevention Specialist	51st—*Linn*	None
Tyrrell, Phil ..... North English	Independent ..... Insurance Agency Owner/Operator	59th—Benton, *Iowa*	68, 69, 69X, 69XX, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75
Vande Hoef, Richard ..... Harris	Farmer	6th—Lyon, O'Brien, ... *Osceola*, Sioux	69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75
Van Fossen, James ..... Davenport	Service ..... Representative, Gas & Electric Utility	42nd—*Scott*	None
Van Maanen, Harold ..... Pella	Retired Farmer	95th—Mahaska, *Marion*	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75
Veenstra, Ken ..... Orange City	Insurance Agent	5th—*Sioux*	None
Warnstadt, Steve ..... Sioux City	Optical Engineer	2nd—*Woodbury*	None
Weidman, Dick ..... Griswold	Retired State ..... Trooper/Funeral Home Employee	86th—*Cass*, Montgomery, ... Pottawattamie	74, 74X, 74XX, 75
Weigel, Keith ..... New Hampton	Certified Financial ... Planner	30th—*Chickasaw*, Howard, ... Winneshiek	75
Welter, Jerry J. ..... Monticello	Farmer	56th—*Jones*, Linn	75
Wise, Philip ..... Keokuk	Teacher	98th—Henry, *Lee*	72, 72X, 72XX, 73, 74, 74X, 74XX, 75
Witt, William G. ..... Cedar Falls	Photojournalist	23rd—*Black Hawk*	75

*Elected in Special Election January 10, 1995

JUDICIAL DEPARTMENT

JUSTICES OF THE SUPREME COURT

(Justices listed according to seniority)

Name	Office Address	Term Ending
David Harris	Jefferson	December 31, 1998
Arthur A. McGiverin, C.J.	Des Moines and Ottumwa	December 31, 1996
Jerry L. Larson	Harlan	December 31, 1996
James H. Carter	Cedar Rapids	December 31, 2000
Louis A. Lavorato	Des Moines	December 31, 1996
Linda K. Neuman	Davenport	December 31, 1996
Bruce M. Snell Jr.	Ida Grove	December 31, 1996
James H. Andreasen	Algona	December 31, 1998
Marsha K. Ternus	Des Moines	December 31, 2002

JUDGES OF THE COURT OF APPEALS

(Judges listed according to seniority)

Allen L. Donielson, C.J.	Des Moines	December 31, 2001
Maynard J. V. Hayden	Indianola	December 31, 1996
Rosemary Shaw Sackett	Spencer	December 31, 1996
Albert L. Habhab	Fort Dodge	December 31, 1996
Mark S. Cady	Fort Dodge	December 31, 1996
Terry L. Huitink	Ireton	December 31, 1996

CONGRESSIONAL DELEGATION AND DISTRICT OFFICES

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Senator Tom Harkin (D)
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(202) 224-3254

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(515) 284-4574

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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 Building
Washington, D.C. 20510-1501
(202) 224-3744

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

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

206 Federal Building
101 First Street, SE
Cedar Rapids, Iowa 52401
(319) 363-6832

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

116 Federal Building
131 East 4th Street
Davenport, Iowa 52801
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307 Federal Building
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Council Bluffs, Iowa 51501
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Second District

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

220 West Salem
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UNITED STATES REPRESENTATIVES — Continued

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CONDITION OF STATE TREASURY

June 30, 1994

	Balance July 1, 1993	Total Receipts and Transfers	Total Available	Total Redemptions and Disbursements	Balance June 30, 1994
General Fund	$ 142,630,743	$ 5,467,423,311	$ 5,610,054,054	$ 5,483,726,545	$ 126,327,509
Special Revenue Fund	274,411,225	1,716,687,408	1,991,098,633	1,685,675,125	305,423,508
Capitol Project Fund	4,608,296	11,987,654	16,595,950	12,475,687	4,120,263
Debt Service Fund	6,328,374	29,565,203	35,893,577	25,530,629	10,362,948
Enterprise Fund	46,597,677	238,436,310	285,033,987	238,920,757	46,113,230
Internal Service Fund	15,116,066	160,852,064	175,968,130	156,100,339	19,867,791
Expendable Trust Fund	77,508,838	375,958,423	453,467,261	341,027,567	112,439,694
Nonexpendable Trust Fund	7,457,022	298,224	7,755,246	0	7,755,246
Pension Fund	6,194,986,095	1,159,006,531	7,353,992,626	293,174,907	7,060,817,719
Trust and Agency Fund	98,266,288	2,334,894,594	2,433,160,882	2,336,414,939	96,745,943
Totals	$6,867,910,624	$11,495,109,722	$18,363,020,346	$10,573,046,495	$7,789,973,851

Balance July 1, 1993	$ 6,867,910,624
Receipts and Transfers	11,495,109,722
Total Available	18,363,020,346
Redemptions and Disbursements	10,573,046,495
Balance June 30, 1994	$ 7,789,973,851

DEPARTMENT OF REVENUE AND FINANCE
April 10, 1995

ANALYSIS BY CHAPTERS

1995 REGULAR SESSION

For Conversion Tables of Senate and House Files and Joint Resolutions to chapters of the 1995 Acts, see page 774

1995 Regular Session

Of The

Seventy-Sixth General Assembly

Of The

State Of Iowa

CHAPTER 1

STATE FLAG REQUIREMENTS

H.F. 3

AN ACT relating to the state banner.

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

Section 1. Section 1B.1, Code 1995, is amended to read as follows:

1B.1 SPECIFICATIONS OF STATE ~~BANNER~~ FLAG.

The banner designed by the Iowa society of the Daughters of the American Revolution and presented to the state~~, which banner~~ is hereby adopted as the state flag for use on all occasions where a state flag may be fittingly displayed. The design consists of three vertical stripes of blue, white, and red, the blue stripe being nearest the staff and the white stripe being in the center~~, and upon~~. On the central white stripe ~~being~~ is depicted a spreading eagle bearing in its beak blue streamers on which is inscribed~~, in white letters,~~ the state motto, "Our liberties we prize and our rights we will maintain" ~~and~~ in white letters, with the word "Iowa" in red letters below ~~such~~ the streamers~~, as such design now appears on the banner in the office of the governor of the state of Iowa, is hereby adopted as a distinctive state banner, for use on all occasions where a distinctive state symbol in the way of a banner may be fittingly displayed~~.

Sec. 2. Section 1B.2, Code 1995, is amended to read as follows:

1B.2 USE OF STATE ~~BANNER~~ FLAG.

~~Such~~ The design ~~may~~ shall be used as ~~a distinctive~~ the state ~~banner~~ flag and may ~~as such~~ be displayed on all proper occasions where the state is officially represented ~~as distinct from other states~~, either at home or abroad, or wherever it may be proper to distinguish the citizens of Iowa from the citizens of other states~~, such display~~. When displayed with the national emblem, the state flag shall in all cases ~~to~~ be subservient to and ~~along with the display of the national emblem and, when displayed with the latter, to be~~ placed beneath the stars and stripes.

Sec. 3. Section 1B.3, Code 1995, is amended to read as follows:

1B.3 FLAGS ON PUBLIC BUILDINGS.

It shall be the duty of any board of public officers charged with providing supplies for a public building in the state to provide a suitable state flag and it shall be the duty of the ~~custodians~~ custodian of ~~all~~ that public ~~buildings of the state~~ building to raise ~~over such building~~ the ~~flag~~ flags of the United States of America and the state of Iowa, upon each secular day when weather conditions are favorable~~, and it shall be the duty of any board of public officers charged with the duty of providing for the supplies of any such public building to provide, in connection with other supplies for any such building of the state, a suitable flag for the purposes herein provided~~.

Sec. 4. Section 280.5, Code 1995, is amended to read as follows:

280.5 DISPLAY OF UNITED STATES FLAG AND IOWA STATE ~~BANNER~~ FLAG.

The board of directors of each public school district and the authorities in charge of each nonpublic school shall provide and maintain a suitable flagstaff on each school site under its control, and the United States flag and the Iowa state ~~banner~~ flag shall be raised on all school days when weather conditions are suitable.

Approved February 13, 1995

CHAPTER 2

AIR CONTAMINANTS - PERMITS - MORATORIUM REGARDING GRAIN STORAGE FACILITY REQUIREMENTS

S.F. 37

AN ACT relating to the control of emissions from grain storage facilities, by imposing a moratorium upon the department of natural resources, providing for the issuance of a single permit, and providing an effective date.

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

Section 1. Section 455B.133, subsection 8, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Adopt rules for the issuance of a single general permit, after notice and opportunity for a public hearing. The single general permit shall cover numerous sources to the extent that the sources are representative of a class of facilities which can be identified and conditioned by a single permit.

Sec. 2. MORATORIUM - GRAIN STORAGE FACILITIES - CLEAN AIR OPERATING PERMIT REQUIREMENTS.

1. Notwithstanding section 455B.133, a moratorium is established during which the department of natural resources shall not require persons to complete or submit to the department any form, application, or information relating to the control of emissions of dust or other particulate matter in, on, or around facilities used for the storage of grain, to the extent that the form, application, or information is related to the administration or enforcement of the clean air operating permit program as may be delegated to the state pursuant to 42 U.S.C. § 7661a through 7661d.

2. The moratorium shall expire on the date that the state is delegated authority by the United States to administer and enforce the clean air operating permit program as provided by 42 U.S.C. § 7661a through 7661d.

3. During the moratorium period, the department shall adopt forms and procedures as required pursuant to chapter 17A, which ensure that persons involved in the storage of grain may conveniently, simply, and inexpensively comply with the program requirements administered and enforced by the department. The department shall also conduct a statewide education project in order to assist persons involved in the storage of grain in complying with the requirements, including completing and submitting to the department any necessary form, application, or information. The department shall cooperate with the agribusiness association of Iowa in carrying out this subsection.

A permit shall not be required for the operation of a grain elevator for one hundred twenty days following the expiration of the moratorium or the date that departmental

rules relating to the administration or enforcement of the clean air operating permit program become effective, whichever occurs earlier.

4. The department shall periodically report progress in carrying out this Act to the chairpersons, vice chairpersons, and ranking members of the standing committees on agriculture of the senate and house of representatives. A report shall be made at least once each three months.

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

Approved February 17, 1995

CHAPTER 3

IOWA LEAGUE OF CITIES

S.F. 45

AN ACT changing the name of the league of Iowa municipalities to the Iowa league of cities.

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

Section 1. Section 306.6, subsection 2, unnumbered paragraph 1, Code 1995, is amended to read as follows:

A state functional classification review board is created, consisting of one state senator appointed by the president of the senate, after consultation with the majority leader and the minority leader of the senate, one state representative appointed by the speaker of the house of representatives, one supervisor appointed by the Iowa state association of county supervisors, one engineer appointed by the Iowa county engineers' association, two persons appointed by the Iowa league of ~~Iowa municipalities~~ cities, one of whom shall be a licensed professional engineer, and two persons appointed by the department, one of whom shall be a commissioner and the other a staff member. This board shall select a permanent chairperson from among its members by majority vote of the total membership. Except as otherwise provided, the members of the board shall serve without additional compensation to the salary and expenses authorized for the office or position held by the member. The supervisor appointed by the Iowa state association of county supervisors, the engineer appointed by the Iowa county engineers' association, and the two persons appointed by the Iowa league of ~~Iowa municipalities~~ cities shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members of the board from funds allocated under section 312.2, subsection 12. The legislative members shall be paid for their actual and necessary expenses and, when the general assembly is not in session, per diem as provided in sections 2.10 and 2.12. The department's members of the board shall be reimbursed for their actual and necessary expenses from the funds appropriated pursuant to section 313.5.

Sec. 2. Section 314.22, subsection 3, paragraph a, subparagraph (8), Code 1995, is amended to read as follows:

(8) Liaison with the Iowa state association of counties, the Iowa league of ~~Iowa municipalities~~ cities, and other organizations for integrated roadside vegetation management purposes.

Sec. 3. Section 356.36, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The Iowa department of corrections, in consultation with the Iowa state sheriff's association, the Iowa association of chiefs of police and peace officers, the Iowa league of ~~municipalities~~ cities, and the Iowa board of supervisors association, shall draw up minimum standards for the regulation of jails, alternative jails, facilities established pursuant to chapter 356A and municipal holding facilities. When completed by the department, the standards shall be adopted as rules pursuant to chapter 17A.

Sec. 4. Section 364.5, unnumbered paragraphs 2 and 3, Code 1995, are amended to read as follows:

The financial condition and the transactions of the Iowa league of ~~Iowa municipalities~~ cities shall be audited in the same manner as cities as provided in section 11.6.

It is unlawful for the Iowa league of ~~Iowa municipalities~~ cities to provide any form of aid to a political party or to the campaign of a candidate for political or public office. Any person violating or being an accessory to a violation of this section is guilty of a simple misdemeanor.

Sec. 5. Section 411.36, subsection 1, paragraph c, Code 1995, is amended to read as follows:

c. The city treasurers of four participating cities, one of whom is from a city having a population of less than forty thousand, and three of whom are from cities having a population of forty thousand or more. The city treasurers shall be appointed by the governing body of the Iowa league of ~~Iowa municipalities~~ cities.

Approved February 17, 1995

CHAPTER 4

EXPANSION OF EDUCATIONAL EXCELLENCE PROGRAM

S.F. 32

AN ACT relating to the inclusion of school nurses and area education agency professionals in the educational excellence program and providing effective and retroactive applicability dates.

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

Section 1. Section 294A.2, subsection 5, Code 1995, is amended to read as follows:

5. "Teacher" means an individual holding a practitioner's license issued under chapter 272, or a letter of authorization or statement of professional recognition issued by the board of educational examiners, who is employed in a nonadministrative position by a school district or area education agency pursuant to a contract issued by a board of directors under section 279.13. A teacher may be employed in both an administrative and a nonadministrative position by a board of directors and shall be considered a part-time teacher for the portion of time that the teacher is employed in a nonadministrative position.

~~Effective July 1, 1988, "teacher"~~ "Teacher" includes a licensed individual employed on less than a full-time basis by a school district through a contract between the school district and an institution of higher education with a practitioner preparation program in which the licensed teacher is enrolled in any practitioner preparation program.

Sec. 2. RETROACTIVE APPLICABILITY. This Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to July 1, 1994.

Approved February 20, 1995

CHAPTER 5

INDIVIDUAL HEALTH INSURANCE MARKET REFORM - TAXATION
S.F. 84

AN ACT relating to individual health insurance and individual health benefit plan reforms, and establishing an income tax credit for certain individuals.

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

Section 1. Section 422.7, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 32. Subtract, to the extent not otherwise deducted in computing adjusted gross income, the amounts paid by the taxpayer for the purchase of health benefits coverage or insurance for the taxpayer or taxpayer's spouse or dependent.

Sec. 2. Section 422.9, subsection 2, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. i. If the taxpayer has a deduction for medical care expenses under section 213 of the Internal Revenue Code, the taxpayer shall recompute for the purposes of this subsection the amount of the deduction under section 213 by excluding from medical care, as defined in section 213, the amount subtracted under section 422.7, subsection 32.

Sec. 3. NEW SECTION. 513C.1 SHORT TITLE.

This chapter shall be known and may be cited as the "Individual Health Insurance Market Reform Act".

Sec. 4. NEW SECTION. 513C.2 PURPOSE.

The purpose and intent of this chapter is to promote the availability of health insurance coverage to individuals regardless of their health status or claims experience, to prevent abusive rating practices, to require disclosure of rating practices to purchasers, to establish rules regarding the renewal of coverage, to establish limitations on the use of preexisting condition exclusions, to assure fair access to health plans, and to improve the overall fairness and efficiency of the individual health insurance market.

Sec. 5. NEW SECTION. 513C.3 DEFINITIONS.

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

1. "Actuarial certification" means a written statement by a member of the American academy of actuaries or other individual acceptable to the commissioner that an individual carrier is in compliance with the provision of section 513C.5 which is based upon the actuary's or individual's examination, including a review of the appropriate records and the actuarial assumptions and methods used by the carrier in establishing premium rates for applicable individual health benefit plans.

2. "Affiliate" or "affiliated" means any entity or person who directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, a specified entity or person.

3. "Basic or standard health benefit plan" means the core group of health benefits developed pursuant to section 513C.8.

4. "Block of business" means all the individuals insured under the same individual health benefit plan.

5. "Carrier" means any entity that provides individual health benefit plans in this state. For purposes of this chapter, carrier includes an insurance company, a group hospital or medical service corporation, a fraternal benefit society, a health maintenance organization, and any other entity providing an individual plan of health insurance or health benefits subject to state insurance regulation. "Carrier" does not include an organized delivery system.

6. "Commissioner" means the commissioner of insurance.

7. "Director" means the director of public health appointed pursuant to section 135.2.

8. "Eligible individual" means an individual who is a resident of this state and who either has qualifying existing coverage or has had qualifying existing coverage within the immediately preceding thirty days, or an individual who has had a qualifying event occur within the immediately preceding thirty days.

9. "Established service area" means a geographic area, as approved by the commissioner and based upon the carrier's certificate of authority to transact business in this state, within which the carrier is authorized to provide coverage or a geographic area, as approved by the director and based upon the organized delivery system's license to transact business in this state, within which the organized delivery system is authorized to provide coverage.

10. "Filed rate" means, for a rating period related to each block of business, the rate charged to all individuals with similar rating characteristics for individual health benefit plans.

11. "Individual health benefit plan" means any hospital or medical expense incurred policy or certificate, hospital or medical service plan, or health maintenance organization subscriber contract sold to an individual, or any discretionary group trust or association policy, whether issued within or outside of the state, providing hospital or medical expense incurred coverage to individuals residing within this state. Individual health benefit plan does not include a self-insured group health plan, a self-insured multiple employer group health plan, a group conversion plan, an insured group health plan, accident-only, specified disease, short-term hospital or medical, hospital confinement indemnity, credit, dental, vision, Medicare supplement, long-term care, or disability income insurance coverage, coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, or automobile medical payment insurance.

12. "Organized delivery system" means an organized delivery system licensed by the director.

13. "Premium" means all moneys paid by an individual and eligible dependents as a condition of receiving coverage from a carrier or an organized delivery system, including any fees or other contributions associated with an individual health benefit plan.

14. "Qualifying event" means any of the following:

a. Loss of eligibility for medical assistance provided pursuant to chapter 249A or Medicare coverage provided pursuant to Title XVIII of the federal Social Security Act.

b. Loss or change of dependent status under qualifying previous coverage.

c. The attainment by an individual of the age of majority.

15. "Qualifying existing coverage" or "qualifying previous coverage" means benefits or coverage provided under any of the following:

a. Any group health insurance that provides benefits similar to or exceeding benefits provided under the standard health benefit plan, provided that such policy has been in effect for a period of at least one year.

b. An individual health insurance benefit plan, including coverage provided under a health maintenance organization contract, a hospital or medical service plan contract, or a

fraternal benefit society contract, that provides benefits similar to or exceeding the benefits provided under the standard health benefit plan, provided that such policy has been in effect for a period of at least one year.

c. An organized delivery system that provides benefits similar to or exceeding the benefits provided under the standard health benefit plan, provided that the benefits provided by the organized delivery system have been in effect for a period of at least one year.

16. "Rating characteristics" means demographic characteristics of individuals which are considered by the carrier in the determination of premium rates for the individuals and which are approved by the commissioner.

17. "Rating period" means the period for which premium rates established by a carrier are in effect.

18. "Restricted network provision" means a provision of an individual health benefit plan that conditions the payment of benefits, in whole or in part, on the use of health care providers that have entered into a contractual arrangement with the carrier or the organized delivery system to provide health care services to covered individuals.

Sec. 6. NEW SECTION. 513C.4 APPLICABILITY AND SCOPE.

1. Except as provided in subsection 2, for purposes of this chapter, carriers that are affiliated companies or that are eligible to file a consolidated tax return shall be treated as one carrier and any restrictions or limitations imposed by this chapter shall apply as if all individual health benefit plans delivered or issued for delivery to residents of this state by such affiliated carriers were issued by one carrier.

2. An affiliated carrier that is a health maintenance organization having a certificate of authority under section 513C.5* shall be considered to be a separate carrier for the purposes of this chapter.

Sec. 7. NEW SECTION. 513C.5 RESTRICTIONS RELATING TO PREMIUM RATES.

1. Premium rates for any block of individual health benefit plan business issued on or after January 1, 1996, or the date rules are adopted by the commissioner of insurance and the director of public health and become effective, whichever date is later, by a carrier subject to this chapter shall be limited to the composite effect of allocating costs among the following:

a. After making actuarial adjustments based upon benefit design and rating characteristics, the filed rate for any block of business shall not exceed the filed rate for any other block of business by more than twenty percent.

b. The filed rate for any block of business shall not exceed the filed rate for any other block of business by more than thirty percent due to factors relating to rating characteristics.

c. The filed rate for any block of business shall not exceed the filed rate for any other block of business by more than thirty percent due to any other factors approved by the commissioner.

d. Premium rates for individual health benefit plans shall comply with the requirements of this section notwithstanding any assessments paid or payable by the carrier pursuant to any reinsurance program or risk adjustment mechanism.

e. An adjustment applied to a single block of business shall not exceed the adjustment applied to all blocks of business by more than fifteen percent due to the claim experience or health status of that block of business.

f. For purposes of this subsection, an individual health benefit plan that contains a restricted network provision shall not be considered similar coverage to an individual health benefit plan that does not contain such a provision, provided that the differential in payments made to network providers results in substantial differences in claim costs.

2. Notwithstanding subsection 1, the commissioner, with the concurrence of the board of the Iowa individual health benefit reinsurance association established in section 513C.10, may by order reduce or eliminate the allowed rating bands provided under subsection 1,

*Section 514B.5 probably intended

paragraphs "a", "b", "c", and "e", or otherwise limit or eliminate the use of experience rating. The commissioner shall also develop a recommendation for the elimination of age as a rating characteristic, and shall submit such recommendation by January 8, 1996.

3. A carrier shall not transfer an individual involuntarily into or out of a block of business.

4. The commissioner may suspend for a specified period the application of subsection 1, paragraph "a", as to the premium rates applicable to one or more blocks of business of a carrier for one or more rating periods upon a filing by the carrier requesting the suspension and a finding by the commissioner that the suspension is reasonable in light of the financial condition of the carrier.

5. A carrier shall make a reasonable disclosure at the time of the offering for sale of any individual health benefit plan of all of the following:

a. The extent to which premium rates for a specified individual are established or adjusted based upon rating characteristics.

b. The carrier's right to change premium rates, and the factors, other than claim experience, that affect changes in premium rates.

c. The provisions relating to the renewal of policies and contracts.

d. Any provisions relating to any preexisting condition.

e. All plans offered by the carrier, the prices of such plans, and the availability of such plans to the individual.

6. A carrier shall maintain at its principal place of business a complete and detailed description of its rating practices, including information and documentation that demonstrate that its rating methods and practices are based upon commonly accepted actuarial assumptions and are in accordance with sound actuarial principles.

7. A carrier shall file with the commissioner annually on or before March 15, an actuarial certification certifying that the carrier is in compliance with this chapter and that the rating methods of the carrier are actuarially sound. The certification shall be in a form and manner and shall contain information as specified by the commissioner. A copy of the certification shall be retained by the carrier at its principal place of business. Rate adjustments made in order to comply with this section are exempt from loss ratio requirements.

8. A carrier shall make the information and documentation maintained pursuant to subsection 5* available to the commissioner upon request. The information and documentation shall be considered proprietary and trade secret information and shall not be subject to disclosure by the commissioner to persons outside of the division except as agreed to by the carrier or as ordered by a court of competent jurisdiction.

Sec. 8. NEW SECTION. 513C.6 RENEWAL OF COVERAGE.

1. An individual health benefit plan is renewable at the option of the individual, except in any of the following cases:

a. Nonpayment of the required premiums.

b. Fraud or misrepresentation.

c. The insured individual becomes eligible for Medicare coverage under Title XVIII of the federal Social Security Act.

d. The carrier elects not to renew all of its individual health benefit plans in the state. In such case, the carrier shall provide notice of the decision not to renew coverage to all affected individuals and to the commissioner in each state in which an affected insured individual is known to reside at least ninety days prior to the nonrenewal of the health benefit plan by the carrier. Notice to the commissioner under this paragraph shall be provided at least three working days prior to the notice to the affected individuals.

e. The commissioner finds that the continuation of the coverage would not be in the best interests of the policyholders or certificate holders, or would impair the carrier's ability to meet its contractual obligations.

*Subsection 6 probably intended

2. A carrier that elects not to renew all of its individual health benefit plans in this state shall be prohibited from writing new individual health benefit plans in this state for a period of five years from the date of the notice to the commissioner.

3. With respect to a carrier doing business in an established geographic service area of the state, this section applies only to the carrier's operations in the service area.

Sec. 9. NEW SECTION. 513C.7 AVAILABILITY OF COVERAGE.

1. A carrier or an organized delivery system, as a condition of issuing individual health benefit plans in this state, shall make available a basic or standard health benefit plan to an eligible individual who applies for a plan and agrees to make the required premium payments and to satisfy other reasonable provisions of the basic or standard health benefit plan. A carrier or an organized delivery system is not required to issue a basic or standard health benefit plan to an individual who meets any of the following criteria:

a. The individual is covered or is eligible for coverage under a health benefit plan provided by the individual's employer.

b. An eligible individual who does not apply for a basic or standard health benefit plan within thirty days of a qualifying event or within thirty days upon becoming ineligible for qualifying existing coverage.

c. The individual is covered or is eligible for any continued group coverage under section 4980b of the Internal Revenue Code, sections 601 through 608 of the federal Employee Retirement Income Security Act of 1974, sections 2201 through 2208 of the federal Public Health Service Act, or any state-required continued group coverage. For purposes of this subsection, an individual who would have been eligible for such continuation of coverage, but is not eligible solely because the individual or other responsible party failed to make the required coverage election during the applicable time period, is deemed to be eligible for such group coverage until the date on which the individual's continuing group coverage would have expired had an election been made.

2. A carrier or an organized delivery system shall issue the basic or standard health benefit plan to an individual currently covered by an underwritten benefit plan issued by that carrier or an organized delivery system at the option of the individual. This option must be exercised within thirty days of notification of a premium rate increase applicable to the underwritten benefit plan.

3. a. A carrier shall file with the commissioner, in a form and manner prescribed by the commissioner, the basic or standard health benefit plan. A basic or standard health benefit plan filed pursuant to this paragraph may be used by a carrier beginning thirty days after it is filed unless the commissioner disapproves of its use.

The commissioner may at any time, after providing notice and an opportunity for a hearing to the carrier, disapprove the continued use by a carrier of a basic or standard health benefit plan on the grounds that the plan does not meet the requirements of this chapter.

b. An organized delivery system shall file with the director, in a form and manner prescribed by the director, the basic or standard health benefit plan to be used by the organized delivery system. A basic or standard health benefit plan filed pursuant to this paragraph may be used by the organized delivery system beginning thirty days after it is filed unless the director disapproves of its use.

The director may at any time, after providing notice and an opportunity for a hearing to the organized delivery system, disapprove the continued use by an organized delivery system of a basic or standard health benefit plan on the grounds that the plan does not meet the requirements of this chapter.

4. a. The individual basic or standard health benefit plan shall not deny, exclude, or limit benefits for a covered individual for losses incurred more than twelve months following the effective date of the individual's coverage due to a preexisting condition. A preexisting condition shall not be defined more restrictively than any of the following:

(1) A condition that would cause an ordinarily prudent person to seek medical advice, diagnosis, care, or treatment during the twelve months immediately preceding the effective date of coverage.

(2) A condition for which medical advice, diagnosis, care, or treatment was recommended or received during the twelve months immediately preceding the effective date of coverage.

(3) A pregnancy existing on the effective date of coverage.

b. A carrier or an organized delivery system shall waive any time period applicable to a preexisting condition exclusion or limitation period with respect to particular services in an individual health benefit plan for the period of time an individual was previously covered by qualifying previous coverage that provided benefits with respect to such services, provided that the qualifying previous coverage was continuous to a date not more than thirty days prior to the effective date of the new coverage.

5. A carrier or an organized delivery system is not required to offer coverage or accept applications pursuant to subsection 1 from any individual not residing in the carrier's or the organized delivery system's established geographic access area.

6. A carrier or an organized delivery system shall not modify a basic or standard health benefit plan with respect to an individual or dependent through riders, endorsements, or other means to restrict or exclude coverage for certain diseases or medical conditions otherwise covered by the health benefit plan.

Sec. 10. NEW SECTION. 513C.8 HEALTH BENEFIT PLAN STANDARDS.

The commissioner shall adopt by rule the form and level of coverage of the basic health benefit plan and the standard health benefit plan for the individual market which shall provide benefits substantially similar to those as provided for under chapter 513B with respect to small group coverage, but which shall be appropriately adjusted to reflect the individual market.

Sec. 11. NEW SECTION. 513C.9 STANDARDS TO ASSURE FAIR MARKETING.

1. A carrier or an organized delivery system issuing individual health benefit plans in this state shall make available the basic or standard health benefit plan to residents of this state. If a carrier or an organized delivery system denies other individual health benefit plan coverage to an eligible individual on the basis of the health status or claims experience of the eligible individual, or the individual's dependents, the carrier or the organized delivery system shall offer the individual the opportunity to purchase a basic or standard health benefit plan.

2. A carrier, or an organized delivery system, or an agent shall not do either of the following:

a. Encourage or direct individuals to refrain from filing an application for coverage with the carrier or the organized delivery system because of the health status, claims experience, industry, occupation, or geographic location of the individuals.

b. Encourage or direct individuals to seek coverage from another carrier or another organized delivery system because of the health status, claims experience, industry, occupation, or geographic location of the individuals.

3. Subsection 2, paragraph "a", shall not apply with respect to information provided by a carrier or an organized delivery system or an agent to an individual regarding the established geographic service area of the carrier or the organized delivery system, or the restricted network provision of the carrier or the organized delivery system.

4. A carrier or an organized delivery system shall not, directly or indirectly, enter into any contract, agreement, or arrangement with an agent that provides for, or results in, the compensation paid to an agent for a sale of a basic or standard health benefit plan to vary because of the health status or permitted rating characteristics of the individual or the individual's dependents.

5. Subsection 4 does not apply with respect to the compensation paid to an agent on the basis of percentage of premium, provided that the percentage shall not vary because of the health status or other permitted rating characteristics of the individual or the individual's dependents.

6. Denial by a carrier or an organized delivery system of an application for coverage from an individual shall be in writing and shall state the reason or reasons for the denial.

7. A violation of this section by a carrier or an agent is an unfair trade practice under chapter 507B.

8. If a carrier or an organized delivery system enters into a contract, agreement, or other arrangement with a third-party administrator to provide administrative, marketing, or other services related to the offering of individual health benefit plans in this state, the third-party administrator is subject to this section as if it were a carrier or an organized delivery system.

Sec. 12. NEW SECTION. 513C.10 IOWA INDIVIDUAL HEALTH BENEFIT REINSURANCE ASSOCIATION.

1. A nonprofit corporation is established to be known as the Iowa individual health benefit reinsurance association. All persons that provide health benefit plans in this state including insurers providing accident and sickness insurance under chapter 509, 514, or 514A; fraternal benefit societies providing hospital, medical, or nursing benefits under chapter 512B; health maintenance organizations, organized delivery systems, and all other entities providing health insurance or health benefits subject to state insurance regulation shall be members of this association. The association shall be incorporated under chapter 504A, shall operate under a plan of operation established and approved pursuant to chapter 504A, and shall exercise its powers through a board of directors established under this section.

2. The initial board of directors of the association shall consist of seven members appointed by the commissioner as follows:

a. Four members shall be representatives of the four largest domestic carriers of individual health insurance in the state as of the calendar year ending December 31, 1994.

b. Three members shall be representatives of the three largest carriers of health insurance in the state, excluding Medicare supplement coverage premiums, which are not otherwise represented. In the event a carrier to be represented pursuant to this paragraph does not appoint a representative, the board member shall be a representative of the next largest carrier which satisfies the criteria.

After an initial term, board members shall be nominated and elected by the members of the association.

Members of the board may be reimbursed from the funds of the association for expenses incurred by them as members, but shall not otherwise be compensated by the association for their services.

3. The association shall submit to the commissioner a plan of operation for the association and any amendments to the association's articles of incorporation necessary and appropriate to assure the fair, reasonable, and equitable administration of the association. The plan shall provide for the sharing of losses related to basic and standard plans, if any, on an equitable and proportional basis among the members of the association. If the association fails to submit a suitable plan of operation within one hundred eighty days after the appointment of the board of directors, the commissioner shall adopt rules necessary to implement this section. The rules shall continue in force until modified by the commissioner or superseded by a plan submitted by the association and approved by the commissioner. In addition to other requirements, the plan of operation shall provide for all of the following:

a. The handling and accounting of assets and funds of the association.

b. The amount of and method for reimbursing the expenses of board members.

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

d. Records to be kept relating to all financial transactions, and annual fiscal reporting to the commissioner.

e. Procedures for selecting the board of directors.

f. Additional provisions necessary or proper for the execution of the powers and duties of the association.

4. The plan of operation may provide that the powers and duties of the association may be delegated to a person who will perform functions similar to those of the association. A delegation under this section takes effect only upon the approval of the board of directors.

5. The association has the general powers and authority enumerated by this section and executed in accordance with the plan of operation approved by the commissioner under subsection 3. In addition, the association may do any of the following:

a. Enter into contracts as necessary or proper to administer this chapter.

b. Sue or be sued, including taking any legal action necessary or proper for recovery of any assessments for, on behalf of, or against members of the association or other participating persons.

c. Appoint from among members appropriate legal, actuarial, and other committees as necessary to provide technical assistance in the operation of the association, including the hiring of independent consultants as necessary.

d. Perform any other functions within the authority of the association.

6. Rates for basic and standard coverages as provided in this chapter shall be determined by each carrier or organized delivery system as the average of the lowest rate available for issuance by that carrier or organized delivery system adjusted for rating characteristics and benefits and the maximum rate allowable by law after adjustments for rate characteristics and benefits.

7. Following the close of each calendar year, the association, in conjunction with the commissioner, shall require each carrier or organized delivery system to report the amount of earned premiums and the associated paid losses for all basic and standard plans issued by the carrier or organized delivery system. The reporting of these amounts must be certified by an officer of the carrier or organized delivery system.

8. The board shall develop procedures and make assessments and distributions as required to equalize the individual carrier and organized delivery system gains or losses so that each carrier or organized delivery system receives the same ratio of paid claims to ninety percent of earned premiums as the aggregate of all basic and standard plans insured by all carriers and organized delivery systems in the state.

9. If the statewide aggregate ratio of paid claims to ninety percent of earned premiums is greater than one, the dollar difference between ninety percent of earned premiums and the paid claims shall represent an assessable loss.

10. The assessable loss plus necessary operating expenses for the association, plus any additional expenses as provided by law, shall be assessed by the association to all members in proportion to their respective shares of total health insurance premiums or payments for subscriber contracts received in Iowa during the second preceding calendar year, or with paid losses in the year, coinciding with or ending during the calendar year, or on any other equitable basis as provided in the plan of operation. In sharing losses, the association may abate or defer any part of the assessment of a member, if, in the opinion of the board, payment of the assessment would endanger the ability of the member to fulfill its contractual obligations. The association may also provide for an initial or interim assessment against the members of the association to meet the operating expenses of the association until the next calendar year is completed.

11. The board shall develop procedures for distributing the assessable loss assessments to each carrier and organized delivery system in proportion to the carrier's and organized delivery system's respective share of premium for basic and standard plans to the statewide total premium for all basic and standard plans.

12. The board shall ensure that procedures for collecting and distributing assessments are as efficient as possible for carriers and organized delivery systems. The board may establish procedures which combine, or offset, the assessment from, and the distribution due to, a carrier or organized delivery system.

13. A carrier or an organized delivery system may petition the association board to seek remedy from writing a significantly disproportionate share of basic and standard policies in relation to total premiums written in this state for health benefit plans. Upon a finding that a carrier or organized delivery system has written a disproportionate share, the board may agree to compensate the carrier or organized delivery system either by paying to the carrier or organized delivery system an additional fee not to exceed two percent of earned premiums from basic and standard policies for that carrier or organized delivery system or by petitioning the commissioner or director, as appropriate for remedy.

14. a. The commissioner, upon a finding that the acceptance of the offer of basic and standard coverage by individuals pursuant to this chapter would place the carrier in a financially impaired condition, shall not require the carrier to offer coverage or accept applications for any period of time the financial impairment is deemed to exist.

b. The director, upon a finding that the acceptance of the offer of basic and standard coverage by individuals pursuant to this chapter would place the organized delivery system in a financially impaired condition, shall not required* the organized delivery system to offer coverage or accept applications for any period of time the financial impairment is deemed to exist.

Sec. 13. NEW SECTION. 513C.11 SELF-FUNDED EMPLOYER-SPONSORED HEALTH BENEFIT PLAN PARTICIPATION IN IOWA INDIVIDUAL HEALTH BENEFIT REINSURANCE ASSOCIATION.

1. A self-funded employer-sponsored health benefit plan qualified under the federal Employee Retirement Income Security Act of 1974 may voluntarily elect to participate in the Iowa individual health benefit reinsurance association established in section 513C.10 in accordance with the plan of operation and subject to such terms and conditions adopted by the board of the association to provide portability and continuity to its covered employees and their covered spouses and dependents subject to the same terms and conditions as a participating insurer.

2. If the federal Employee Retirement Income Security Act of 1974 is amended such that the state may require the participation of a self-funded employer, the individual reinsurance requirements shall apply equally to such employers.

3. When and if the federal government imposes conditions of portability and continuity on self-funded employers qualified under the federal Employee Retirement Income Security Act of 1974 that the commissioner deems are substantially similar to those required of Iowa insurers, coverage under such qualified plan shall be deemed qualified prior coverage for purposes of chapters 513B and 513C.

Sec. 14. EFFECTIVE DATE. Sections 1 and 2 of this Act, which amend section 422.7 by adding a new subsection 32, and section 422.9, subsection 2, by adding a new paragraph "i", are effective January 1, 1996, for tax years beginning on or after that date.

Approved March 2, 1995

*According to enrolled Act

CHAPTER 6

CONTROLLED SUBSTANCES - ANABOLIC STEROIDS

S.F. 114

AN ACT relating to anabolic steroids and the Iowa uniform controlled substances Act.

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

Section 1. Section 124.208, subsection 6, Code 1995, is amended by striking the subsection and inserting in lieu thereof the following:

6. ANABOLIC STEROIDS. Anabolic steroids, except any anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species unless such steriod* is prescribed, dispensed, or distributed for human use. Anabolic steroids include any salt, ester, or isomer of the following drugs or substances if that salt, ester, or isomer promotes muscle growth:

a. Boldenone.
b. Chlorotestosterone.
c. Clostebol.
d. Dehydrochlormethyltestosterone.
e. Dihydrotestosterone.
f. Drostanolone.
g. Ethylestrenol.
h. Fluoxymesterone.
i. Formobulone.
j. Mesterolone.
k. Methandienone.
l. Methandranone.
m. Methandriol.
n. Methandrostenolone.
o. Methenolone.
p. Methyltestosterone.
q. Mibolerone.
r. Nandrolone.
s. Norethandrolone.
t. Oxandrolone.
u. Oxymesterone.
v. Oxymetholone.
w. Stanolone.
x. Stanozolol.
y. Testolactone.
z. Testosterone.
aa. Trenbolone.

Approved March 13, 1995

*According to enrolled Act

CHAPTER 7

IOWA EGG COUNCIL

H.F. 179

AN ACT relating to eggs and poultry by reorganizing the statutory provisions and providing for the administration of the Iowa egg council, assessments and refunds, and the repeal of certain sections, and providing an effective date.

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

Section 1. Section 196.1, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. "Department" means the department of inspections and appeals, as established in section 10A.102.

Sec. 2. Section 196.1, subsection 9, Code 1995, is amended to read as follows:

9. ~~"Secretary", "department", and "package" have the meanings ascribed to them~~ "Package" means the same as defined in section 189.1.

Sec. 3. Section 196.2, Code 1995, is amended to read as follows:

196.2 ENFORCEMENT.

The ~~secretary~~ department shall enforce ~~the provisions of~~ this chapter, and may ~~make~~ adopt rules pursuant to chapter 17A and consistent with regulations of the United States government as they exist on July 1, 1985, pursuant to the Agricultural Marketing Act of 1946, 7 U.S.C. § 1621 et seq., and the Egg Products Inspection Act of 1970, 21 U.S.C. § 1044 et seq.

Sec. 4. Section 196A.1, Code 1995, is amended to read as follows:

196A.1 DEFINITIONS.

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

1. "Assessment" means an excise tax on the sale of eggs as provided in this chapter.

~~1.~~ 2. "Council" means the Iowa egg council.

~~2. "District" means a producer district established by the Iowa poultry association, incorporated. The Iowa poultry association, incorporated shall establish four districts in this state from which egg producers shall be appointed to serve on the Iowa egg council pursuant to this chapter.~~

~~3. "Hatchery operator" means any person who operates a hatchery licensed under chapter 168 and who is actively engaged in the business of hatching or selling chickens for commercial purposes.~~

3. "Egg by-product" means a product produced in whole or in part from eggs or spent fowl.

4. "Eggs" means eggs produced from a layer-type chicken. "Eggs" includes shell eggs or eggs broken for further processing, but does not include fertile eggs that are incubated, hatched, or used for vaccines.

~~4.~~ 5. "Market development" means research and educational programs which are directed toward:

a. Better and more efficient production, marketing, and utilization of ~~poultry and poultry products~~ eggs or egg by-products produced for resale.

b. Better methods, including, but not limited to, public relations and other promotion techniques, for the maintenance of present markets and for the development of new or larger domestic or foreign markets and for the sale of ~~poultry and poultry products~~ eggs or egg by-products.

c. Prevention, modification, or elimination of trade barriers which obstruct the free flow of ~~poultry and poultry products~~ eggs or egg by-products to market.

~~5. "Poultry and poultry products" means layer-type chicken hens and eggs, including hatching eggs, and their products.~~

6. "Processor" means the first purchaser of eggs from a producer, or a person who both produces and processes eggs.

7. "Producer" means any person who owns, or contracts for the care of, ~~five hundred~~ thirty thousand or more layer-type chickens~~, the eggs of which are sold in this state through commercial channels, including, but not limited to, eggs for hatching, which have been produced by the producer's own flock~~ raised in this state.

8. "Purchaser" means a person who resells eggs purchased from a producer or offers for sale a product produced from ~~such~~ the eggs for any purpose.

9. "Qualified financial institution" means a bank, credit union, or savings and loan as defined in section 12C.1.

Sec. 5. Section 196A.4, Code 1995, is amended to read as follows:

196A.4 ESTABLISHMENT OF IOWA EGG COUNCIL AND ~~TAX~~ ASSESSMENT.

1. The secretary shall call and the department shall conduct a referendum upon the department's receipt of a petition which is signed by at least twenty producers requesting a referendum to determine whether to establish an Iowa egg council and to impose an assessment as provided in section 196A.15. The referendum shall be conducted within sixty days following receipt of the petition. The petitioners shall guarantee payment of the cost of the referendum by providing evidence of financial security as required by the department.

2. The department shall give notice of the referendum on the question whether to establish a council and to impose an assessment by publishing the notice for a period of not less than five days in at least one newspaper of general circulation in the state. The notice shall state the voting places, period of time for voting, and other information deemed necessary by the department. A referendum shall not be commenced until five days after the last date of publication.

3. Each producer who signs a statement certifying that the producer is a bona fide producer shall be entitled to one vote. At the close of the referendum, the secretary shall count and tabulate the ballots cast. If a majority of voters favor establishing an Iowa egg council and imposing ~~a tax~~ an assessment, ~~an Iowa egg~~ a council shall be established, and ~~the tax~~ an assessment shall be imposed commencing not more than sixty days following the referendum as determined by the ~~Iowa egg~~ council and shall continue for a period of five years unless extended as provided ~~under this chapter~~ in section 196A.4A. If a majority of the voters do not favor establishing ~~an Iowa egg~~ the council and imposing the ~~tax~~ assessment, the ~~tax will not be imposed nor will the~~ council shall not be established and an assessment shall not be imposed until another referendum is held under this chapter and a majority of the voters ~~favor~~ approve establishing a council and imposing the ~~tax~~ assessment. If a referendum should fail, another referendum shall not be held within one hundred eighty days.

~~Subsequent referendums to extend the imposition of the tax shall be held every five years in the year prior to the expiration of the tax in force; however, upon receipt of a petition signed by at least fifty producers requesting a referendum election to determine whether to terminate the establishment of the Iowa egg council and to terminate the imposition of the excise tax as provided herein, the secretary shall call a referendum to be conducted within sixty days following the receipt of the petition. The petitioners shall guarantee the payment of the costs of such referendum. If the majority of the voters of any subsequent referendum do not favor an extension, an additional referendum may be held when the secretary receives a petition signed by at least fifty producers. However, the subsequent referendum shall not be held within one hundred eighty days.~~

4. Immediately after passage of the question at the referendum, the secretary shall appoint seven members to the council in accordance with section 196A.5 based on

nominations made by the Iowa poultry association. The association shall nominate and the secretary shall appoint two members representing large producers, two members representing medium producers, and three members representing small producers. The department, in consultation with the association, shall determine initial classifications for small, medium, and large producers. The secretary shall complete the appointments within thirty days following passage of the question at the referendum.

Sec. 6. NEW SECTION. 196A.4A REFERENDUMS CONDUCTED DURING THE TENURE OF THE COUNCIL AND ASSESSMENT.

1. A referendum shall be conducted as follows:

a. A referendum to extend the imposition of the assessment imposed pursuant to section 196A.4 shall be held every five years in the year prior to the expiration of the assessment in force.

b. The secretary shall call, and the department shall conduct, a referendum upon the department's receipt of a petition which is signed by at least twenty producers requesting a referendum to determine whether to terminate the council and the imposition of the assessment. The referendum shall be conducted within sixty days following receipt of the petition. The petitioners shall guarantee payment of the cost of the referendum by providing evidence of financial security as required by the department.

2. The following procedures shall apply to a referendum:

a. The department shall give notice of the referendum on the question whether to continue the council and the assessment by publishing the notice for a period of not less than five days in at least one newspaper of general circulation in the state. The notice shall state the voting places, period of time for voting, and other information deemed necessary by the department. A referendum shall not be commenced until five days after the last date of publication.

b. Upon signing a statement certifying to the secretary that a person is a bona fide producer, the person is entitled to one vote in each referendum conducted pursuant to this section. The department shall conduct the referendum and count and tabulate the ballots filed during the referendum within thirty days following the close of the referendum.

(1) If a majority of the total number of producers voting in the referendum approves the continuation of the council and the assessment as provided in the referendum, the council shall remain in existence and the assessment shall be levied as provided in this chapter.

(2) If a majority of the total number of producers voting in referendum held pursuant to this section do not approve continuing the council and the assessment as provided in the referendum, the secretary shall terminate collection of the assessment on the first day of the year for which the referendum was to continue. The secretary shall terminate the activities of the council in an orderly manner as soon as practicable after the determination. An additional referendum may be held as provided in section 196A.4. However, the subsequent referendum shall not be held within one hundred eighty days.

Sec. 7. Section 196A.5, Code 1995, is amended to read as follows:

196A.5 COMPOSITION OF COUNCIL.

The Iowa egg council established under this chapter shall be composed of ~~four egg~~ seven producers~~, one from each district; two egg processors; and one hatchery operator who shall be appointed pursuant to this chapter~~. Each council member must be a natural person who is a producer or an officer, equity owner, or employee of a producer. A producer shall not be represented more than once on the council. Two persons shall represent large producers, two persons shall represent medium producers, and three persons shall represent small producers. The council shall adopt rules pursuant to chapter 17A establishing classifications for large, medium, and small producers. The following persons or their designees shall serve as ex officio nonvoting members:

1. The secretary ~~or the secretary's representative, the~~.

2. The director of the Iowa department of economic development~~, and the~~.

3. The chairperson of the poultry science section of the department of animal science at Iowa State University of science and technology ~~or the chairperson's representative shall serve as ex officio nonvoting members of the council. The council shall annually elect a chairperson from its membership~~.

Sec. 8. NEW SECTION. 196A.5A TERMS AND ADMINISTRATION PROCEDURES.

1. A person shall serve as a member on the council for a term of three years. A person may serve as a member on the council for more than one term. However, if a person serves for two complete consecutive terms, the person must wait at least twelve months prior to serving another term.

2. The council shall elect a chairperson, and other officers as needed, from among its voting members who shall serve for a one-year term, and may be reelected to serve subsequent terms according to procedures adopted by the council.

3. A majority of voting members of the council present during a meeting shall constitute a quorum. A majority of the members present during a meeting is necessary to carry out the duties and exercise the powers of the council as provided in this chapter, unless the council requires a greater number.

4. The council shall meet at least once every three months and at other times the council determines are necessary.

Sec. 9. NEW SECTION. 196A.5B ELECTION AND APPOINTMENT PROCEDURES.

1. The council shall appoint a committee to nominate candidates to stand for election to the council. The council may require that the committee nominate candidates to be appointed by the council to fill a vacancy in a position for the unexpired term of a member. The committee shall be comprised of five producers, including the chairperson of the council who shall serve as the chairperson of the nominating committee. The nominating committee shall include at least one member of the council whose term is next to expire. The committee shall also include at least one producer who is classified as a large producer, if a member whose term is to expire represents large producers; at least one producer who is classified as a medium producer, if a member whose term is to expire represents medium producers; and at least one producer who is classified as a small producer, if a member whose term is to expire represents small producers.

2. The council shall appoint a producer to fill a member's position occurring because of a vacancy on the council. The person appointed to fill the vacancy must meet the same requirements as a person elected to that position. The person shall serve for the remainder of the unexpired term.

3. A notice of an election for members of the council shall be provided by the council by publication in a newspaper of general circulation in the state and in any other reasonable manner required by the council. The notice shall include the period of time for voting, voting places, and any other information determined necessary by the council.

Sec. 10. Section 196A.11, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. Administer elections for members of the council and provide for the appointment of persons to fill vacancies occurring on the council, as provided in section 196A.5B. The department may assist the council in administering an election, upon request to the secretary by the council.

Sec. 11. Section 196A.12, subsection 4, Code 1995, is amended to read as follows:

4. Enter into arrangements for the collection of the ~~tax on eggs~~ assessment.

Sec. 12. Section 196A.13, Code 1995, is amended to read as follows:

196A.13 PROHIBITED ACTIONS.

The council shall not do any of the following:

1. Become a dues-paying member of any ~~other firm, association,~~ organization ~~or corporation~~, including but not limited to a firm, association, or corporation, regardless of whether the organization is public or private. However, upon approval by the council, the council may become a dues-paying member of an organization carrying out a purpose related to the increased consumption and utilization of eggs or egg by-products.

2. ~~Furnish, directly or indirectly, any~~ Provide direct or indirect financial support to or for any other person, ~~firm, association, organization or corporation, public or private,~~ except as provided in subsection 1 or for contracts for services ~~rendered or to be rendered for~~ related to research, ~~and~~ promotional, ~~and~~ or public relations programs, ~~and~~ or for the administrative expenses of the ~~Iowa egg~~ council.

3. Act, directly or indirectly, in any capacity in marketing or making contracts for the marketing of eggs or ~~poultry~~ egg by-products.

4. Act, directly or indirectly, in any capacity in selling or contracting for the selling of ~~egg-producing or poultry-producing~~ egg or egg by-product equipment.

5. Make any contribution ~~out of the funds~~ of ~~the~~ council moneys, either directly or indirectly, to any political party or organization or in support of ~~any~~ a political candidate for public office, or make payments to a political candidate ~~or~~ including but not limited to a member of Congress or the ~~Iowa legislature~~ general assembly for honorariums, speeches, or for any other purposes above actual and necessary expenses.

Sec. 13. Section 196A.14, Code 1995, is amended to read as follows:

196A.14 COMPENSATION.

Members of the council may receive payment for their actual expenses and travel in performing official council functions. Payment shall be made from amounts collected from the ~~tax~~ assessment. ~~No~~ A member of the council shall not be a salaried employee of the council or any organization or agency receiving ~~funds~~ moneys from the council. ~~The council shall meet at least once every three months, and at other times it deems necessary.~~

Sec. 14. Section 196A.15, Code 1995, is amended to read as follows:

196A.15 ~~TAX~~ ASSESSMENT.

If approved by a majority of voters at a referendum as provided in this chapter, ~~a tax to be~~ an assessment amount set by the council at not more than five cents for each thirty dozen eggs ~~sold by a producer will~~ produced in this state shall be imposed on the producer at the time of delivery to a purchaser who will deduct the ~~tax~~ assessment from the price paid to the producer at the time of sale. The assessment shall not be refundable. The assessment is due to be paid to the council within thirty days following each calendar quarter, as provided by the council.

PARAGRAPH DIVIDED. If the producer sells eggs to a purchaser outside the state of Iowa, the producer shall deduct the tax from the amount received from the sale and shall forward the amount deducted to the council within thirty days following each calendar quarter. If the producer and processor are the same person, then that person shall pay the ~~tax~~ assessment to the council within thirty days following each calendar quarter.

Sec. 15. Section 196A.16, subsection 5, Code 1995, is amended to read as follows:

5. The rate of withholding and the total amount of ~~tax~~ assessment withheld.

Sec. 16. Section 196A.19, unnumbered paragraph 2, Code 1995, is amended to read as follows:

Moneys collected, 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 after a referendum is held when a majority of the voters do not favor extending the ~~tax~~ assessment shall continue to be expended in accordance with this chapter until exhausted.

Sec. 17. Section 196A.24, Code 1995, is amended to read as follows:

196A.24 PURCHASERS OUTSIDE IOWA.

The secretary may enter into arrangements with purchasers from outside Iowa for payment of the ~~tax~~ assessment.

Sec. 18. Sections 196A.2, 196A.3, 196A.6, 196A.7, 196A.8, 196A.9, 196A.10, and 196A.18, Code 1995, are repealed.

Sec. 19. IMPLEMENTATION. The council shall implement this Act, which may include providing for the early termination of the terms, nomination of candidates, elections, and the establishment of staggered terms for members elected after the effective date of this Act. The council may provide for shorter or longer terms for members first elected after the effective date of this Act. However, a term shall not be longer than three years. The term of a member elected prior to the effective date of this Act shall terminate not later than July 1, 1998. Notwithstanding this Act, a member serving on the council on the effective date of this Act may be reelected for an additional term. However, the member's term completed prior to the effective date of this Act shall be counted as a full term under this Act.

Sec. 20. CODE EDITOR. The Code editor is requested to consider transferring the provisions of chapter 196A to or near chapter 184, and renumbering its sections to enhance readability, including sections amended by this Act.

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

Approved March 14, 1995

CHAPTER 8

SALES TAX EXEMPTION FOR AUXILIARY ATTACHMENTS

H.F. 149

AN ACT relating to the state sales tax on auxiliary attachments for self-propelled and non-self-propelled farm machinery and equipment.

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

Section 1. Section 422.45, subsection 26, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The gross receipts from the sale or rental of farm machinery and equipment, including auxiliary attachments which improve the performance, safety, operation, or efficiency of the machinery and equipment and replacement parts, if the following conditions are met:

Sec. 2. Section 422.45, subsection 39, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The gross receipts from the sale or rental of farm machinery and equipment, including auxiliary attachments which improve the performance, safety, operation, or efficiency of the machinery and equipment and replacement parts, if all of the following conditions are met:

Approved March 20, 1995

CHAPTER 9

SCHOOL FINANCE – STATE PERCENT OF GROWTH FOR 1995-1996 BUDGET YEAR
S.F. 17

AN ACT establishing the state percent of growth for the school budget year beginning July 1, 1995, 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, 1995, for the state school foundation program a state percent of growth equal to three and one-half percent.

Sec. 2. Notwithstanding the thirty-day deadline for the enactment of the state percent of growth provided in section 257.8, subsection 1, such deadline shall not apply to the Act enacted which establishes the state percent of growth during the 1995 Session of the Seventy-sixth General Assembly.

Sec. 3. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment and is applicable for computing state aid under the state school foundation program for the school budget year beginning July 1, 1995.

Approved March 23, 1995

CHAPTER 10

TRAVEL TRAILERS
S.F. 158

AN ACT to provide conformity to the definition of travel trailers.

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

Section 1. Section 321.1, subsection 39, paragraph b, Code 1995, is amended to read as follows:

b. "Travel trailer" means a vehicle without motive power used, ~~or so~~ manufactured, or constructed ~~as~~ to permit its ~~being used~~ use as a conveyance upon the public streets and highways and ~~so~~ designed to permit ~~the vehicle to be used~~ its use as a place of human habitation by one or more persons. ~~Said~~ The vehicle may be up to eight feet six inches in width and its overall length shall not exceed forty feet. ~~Such~~ The vehicle shall be customarily or ordinarily used for vacation or recreational purposes and not used as a place of permanent habitation. If ~~any such~~ the vehicle is used in this state as a place of human habitation for more than ninety consecutive days in one location it shall be classed as a mobile home regardless of the size limitations ~~herein~~ provided in this paragraph.

Approved March 27, 1995

CHAPTER 11

SCHOOL FINANCE – STATE PERCENT OF GROWTH FOR 1996-1997 AND FUTURE BUDGET YEARS

S.F. 460

AN ACT relating to the establishment of the state percent of growth for purposes of the state school foundation program and providing an effective and applicability date provision.

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

Section 1. Section 257.8, subsection 1, Code 1995, is amended to read as follows:

1. STATE PERCENT OF GROWTH. The state percent of growth for the budget year beginning July 1, 1996, is three and three-tenths percent. The state percent of growth for ~~a~~ each subsequent budget year shall be established by statute which shall be enacted within thirty days of the submission in the year preceding the base year of the governor's budget under section 8.21. The establishment of the state percent of growth for a budget year shall be the only subject matter of the bill which enacts the state percent of growth for a budget year.

Sec. 2. Notwithstanding the subject matter restriction in section 257.8, subsection 1, it is the intent of the general assembly that with enactment of this Act that the technology/school improvement program will be in existence and funds will be appropriated for the program for school districts and area education agencies for the school budget year beginning July 1, 1996.

Sec. 3. This Act takes effect January 1, 1996, for school budget years beginning after that date.

Approved March 28, 1995

CHAPTER 12

COMBINED HUNTING AND FISHING LICENSE FEE

H.F. 30

AN ACT relating to the fee for a combined hunting and fishing license and providing an effective date and applicability provision.

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

Section 1. Section 483A.1, subsection 3, Code 1995, is amended to read as follows:

3. Hunting and fishing combined licenses:

Legal residents except as otherwise provided ..... $ ~~23.50~~ 23.00

Sec. 2. EFFECTIVE DATE – APPLICABILITY. This Act takes effect December 15, 1995, and applies to all hunting and fishing combined licenses sold for the 1996 license year and subsequent license years.

Approved April 3, 1995

CHAPTER 13

MERIT SYSTEM EXEMPTION OF STATE FAIR AUTHORITY EMPLOYEES
H.F. 170

AN ACT relating to exempting employees of the state fair authority from the state merit personnel system.

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

Section 1. Section 19A.3, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 23. All employees of the Iowa state fair authority.

Sec. 2. Section 173.1, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The Iowa state fair authority is established as a public instrumentality of the state. The authority is not an agency of state government. However, the authority is considered a state agency and its employees state employees for the purposes of chapter 17A, ~~the merit system provisions of chapter 19A,~~ and chapters 20, 91B, 97B, 509A, and 669. The authority is established to conduct an annual state fair and exposition on the Iowa state fairgrounds and to conduct other interim events consistent with its rules. The powers of the authority are vested in the Iowa state fair board. The Iowa state fair board consists of the following:

Approved April 6, 1995

CHAPTER 14

ADMINISTRATIVE RULES - DEPOSIT OF REFERENCED PUBLICATIONS
H.F. 477

AN ACT requiring that a publication whose standards are incorporated by reference in agency rulemaking be purchased and provided by the agency to the administrative rules coordinator for deposit in the state law library.

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

Section 1. Section 17A.6, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. An agency which adopts standards by reference to another publication shall purchase and provide a copy of the publication containing the standards to the administrative rules coordinator who shall deposit the copy in the state law library where it shall be made available for inspection and reference.

Sec. 2. Section 256.54, subsection 2, paragraph b, Code 1995, is amended to read as follows:

b. Maintain, as an integral part of the law library, reports of various boards and agencies, ~~and~~ copies of bills, journals, ~~and~~ other information relating to current or proposed legislation, and copies of the Iowa administrative bulletin and Iowa administrative code and any publications incorporated by reference in the bulletin or code.

Approved April 6, 1995

CHAPTER 15

IMMUNITY FROM LIABILITY REGARDING OIL SPILL RESPONSE
H.F. 478

AN ACT providing limited immunity for persons responding to oil spills.

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

Section 1. NEW SECTION. 455B.701 OIL SPILL IMMUNITY.

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

a. "Damages" means damages of any kind for which liability may exist under the laws of this state resulting from, arising out of, or relating to the discharge or threatened discharge of oil.

b. "Discharge" means any emission, other than natural seepage, intentional or unintentional, and includes, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

c. "Federal on-scene coordinator" means the federal official designated by the federal agency in charge of the removal efforts or by the United States environmental protection agency or the United States coast guard to coordinate and direct responses under the national contingency plan.

d. "National contingency plan" means the national contingency plan prepared and published under 33 U.S.C. § 1321(d).

e. "Oil" means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.

f. "Remove" or "removal" means containment and removal of oil or a hazardous substance from water and shorelines or the taking of other actions as may be necessary to minimize or mitigate damage to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches.

g. "Removal costs" means the costs of removal that are incurred after a discharge of oil has occurred or, in any case in which there is a substantial threat of a discharge of oil, the costs to prevent, minimize, or mitigate oil pollution from such an incident.

h. "Responsible party" means a responsible party as defined under 33 U.S.C. § 2701.

2. EXEMPTION FROM LIABILITY.

a. Notwithstanding any other provisions of law, a person is not liable for removal costs or damages which result from acts or omissions taken or made in the course of rendering care, assistance, or advice consistent with the national contingency plan or as otherwise directed by the federal on-scene coordinator or by the state official with responsibility for oil spill response.

b. Paragraph "a" does not apply to the following:

(1) A responsible party.

(2) When the damage involves personal injury or wrongful death.

(3) If the person is grossly negligent or engages in willful misconduct.

c. A responsible party is liable for any removal costs and damages that another person is relieved of under paragraph "a".

d. This section does not affect the liability of a responsible party for oil spill response under state law.

Approved April 6, 1995

CHAPTER 16

MILITARY DENTISTS AND DENTAL HYGIENISTS - LICENSING EXEMPTION
H.F. 154

AN ACT relating to the exemption of certain dentists and dental hygienists from state licensing requirements.

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

Section 1. Section 153.14, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Dentists and dental hygienists who are licensed in another state and who are active or reserve members of the United States military service when acting in the line of duty in this state.

Approved April 11, 1995

CHAPTER 17

REGULATION OF REAL ESTATE SALESPERSONS
AND BROKERS - TRANSACTION REQUIREMENTS
H.F. 515

AN ACT relating to the relationship between a licensed real estate salesperson or broker and the parties to a transaction and providing an effective date.

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

Section 1. Section 543B.5, Code 1995, is amended to read as follows:

543B.5 OTHER DEFINITIONS.

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

1. "Agency" means a relationship in which a real estate broker acts for or represents another by the other person's express authority in a transaction.

2. "Agency agreement" means a written agreement between a broker and a client which identifies the party the broker represents in a transaction.

3. "Appointed agent" means that affiliated licensee who is appointed by the designated broker of the affiliated licensee's real estate brokerage agency to act solely for a client of that brokerage agency to the exclusion of other affiliated licensees of that brokerage agency.

~~1.~~ 4. "Broker associate" means a person who has a broker's license but is employed by or otherwise associated with another broker as a salesperson.

5. "Brokerage" means the business or occupation of a real estate broker.

6. "Brokerage agreement" means a contract between a broker and a client which establishes the relationship between the parties as to the brokerage services to be performed.

7. "Brokerage services" means those activities identified in sections 543B.3 and 543B.6.

8. "Client" means a party to a transaction who has an agency agreement with a broker for brokerage services.

9. "Customer" means a consumer who is not being represented by a licensee but for whom the licensee may perform ministerial acts.

10. "Designated broker" means a licensee designated by a real estate brokerage agency to act for the agency in conducting real estate brokerage services.

~~2.~~ 11. "Inactive license" means either a broker or salesperson license certificate that is

on file with the real estate commission in the commission office and during which time the licensee is precluded from engaging in any of the acts of this chapter.

12. "Licensee" means a broker or a salesperson licensed pursuant to this chapter.

13. "Material adverse fact" means an adverse fact that a party indicates is of such significance, or that is generally recognized by a competent licensee as being of such significance to a reasonable party, that it affects or would affect the party's decision to enter into a contract or agreement concerning a transaction, or affects or would affect the party's decision about the terms of the contract or agreement.

For purposes of this subsection, "adverse fact" means a condition or occurrence that is generally recognized by a competent licensee as resulting in any of the following:

a. Significantly and adversely affecting the value of the property.

b. Significantly reducing the structural integrity of improvement to real estate.

c. Presenting a significant health risk to occupants of the property.

14. "Negotiate" means to act as an intermediary between the parties to a transaction, and includes any of the following acts:

a. Participating in the parties' discussion of the terms of a contract or agreement concerning a transaction.

b. Completing, when requested by a party, appropriate forms or other written record to document the party's proposal in a manner consistent with the party's intent.

c. Presenting to a party the proposals of other parties to the transaction and informing the party receiving a proposal of the advantages and disadvantages of the proposal.

15. "Party" means a person seeking to sell, exchange, buy, or rent an interest in real estate, a business, or a business opportunity. "Party" includes a person who seeks to grant or accept an option to buy, sell, or rent an interest in real estate.

~~3.~~ 16. "Salesperson" means a person employed by or otherwise associated with a real estate broker, as a selling, renting, or listing agent or representative of the broker.

17. "Transaction" means the sale, exchange, purchase or rental of, or the granting or acceptance of an option to sell, exchange, purchase, or rent an interest in real estate.

Sec. 2. NEW SECTION. 543B.56 DUTIES OF LICENSEES.

1. DUTIES TO ALL PARTIES IN A TRANSACTION. In providing brokerage services to all parties to a transaction, a licensee shall do all of the following:

a. Provide brokerage services to all parties to the transaction honestly and in good faith.

b. Diligently exercise reasonable skill and care in providing brokerage services to all parties.

c. Disclose to each party all material adverse facts that the licensee knows except for the following:

(1) Material adverse facts known by the party.

(2) Material adverse facts the party could discover through a reasonably diligent inspection, and which would be discovered by a reasonably prudent person under like or similar circumstances.

(3) Material adverse facts the disclosure of which is prohibited by law.

(4) Material adverse facts that are known to a person who conducts an inspection on behalf of the party.

d. Account for all property coming into the possession of a licensee that belongs to any party within a reasonable time of receiving the property.

2. DUTIES TO A CLIENT. In addition to the licensee's duties under subsection 1, a licensee providing brokerage services to a client shall do all of the following:

a. Place the client's interests ahead of the interests of any other party, unless loyalty to a client violates the licensee's duties under subsection 1, section 543B.58, or under other applicable law.

b. Disclose to the client all information known by the licensee that is material to the

transaction and that is not known by the client or could not be discovered by the client through a reasonably diligent inspection.

c. Fulfill any obligation that is within the scope of the agency agreement, except those obligations that are inconsistent with other duties that the licensee has under this chapter or any other law.

d. Disclose to a client any financial interests the licensee or the brokerage has in any business entity to which the licensee or brokerage refers a client for any service or product related to the transaction.

3. PROHIBITED CONDUCT. In providing brokerage services, a licensee shall not do either of the following:

a. Accept a fee or compensation related to a transaction from a person other than the licensee's client, unless the licensee has provided written notice to all parties to the transaction that a fee or compensation will be accepted by the licensee from such person.

b. Act in a transaction on the licensee's own behalf, on behalf of the licensee's immediate family or brokerage, or on behalf of an organization or business entity in which the licensee has an interest, unless the licensee has the written consent of all parties to the transaction.

Sec. 3. NEW SECTION. 543B.57 CONFIRMATION AND DISCLOSURE OF RELATIONSHIP.

1. A licensee shall not represent any party or parties to a transaction or otherwise as a licensee unless that licensee makes an affirmative written disclosure to all parties to the transaction identifying which party that person represents in the transaction. The disclosure shall be acknowledged by separate signatures of all parties to the transaction.

2. a. The disclosure required in subsection 1 shall be made by the licensee at the time the licensee provides specific assistance to the client, or prior to any offer being made or accepted by any party to a transaction, whichever is sooner. A change in a licensee's representation that makes the initial disclosure incomplete, misleading, or inaccurate requires that a new disclosure be made immediately.

b. For purposes of this section, "specific assistance" means eliciting or accepting confidential information about a party's real estate needs, motivation, or financial qualifications. "Specific assistance" does not mean an open house showing, preliminary conversations concerning price range, location, and property styles, or responding to general factual questions concerning properties which have been advertised for sale or lease.

3. The written agency disclosure form shall contain all of the following:

a. A statement of which party is the licensee's client or, if the licensee is providing brokerage services to more than one client as provided under section 543B.60, a statement of all persons who are the licensee's clients.

b. A statement of the licensee's duties to the licensee's client under section 543B.56, subsections 1 and 2.

c. Any additional information that the licensee determines is necessary to clarify the licensee's relationship to the licensee's client or customer.

4. This section does not prohibit a person from representing oneself.

5. The seller, in the listing agreement, may authorize the seller's licensee to disburse part of the licensee's compensation to other licensees, including a buyer's licensee solely representing the buyer. A licensee representing a buyer shall inform the listing licensee, if there is a listing licensee, either verbally or in writing, of the agency relationship before any negotiations are initiated. The obligation of either the seller or the buyer to pay compensation to a licensee is not determinative of the agency relationship.

Sec. 4. NEW SECTION. 543B.58 LICENSEES REPRESENTING MORE THAN ONE CLIENT IN A TRANSACTION.

1. A licensee shall not be the agent for both a buyer and a seller to a transaction without obtaining the written consent of both the buyer and the seller. The written consent shall

state that the licensee has made a full disclosure of the type of representation the licensee will provide. The consent to multiple representation shall contain a statement of the licensee's duties under section 543B.56, subsection 1, a statement of the licensee's duties to the client under section 543B.56, subsection 2, paragraphs "b" and "c", and a statement that the clients understand the licensee's duties and consent to the licensee's providing brokerage services to more than one client.

2. A consent to multiple representation may contain additional disclosures by the licensee or additional agreements between the licensee and the clients that do not violate any duty of a licensee under this chapter.

Sec. 5. NEW SECTION. 543B.59 APPOINTED AGENTS WITHIN A FIRM.

1. APPOINTED AGENTS. A real estate brokerage agency entering into a brokerage agreement, through a designated broker, may notify a client in writing of those affiliated licensees within the real estate brokerage agency who will be acting as appointed agents of that client to the exclusion of all other affiliated licensees within the real estate brokerage agency.

2. DUAL AGENT. A real estate brokerage agency and a designated broker are not considered to be dual agents solely because of an appointment under the provisions of this section. However, an affiliated licensee who personally represents both the seller and the buyer in a particular transaction is considered to be a disclosed dual agent and is required to comply with the provisions of this subchapter governing disclosed dual agents.

3. ACTUAL KNOWLEDGE - INFORMATION. A client, a real estate brokerage agency, and its appointed agents are deemed to possess only actual knowledge and information at the time the appointed agents are appointed. Knowledge or information is not imparted by operation of law among the clients, the real estate brokerage agency, and its appointed agents.

4. APPOINTMENTS - ROLES. The commission shall define by rule the methods of appointment and the role of the real estate brokerage agency and the designated broker. The rules must include a requirement that clients be informed as to the real estate brokerage agency's appointed agent policy and be given written notice of that policy in advance of entering into a brokerage agreement.

Sec. 6. NEW SECTION. 543B.60 LICENSEES PROVIDING SERVICES IN MORE THAN ONE TRANSACTION.

A licensee may provide brokerage services simultaneously to more than one party in different transactions unless the licensee agrees with a client that the licensee is to provide brokerage services only to that client. If the licensee and a client agree that the licensee is to provide brokerage services only to that client, the agency agreement disclosure required under section 543B.57, subsection 1, shall contain a statement of that agreement.

Sec. 7. NEW SECTION. 543B.61 VIOLATIONS - REAL ESTATE COMMISSION JURISDICTION.

1. Failure of a licensee to comply with sections 543B.57 through 543B.60 is prima facie evidence of a violation under section 543B.34, subsection 4.

2. Failure of a licensee to act in accordance with the disclosures made pursuant to sections 543B.56 through 543B.58 is prima facie evidence of a violation under section 543B.34, subsection 4.

3. Nothing in this subchapter shall affect the validity of title to real property transferred based solely on the reason that a licensee failed to conform to the provisions of this subchapter.

Sec. 8. NEW SECTION. 543B.62 CHANGES IN COMMON LAW DUTIES AND LIABILITIES OF LICENSEES AND PARTIES.

1. Except as provided in subsection 2, the duties of a licensee specified in this chapter or in rules adopted pursuant to this chapter supersede any fiduciary duties of a licensee to

a party to a transaction based on common law principles of agency to the extent that those common law fiduciary duties are inconsistent with the duties specified in this chapter or rules adopted pursuant to this chapter.

2. This section shall not be construed to modify a licensee's duty under common law as to negligent or fraudulent misrepresentation of material information.

3. a. A licensee who is providing brokerage services to a client and who retains another licensee to provide brokerage services to that client is not liable for misrepresentation made by the other licensee, unless the retaining licensee knew or should have known of the other licensee's misrepresentation or the other licensee is repeating a misrepresentation made to the other licensee by the retaining licensee.

b. A broker is responsible for supervising a salesperson or broker associate employed by or otherwise associated with the broker as a representative of the broker. The existence of an independent contractor relationship or any other special compensation arrangement between the broker and the salesperson or broker associate does not relieve the broker, salesperson, or broker associate of the duties and responsibilities established by this chapter. A salesperson or broker associate shall keep the employing broker fully informed of all activities being conducted on behalf of the broker and any other activities that might impact on the broker's responsibilities. However, the failure of the salesperson or broker associate to keep the employing broker fully informed does not relieve the broker of the duties and responsibilities established by this chapter.

Sec. 9. NEW SECTION. 543B.63 LICENSEE NOT CONSIDERED SUBAGENT.

A licensee is not considered to be a subagent of a client of another licensee solely by reason of membership or other affiliation by the licensee in a multiple listing service or other similar information source, and an offer of subagency shall not be made through a multiple listing service or other similar information source.

Sec. 10. NEW SECTION. 543B.64 CHAPTER IS NOT LIMITING.

The duties imposed upon persons under this chapter or pursuant to rules adopted by the real estate commission shall not limit or abridge any duty or responsibility to disclose created by other applicable law, or under a contract between parties.

Approved April 11, 1995

CHAPTER 18

REST AREAS

H.F. 115

AN ACT relating to rest areas by permitting refreshments during holiday periods and concerning the promotion of Iowa agricultural products.

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

Section 1. NEW SECTION. 314.27 REFRESHMENTS AT REST AREAS ON CERTAIN HOLIDAYS.

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

a. "Free refreshments" means water, coffee, cookies, any nonintoxicating, noncarbonated beverage which is not already bottled or canned, doughnuts, or baked dessert goods dispensed by a nonprofit organization, provided that the refreshments are furnished to motorists by a nonprofit organization without charge.

b. "Holiday periods" means the Memorial Day and Labor Day weekends, commencing at noon on the preceding Friday and ending at midnight between the Monday and Tuesday of the holiday weekend, and the period surrounding Independence Day, commencing at noon on July 1 and ending at midnight between July 6 and July 7.

2. Nonprofit organizations shall be allowed to provide free refreshments to motorists and to accept, without active solicitation, voluntary donations from motorists during holiday periods at rest areas, as defined in section 306C.10, subject to approval by the department. The department shall approve or disapprove applications by nonprofit organizations, and notify those nonprofit organizations, at least sixty days prior to the holiday period.

3. The department shall adopt rules governing the provision of refreshments at rest areas in accordance with this section.

Sec. 2. The Iowa department of economic development, in consultation with the state department of transportation and the department for the blind, shall develop a program at rest areas, as defined in section 306C.10, for the promotion of agricultural products produced in Iowa. Any program to promote agricultural products produced in Iowa shall not be conducted during holiday periods as defined in section 314.27.

Approved April 17, 1995

CHAPTER 19

WITNESS COMPENSATION FOR VOLUNTEER FIRE FIGHTERS
H.F. 118

AN ACT relating to compensation of volunteer fire fighters when subpoenaed as witnesses.

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

Section 1. NEW SECTION. 622.71A VOLUNTEER FIRE FIGHTERS - WITNESS COMPENSATION.

A volunteer fire fighter, as defined in section 85.61, who is subpoenaed to appear as a witness in connection with a matter regarding an event or transaction which the fire fighter perceived or investigated in the course of duty as a volunteer fire fighter, shall receive reasonable compensation as determined by the court from the party who subpoenaed the volunteer fire fighter. The daily compensation shall be equal to the average daily wage paid to full-time fire fighters of the same rank within the judicial district. However, the requirements of this section are not applicable if a volunteer fire fighter will receive the volunteer fire fighter's regular salary or other compensation pursuant to the policy of the volunteer fire fighter's regular employer, for the period of time required for travel to and from where the court or other tribunal is located and while the volunteer fire fighter is required to remain at that place pursuant to the subpoena.

Approved April 17, 1995

CHAPTER 20

IOWA COMMUNICATIONS NETWORK FEES

H.F. 161

AN ACT relating to the fee which may be charged by an Iowa communications network receiving site.

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

Section 1. Section 8D.13, subsection 12, Code 1995, is amended to read as follows:

12. 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~~ originator of the communication provided on the network. 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.

Approved April 17, 1995

CHAPTER 21

AUTHORITY OF CITY ADMINISTRATIVE AGENCIES

H.F. 212

AN ACT relating to the delegation of authority to an administrative agency of a city.

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

Section 1. Section 392.1, Code 1995, is amended to read as follows:

392.1 ESTABLISHMENT BY ORDINANCE.

If the council wishes to establish an administrative agency, it shall do so by an ordinance which indicates the title, powers, and duties of the agency, the method of appointment or election, qualifications, compensation, and term of members, and other appropriate matters relating to the agency. The title of an administrative agency must be appropriate to its function. The council may not delegate to an administrative agency any of the powers, authorities, and duties prescribed in division V of chapter 384 or in chapter 388, except that the council may delegate to an administrative agency established for the purpose of operating an airport any of its powers and duties prescribed in division V of chapter 384, and the council may delegate to an administrative agency power to establish and collect charges, and disburse the moneys received for the use of a city facility, including a city enterprise, as defined in section 384.24, ~~so long as there are no~~ if the delegation to an administrative agency is strictly subject to the limitations imposed by the revenue bonds or pledge orders outstanding which are payable from the revenues of the city enterprise. Except as otherwise provided in this chapter, the council may delegate rule-making authority to the agency for matters within the scope of the agency's powers and duties, and may

*The term "originator of the communication" probably intended

prescribe penalties for violation of agency rules which have been adopted by ordinance. Rules governing the use by the public of any city facility must be made readily available to the public.

Approved April 17, 1995

CHAPTER 22

JOINT PURCHASE OF GROUP HEALTH BENEFITS BY SCHOOL DISTRICTS AND AREA EDUCATION AGENCIES

H.F. 238

AN ACT relating to the joint purchase of group health benefits by multiple school districts or area education agencies pursuant to an intergovernmental agreement.

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

Section 1. Section 279.12, Code 1995, is amended to read as follows:

279.12 CONTRACTS – TEACHERS – INSURANCE – EDUCATIONAL LEAVE.

The board shall carry into effect any instruction from the regular election upon matters within the control of the voters, and shall elect all teachers and make all contracts necessary or proper for exercising the powers granted and performing the duties required by law, and may establish and pay all or any part thereof from school district funds the cost of group health insurance plans, nonprofit group hospital service plans, nonprofit group medical service plans and group life insurance plans adopted by the board for the benefit of employees of the school district, but the board may authorize any subdirector to employ teachers for the school in the subdirector's subdistrict; but no such employment by a subdirector shall authorize a contract, the entire period of which is wholly beyond the subdirector's term of office.

The board may enter into an agreement pursuant to chapter 28E with another school district or an area education agency for the purpose of jointly procuring a group health insurance plan, nonprofit group hospital service plan, nonprofit group medical service plan, or group life insurance plan for the benefit of the districts or agencies which are parties to the agreement. Such plan may include a cafeteria plan as defined in 26 C.F.R. § 1.125-2T. An agreement entered into pursuant to this paragraph shall not be construed to establish 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.

The board may approve a policy for educational leave for licensed school employees and for reimbursement for tuition paid by licensed school employees for courses approved by the board. For the purpose of this section, "educational leave" means a leave granted to an employee for the purpose of study including study in areas outside of a teacher's area of specialization, travel, or other reasons deemed by the board to be of value to the school system.

Approved April 17, 1995

CHAPTER 23

AVAILABILITY OF GROUP HEALTH CARE COVERAGE
FOR UNEMPLOYED INDIVIDUALS
H.F. 277

AN ACT concerning health care coverage availability to unemployed individuals.

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

Section 1. Section 96.3, subsection 10, Code 1995, is amended by striking the subsection.

Approved April 17, 1995

CHAPTER 24

INVOLUNTARY HOSPITALIZATION CRITERIA AND PROCEDURES
H.F. 337

AN ACT to amend the criteria and procedures necessary to establish that a person is seriously mentally impaired for purposes of involuntary hospitalization.

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

Section 1. Section 229.1, subsection 14, paragraph c, Code 1995, is amended to read as follows:

c. Is unable to satisfy the person's needs for nourishment, clothing, essential medical care, or shelter so that it is likely that the person will suffer ~~substantial~~ physical injury, ~~serious~~ physical debilitation, or death ~~within the reasonably foreseeable future~~.

Sec. 2. Section 229.22, subsection 2, Code 1995, is amended to read as follows:

2. In the circumstances described in subsection 1, any peace officer who has reasonable grounds to believe that a person is mentally ill, and because of that illness is likely to physically injure the person's self or others if not immediately detained, may without a warrant take or cause that person to be taken to the nearest available facility as defined in section 229.11, subsections 2 and 3. A person believed mentally ill, and likely to injure the person's self or others if not immediately detained, may be delivered to a hospital by someone other than a peace officer. Upon delivery of the person believed mentally ill to the hospital, the chief medical officer may order treatment of that person, including chemotherapy, but only to the extent necessary to preserve the person's life or to appropriately control behavior by the person which is likely to result in physical injury to that person or others if allowed to continue. The peace officer who took the person into custody, or other party who brought the person to the hospital, shall describe the circumstances of the matter to the chief medical officer. If the chief medical officer finds that there is reason to believe that the person is seriously mentally impaired, and because of that impairment is likely to physically injure the person's self or others if not immediately detained, the chief medical officer shall at once communicate with the nearest available magistrate as defined in section 801.4, subsection 10. The magistrate shall ~~immediately proceed to the facility where the person is detained, except that if the chief medical officer's communication with the magistrate occurs between the hours of midnight and the next succeeding seven o'clock a.m. and the magistrate deems it appropriate under~~, based upon the

circumstances described by the chief medical officer, ~~the magistrate may delay going to the facility and in that case shall~~ give the chief medical officer verbal instructions either directing that the person be released forthwith or authorizing the person's continued detention at that facility. In the latter case, the magistrate shall:

a. By the close of business on the next working day, file with the clerk a written report stating the substance of the information on the basis of which the person's continued detention was ordered; and

b. ~~Arrive at~~ Proceed to the facility where the person is being detained ~~not later than eight o'clock a.m. of the same day on which the chief medical officer's notification occurs~~ within twenty-four hours of giving instructions that the person be detained.

Approved April 17, 1995

CHAPTER 25

PUBLIC INVESTMENT AND USE OF BOND PROCEEDS

H.F. 406

AN ACT relating to the investment of the proceeds of bond issues and other evidences of indebtedness and the use of earnings from the investment.

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

Section 1. Section 12C.7, subsection 2, Code 1995, is amended to read as follows:

2. Interest or earnings on investments and time deposits made in accordance with the provisions of sections 12.8, 12B.10, 12C.1 and 12C.6 shall be credited to the general fund of the governmental body making the investment or deposit, with the exception of specific funds for which investments are otherwise provided by law, constitutional funds, or when legally diverted to the state sinking fund for public deposits. Funds so excepted shall receive credit for interest or earnings derived from such investments or time deposits made from such funds. ~~Such interest or earnings on any fund created by direct vote of the people shall be credited to the fund to retire any such indebtedness after which the fund itself shall be credited.~~

Sec. 2. Section 12C.9, Code 1995, is amended to read as follows:

12C.9 INVESTMENT OF SINKING FUNDS - BOND PROCEEDS.

1. The treasurer of state and all other state agencies authorized to invest funds and the treasurer or other designated financial officer of each political subdivision ~~may~~ including each school corporation shall invest the proceeds of ~~public bonds or obligations~~ notes, bonds, refunding bonds, and other evidences of indebtedness, and funds being accumulated for the payment of principal and interest or reserves in investments set out in section 12B.10, subsection 4, paragraphs "a" through "g", section 12B.10, subsection 5, paragraphs "a" through "g", an investment contract, or tax exempt bonds. The investment shall be as defined and permitted by section 148 of the Internal Revenue Code and applicable regulations under that section. An investment contract or tax exempt bonds shall be rated within the two highest classifications as established by at least one of the standard rating services approved by the superintendent of banking by rule adopted pursuant to chapter 17A.

2. Earnings and interest from investments pursuant to subsection 1 shall be used to pay the principal or interest as the principal or interest comes due on the indebtedness or to

fund the construction of the project for which the indebtedness was issued, or shall be credited to the capital project fund for which the indebtedness was issued.

Sec. 3. REPEAL. Section 12C.14, Code 1995, is repealed.

Approved April 17, 1995

CHAPTER 26

ELIMINATION OF AIR TOXICS FEES

H.F. 425

AN ACT repealing air toxics fees.

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

Section 1. Section 455B.133B, subsection 1, Code 1995, is amended to read as follows:

1. An air contaminant source fund is created in the office of the treasurer of state under the control of the department. Moneys received from the fees assessed pursuant to ~~sections 455B.133A and~~ section 455B.133, subsection 8, shall be deposited in the fund. Moneys ~~collected pursuant to section 455B.133, subsection 8,~~ in the fund shall be used solely to defray the costs related to the permit, monitoring, and inspection program, including the small business stationary source technical and environmental compliance assistance program required pursuant to the federal Clean Air Act Amendments of 1990, sections 502 and 507, Pub. L. No. 101-549. Notwithstanding section 8.33, any unexpended balance in the fund at the end of each fiscal year shall be retained in the fund. Notwithstanding section 12C.7, any interest and earnings on investments from money in the fund shall be credited to the fund.

Sec. 2. Section 455B.133B, subsection 2, Code 1995, is amended by striking the subsection.

Sec. 3. Section 455B.517, subsection 4, paragraph b, Code 1995, is amended by striking the paragraph.

Sec. 4. Section 455B.133A, Code 1995, is repealed.

Approved April 17, 1995

CHAPTER 27

STATE PURCHASING PROCEDURES AND PUBLICATION CHARGES

H.F. 447

AN ACT relating to certain state purchasing procedures and charges for publications involving the department of general services.

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

Section 1. Section 18.36, Code 1995, is amended to read as follows:

18.36 FORM OF BIDS.

Bids must be:

1. ~~In~~ Secured in writing, by telephone, or by facsimile, as indicated in the specifications, and only on the blanks furnished with the specifications.

2. Signed by the bidder, or if a telephone bid, confirmed in writing by bidder.

3. ~~Submitted~~ If submitted in writing, submitted in a sealed ~~envelopes~~ envelope which shall be properly endorsed.

4. In the hands of the director by the time fixed in the advertisements for bids.

Sec. 2. Section 18.50, Code 1995, is amended to read as follows:

18.50 EMERGENCY CONTRACTS.

The director may at any time award a special contract or may authorize assistants to award a special contract for any work or material coming within the provisions of chapter 7A and sections 18.26 to 18.103 but not included in contracts already in existence, or which cannot properly be made the subject of a general contract, if the amount of each contract shall not exceed the amount of ~~two~~ five thousand dollars, and if special bids have been duly solicited by the director from persons or firms engaged in the kind of work under consideration who have indicated a desire to bid on the class of work to be done.

Sec. 3. Section 18.62, Code 1995, is amended to read as follows:

18.62 PAPER STOCK DRAWN.

All ~~mimeograph~~ paper, envelopes, and other paper stock to be used in their Des Moines offices shall be drawn by the several state departments and agencies from the department of general services ~~department~~ with its approval and charged to the several officials, boards, departments, commissions or agencies and paid from the printing appropriation of each board, official, department, commission, or agency.

Sec. 4. Section 18.75, subsection 8, Code 1995, is amended to read as follows:

8. By November 1 of each year supply a report which contains the name, gender, county, or city of residence when possible, official title, salary received during the previous fiscal year, base salary as computed on July 1 of the current fiscal year, and traveling and subsistence expense of the personnel of each of the departments, boards, and commissions of the state government except personnel who receive an annual salary of less than one thousand dollars. The number of the personnel and the total amount received by them shall be shown for each department in the report. All employees who have drawn salaries, fees, or expense allowances from more than one department or subdivision shall be listed separately under the proper departmental heading. On the request of the superintendent, the head of each department, board, or commission shall furnish the data covering that agency. The report shall be distributed upon request without charge to each caucus of the general assembly, the legislative service bureau, the legislative fiscal bureau, the chief clerk of the house of representatives, and the secretary of the senate. Copies of the report shall be made available to other persons in both print or electronic medium upon payment of a fee, which shall not exceed the cost of providing the copy of the report. Sections 22.2 through 22.6 apply to the report. All funds from the sale of the report shall be deposited in

the general fund. Requests for publications shall be handled only upon receipt of postage by the superintendent.

Sec. 5. Section 18.83, Code 1995, is amended to read as follows:

18.83 INFORMATION AS TO DOCUMENTS.

The superintendent shall advise the public of the publication of reports and documents and of the nature of the material therein, and give information as to the publications that are available for ~~free~~ distribution and how to obtain them.

Sec. 6. Section 18.84, Code 1995, is amended to read as follows:

18.84 MAILING LISTS.

The superintendent shall require from officials or heads of departments mailing lists, or addressed labels or envelopes, for use in distribution of reports and documents. The superintendent shall revise such lists, eliminating duplications and adding ~~thereto~~ to the lists libraries, institutions, public officials, and persons having actual use for the material. The superintendent shall arrange ~~such~~ the lists so as to reduce to the minimum the postage or other cost for delivery. Requests for publications shall be handled only upon receipt of postage by the superintendent from the requesting agency or department.

Sec. 7. Section 18.85, Code 1995, is amended to read as follows:

18.85 COPIES TO DEPARTMENTS.

The superintendent shall furnish the various officials and departments with copies of their reports needed for office use or to be distributed to persons ~~calling for the same~~ requesting the reports. Requests for publications shall be handled only upon receipt of postage by the superintendent.

Sec. 8. Section 18.86, Code 1995, is amended to read as follows:

18.86 ASSEMBLY MEMBERS.

The official reports, the miscellaneous documents and other publications upon request, and the completed journals of the general assembly and ten copies of the official register, shall be sent to each member of the general assembly, and, so far as they are available, additional copies upon their request. Requests for publications shall be handled only upon receipt of postage by the superintendent.

Sec. 9. Section 18.88, Code 1995, is amended to read as follows:

18.88 NEWSPAPERS.

The journals of the general assembly and the official register shall be sent to each newspaper of general circulation in Iowa, and editors of newspapers in Iowa shall be entitled to other publications on request when they are available. Requests for publications shall be handled only upon receipt of postage by the superintendent.

Sec. 10. Section 18.92, Code 1995, is amended to read as follows:

18.92 GENERAL DISTRIBUTION.

The superintendent may send additional copies of publications to other state officials, individuals, institutions, libraries, or societies that may ~~make~~ request ~~therefor~~ them. Requests for publications shall be handled only upon receipt of postage by the superintendent.

Sec. 11. Section 18.95, Code 1995, is amended to read as follows:

18.95 OLD CODES ~~— FREE DISTRIBUTION~~.

The superintendent of printing may distribute ~~gratuitously~~, to law enforcement officers and other persons in the superintendent's discretion~~, the Code of 1897 and all supplements and supplemental supplements thereto; also~~ all Codes ~~which have been issued subsequent to the Code of 1897~~ and Code Supplements which have been supplanted by a newly issued Code~~; also~~, and all session laws which antedate the publication of the last issued Code by at least four years~~; provided that~~. However, the superintendent shall maintain

in reserve ~~such~~ a number of copies of each ~~such books~~ publication as may be fixed by the director. ~~Such~~ The reserve, when fixed, shall not be distributed except on the order of the executive council. Requests for publications shall be handled upon receipt of postage by the superintendent. However, county officials requesting publications under this section shall not be required to pay postage.

Sec. 12. Section 18.96, Code 1995, is amended to read as follows:

18.96 DISTRIBUTION TO COLLEGES.

Upon application, in writing, from the librarian or chief executive officer of any incorporated college in this state, the superintendent of printing shall, upon the approval of the director, forward to ~~said~~ the applicant, without charge, bound volumes of the laws enacted. Requests for publications shall be handled only upon receipt of postage by the superintendent.

Approved April 17, 1995

CHAPTER 28

CREDIT-SALE CONTRACTS FOR GRAIN TRANSACTIONS

H.F. 456

AN ACT relating to grain transactions, by providing for credit-sale contracts.

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

Section 1. Section 203.1, subsection 2, Code 1995, is amended to read as follows:

2. "Credit-sale contract" means a contract for the sale of grain pursuant to which the sale price is to be paid more than thirty days after the delivery of the grain to the buyer, ~~and includes~~ or a contract which is titled as a credit-sale contract, including but ~~is~~ not limited to those contracts commonly referred to as deferred payment contracts, deferred pricing contracts, and price-later contracts.

Sec. 2. Section 203C.1, subsection 4, Code 1995, is amended to read as follows:

4. "Credit-sale contract" means a contract for the sale of grain pursuant to which the sale price is to be paid more than thirty days after the delivery of the grain to the buyer, ~~and includes~~ or a contract which is titled as a credit-sale contract, including but ~~is~~ not limited to those contracts commonly referred to as deferred-payment contracts, deferred-pricing contracts, and price-later contracts.

Approved April 17, 1995

CHAPTER 29

STATE ARCHIVES

H.F. 475

AN ACT relating to the state archivist's office.

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

Section 1. Section 303.12, Code 1995, is amended to read as follows:

303.12 ARCHIVES.

"Archives" means documents, books, papers, photographs, sound recordings, electronic records, or similar material produced or received pursuant to law in connection with official government business, which no longer have administrative, legal, or fiscal value to the office having present custody of them, and which have been appraised by the state archivist as having sufficient historical, research, or informational value to warrant permanent preservation. The state archivist is the ~~trustee and~~ custodian of ~~the~~ archives ~~of Iowa, except that county or~~, which have been transferred and delivered to the state archives of Iowa. County, municipal, and local government archives are not included in the state archives of Iowa unless they are voluntarily ~~deposited with~~ transferred to the custody of the state archivist with the written consent of the state archivist and are physically delivered to the state archives of Iowa. The state archivist shall prescribe rules for the systematic arrangement of archives as to the proper labeling to indicate the contents and order of filing and the archives must be labeled before the archives may be transferred to the state archivist's custody.

Sec. 2. Section 303.13, Code 1995, is amended to read as follows:

303.13 TRANSFER OF ARCHIVES.

The state executive and administrative departments, officers or offices, councils, boards, bureaus, and commissions~~,~~ shall deliver to the state archives of Iowa and transfer ~~and deliver to the state~~ to the custody of the state archivist all archives as defined in section 303.12 ~~and as prescribed~~, in accordance with the retention schedules in the records management manual. Before transferring and delivering archives, the office of present custody shall file with the state archivist a classified list of the archives being transferred in detail as the state archivist prescribes. If the state archivist, on receipt of the list, and after consultation with the chief executive of the office filing the classified list or with a representative designated by the executive, finds that, according to the records management manual, certain classifications of the ~~archives~~ records listed are not of sufficient historical, legal, or ~~administrative~~ informational value to justify permanent preservation, the state archivist shall not accept or retain the material ~~for deposit~~ in the state archives.

Sec. 3. Section 303.15, Code 1995, is amended to read as follows:

303.15 CERTIFIED COPIES – FEES.

Upon request of a person, the state archivist shall make a certified copy of any document, manuscript, or record contained in the archives or in the custody of the ~~department except if~~ state archivist unless reproduction is inappropriate because of legal, curatorial, or physical considerations. If a copy is properly authenticated it has the same legal effect as though certified by the officer from whose office it was obtained or by the secretary of state. The copy may be made in writing, or by a suitable photographic process. The state archivist shall charge and collect for copies the fees allowed by law to the official in whose office the document originates for certified copies. The state archivist shall charge a person requesting a search of census records for the purpose of determining genealogy the actual cost of performing the search.

Approved April 17, 1995

CHAPTER 30

LEGALIZATION OF CEDAR RAPIDS COMMUNITY SCHOOL DISTRICT SALE OF PROPERTY

S.F. 140

AN ACT to legalize the proceedings taken by the administration and board of directors of the Cedar Rapids Community School District concerning the sale of certain school district property and providing an effective date.

WHEREAS, the board of directors of the Cedar Rapids Community School District, pursuant to section 297.22, authorized the sale of certain property of the school district consisting of the Monroe school site property of approximately 1.27 acres and a portion of the Grant school site property of approximately 1.3 acres; and

WHEREAS, the school district due to an error advertised for bids on the property in the Cedar Rapids Gazette the week of October 3, 1994, and the week of October 17, 1994, instead of consecutive weeks as required by section 297.23; and

WHEREAS, the administration believed the request for bids had been properly advertised in accordance with section 297.23; and

WHEREAS, the administration and board of directors accepted bids for the property and proceeded with the sale of the property in the belief that the request for bids had been properly advertised; NOW THEREFORE,

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

Section 1. All proceedings taken by the administration and board of directors of the Cedar Rapids Community School District regarding the sale of the Monroe school property and the portion of the Grant school property are hereby legalized and constitute a valid and binding sale of the property.

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

Approved April 19, 1995

CHAPTER 31

CONSUMER CREDIT CODE - FEDERAL TRUTH IN LENDING ACT

S.F. 175

AN ACT relating to the definition of the federal Truth in Lending Act in the Iowa consumer credit code.

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

Section 1. Section 537.1302, Code 1995, is amended to read as follows:

537.1302 DEFINITION - TRUTH IN LENDING ACT.

As used in this chapter, "Truth in Lending Act" means title 1 of the Consumer Credit Protection Act, in subchapter 1 of ~~chapter~~ 41 ~~of~~ U.S.C. title 15 ~~of the United States Code~~, as amended to and including January 1, ~~1989~~ 1995, and includes regulations issued pursuant to that Act prior to January 1, ~~1989~~ 1995.

Approved April 19, 1995

CHAPTER 32

STATE BANK OFFICES

S.F. 271

AN ACT relating to the authorization of a bank office where a state bank may maintain its management and bookkeeping functions.

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

Section 1. Section 524.1201, Code 1995, is amended to read as follows:

524.1201 GENERAL PROVISIONS.

1. A bank shall not open or maintain a branch bank. A state bank may establish and operate bank offices subject to approval and regulation of the superintendent and to the restrictions upon location and number imposed by section 524.1202. A bank office may furnish all banking services ordinarily furnished to customers and depositors at the principal place of business of the state bank which operates the office, and a bank office manager or an officer of the bank shall be physically present at each bank office during a majority of its business hours. The central executive and official business and principal recordkeeping functions of a state bank shall be exercised only at its principal place of business~~, except that~~ or at another bank office as authorized by the superintendent for these functions.

2. Notwithstanding subsection 1, data processing services referred to in section 524.804 may be performed for the state bank at some other ~~point~~ location. All transactions of a bank office shall be immediately transmitted to the principal place of business or other bank office authorized under subsection 1 of the state bank which operates the office, and no current recordkeeping functions shall be maintained at a bank office other than the bank office authorized under subsection 1, except to the extent the state bank which operates the office deems it desirable to keep there duplicates of the records kept at the principal place of business or authorized bank office of the state bank.

3. Notwithstanding any of the other provisions of this section, original trust recordkeeping functions may be centrally located at an authorized bank office, and original loan documentation recordkeeping functions may be located at an authorized bank office or at the office of the holding company of a state bank, subject to the approval of the superintendent.

Approved April 19, 1995

CHAPTER 33

REGULATION OF MULTIPLE EMPLOYER WELFARE ARRANGEMENTS

S.F. 274

AN ACT relating to the delay of the repeal for the exemption of certain multiple employer welfare arrangements from regulation by the insurance division and providing an effective date.

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

Section 1. 1994 Iowa Acts, chapter 1038, section 3, is amended to read as follows:

SEC. 3. REPEAL. This Act is repealed effective July 1, ~~1995~~ 1996.

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

Approved April 19, 1995

CHAPTER 34

ABANDONED PROPERTY

S.F. 375

AN ACT relating to abandoned property subject to control by the treasurer of state.

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

Section 1. Section 556.1, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. "Money order" includes an express money order and a personal money order, on which the remitter is the purchaser. "Money order" does not include a bank money order or any other instrument sold by a banking or financial organization if the seller has obtained the name and address of the payee.

Sec. 2. Section 556.2, subsection 4, Code 1995, is amended to read as follows:

4. Any sum payable on checks certified in this state or on written instruments issued in this state on which a banking or financial organization or business association is directly liable, including, by way of illustration but not of limitation, certificates of deposit, drafts, money orders, and traveler's checks, that, with the exception of traveler's checks and money orders, has been outstanding for more than three years from the date it was payable, or from the date of its issuance if payable on demand, or, in the case of traveler's checks, that has been outstanding for more than fifteen years from the date of ~~its~~ issuance, or, in the case of money orders, that has been outstanding for more than seven years from the date of issuance, unless the owner has within three years, or within fifteen years in the case of traveler's checks or seven years in the case of money orders, corresponded in writing with the banking or financial organization or business association concerned, or otherwise indicated an interest as evidenced by a memorandum on file with the banking or financial organization or business association. The memorandum shall be dated and may have been prepared by the banking or financial organization or business association, in which case it shall be signed by an officer of the banking or financial organization, or a member of the business association, or it may have been prepared by the owner.

Sec. 3. Section 556.11, subsection 4, Code 1995, is amended to read as follows:

4. The report shall be filed annually before November 1 ~~of each year as of~~ for the fiscal year ending on the preceding June 30 ~~next preceding, but the report of life insurance corporations shall be filed before May 1 of each year as of December 31 next preceding~~. The ~~state~~ treasurer of state may postpone the reporting date upon written request by any person required to file a report.

Sec. 4. Section 556.12, subsection 1, Code 1995, is amended to read as follows:

1. ~~Within one hundred twenty days from the final date for filing of the report~~ If a report has been filed with the treasurer of state, or property has been paid or delivered to the treasurer of state, for the fiscal year ending on June 30 as required by section 556.11, the ~~state~~ treasurer of state shall ~~cause~~ provide for the publication annually of at least one

notice not later than the following November 30. Each notice ~~to~~ shall be published at least once each week for two successive weeks in an English language newspaper of general circulation in the county in this state in which is located the last known address of any person to be named in the notice. If ~~no~~ an address is not listed or if the address is outside this state, the notice shall be published in the county in which the holder of the abandoned property has its principal place of business within this state.

Sec. 5. Section 556.22, Code 1995, is amended to read as follows:

556.22 ~~ELECTION TO TAKE PAYMENT OR DELIVERY~~ ELECTIONS BY THE TREASURER OF STATE.

1. The treasurer of state may elect to allow a holder to file a report as provided in section 556.11, or to deliver or pay property to the treasurer, before the property is presumed abandoned, upon consent of the treasurer and according to terms and conditions prescribed by the treasurer.

2. The ~~state~~ treasurer of state, after receiving reports of property deemed abandoned pursuant to this chapter, may decline to receive any property reported which the treasurer deems to have a value less than the cost of giving notice and holding sale, or the treasurer may, if the treasurer deems it desirable because of the small sum involved, postpone taking possession until a sufficient sum accumulates. Unless the holder of the property is notified to the contrary within one hundred twenty days after filing the report required under section 556.11, the ~~state~~ treasurer shall be deemed to have elected to receive the custody of the property.

Approved April 19, 1995

CHAPTER 35

HOME EQUITY LINE OF CREDIT RESTRICTIONS

S.F. 162

AN ACT eliminating the minimum amount which must be borrowed under a home equity line of credit.

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

Section 1. Section 535.10, subsection 1, paragraph d, Code 1995, is amended to read as follows:

d. The lender agrees to permit the borrower to borrow money from time to time with the maximum amount of each borrowing established by the loan agreement~~, provided that the minimum amount of each borrowing shall not be less than five hundred dollars~~.

Approved April 19, 1995

CHAPTER 36

LICENSE FEES FOR NONRESIDENT
REAL ESTATE BROKERS AND SALESPERSONS
S.F. 94

AN ACT relating to reciprocal license fees for nonresident real estate brokers and salespersons.

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

Section 1. Section 543B.27, Code 1995, is amended to read as follows:

543B.27 FEES.

1. The real estate commission shall set fees, for examination and licensing of real estate brokers and real estate salespersons. The commission shall determine the annual cost of administering the examination and shall set the examination fee accordingly. The commission shall set the fees for the real estate broker's licenses and for real estate salesperson's licenses based upon the administrative costs of sustaining the commission. The fees shall include, but shall not be limited to, the costs for:

~~1.~~ a. Per diem, expenses, and travel for commission members.

~~2.~~ b. Office facilities, supplies, and equipment.

~~3.~~ c. Staff assistance.

~~4.~~ d. Establishing and maintaining a real estate education program.

2. Notwithstanding subsection 1, a nonresident person seeking to procure a license pursuant to this chapter shall be charged a fee equal to the greater of the following:

a. The fee as determined pursuant to subsection 1.

b. A fee equal to the fee the nonresident person would be charged by such person's state of residence if that person were a resident of this state making application for a license in that state and that state charges a nonresident a fee which is greater than that charged by that state to a resident of that state.

Approved April 19, 1995

CHAPTER 37

WAGE PAYMENT UPON SUSPENSION OR TERMINATION OF EMPLOYMENT
S.F. 159

AN ACT relating to the payment of wages to a suspended or terminated employee under the Iowa wage payment collection law.

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

Section 1. Section 91A.4, Code 1995, is amended to read as follows:

91A.4 EMPLOYMENT SUSPENSION OR TERMINATION - HOW WAGES ARE PAID.

When the employment of an employee is suspended or terminated, the employer shall pay all wages earned, less any lawful deductions specified in section 91A.5 by the employee up to the time of the suspension or termination not later than the next regular payday for the pay period in which the wages were earned as provided in section 91A.3. However, if any of these wages are the difference between a credit paid against wages determined on a commission basis and ~~such~~ the wages actually earned on a commission basis, the employer shall pay ~~such~~ the difference not more than thirty days after the date

of suspension or termination. If vacations are due an employee under an agreement with the employer or a policy of the employer establishing pro rata vacation accrued, the increment shall be in proportion to the fraction of the year which the employee was actually employed.

Approved April 19, 1995

CHAPTER 38

PLACE OF FILING UPON ABOLITION OF COUNTY RECORDER
S.F. 9

AN ACT relating to the performance of duties of the office of recorder on abolition of the office and the filing of documents and providing an effective date and for retroactive applicability.

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

Section 1. Section 331.610, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

331.610 ABOLITION OF OFFICE OF RECORDER - IDENTIFICATION OF OFFICE - PLACE OF FILING.

If the office of county recorder is abolished in a county, the auditor of that county shall be referred to as the county auditor and recorder. After abolition of the office of county recorder, references in the Code requiring filing or recording of documents with the county recorder shall be deemed to require the filing in the office of the county auditor and recorder, and all duties of the abolished office of recorder shall be performed by the county auditor and recorder. However, the board of supervisors may direct that any of the duties of the abolished office of recorder prescribed in section 331.602, subsection 9, 10, 11, or 16, or section 331.605, subsection 1, 2, 3, or 4, shall be performed by other county officers or employees as provided in section 331.323.

Sec. 2. FILINGS LEGALIZED. Any instrument affecting interests in real property, fixtures, or personal property filed with the auditor of Woodbury county, Iowa, between January 1, 1995, and the effective date of this Act, both dates inclusive, shall be deemed to be properly filed and constitute constructive notice as if the office of the recorder of Woodbury county, Iowa, had not been abolished.

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

Approved April 19, 1995

CHAPTER 39

ANATOMICAL GIFTS

S.F. 117

AN ACT adopting a new uniform anatomical gift Act and providing a penalty.

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

Section 1. NEW SECTION. 142C.1 SHORT TITLE.

This chapter shall be known and may be cited as the "Uniform Anatomical Gift Act".

Sec. 2. NEW SECTION. 142C.2 DEFINITIONS.

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

1. "Anatomical gift" means a donation, effective upon or after the death of the donor, of all or part of the human body of the donor.

2. "Bank or storage organization" means a person licensed, accredited, certified, registered, or approved under the laws of any state for the procurement, removal, preservation, storage, or distribution of human bodies or parts.

3. "Decedent" means a deceased individual and includes a stillborn infant or fetus.

4. "Document of gift" means a card signed by an individual donor, a donor's will, or any other written document used by a donor to make an anatomical gift.

5. "Donor" means an individual who makes an anatomical gift.

6. "Enucleator" means an individual who is certified by the department of ophthalmology of the college of medicine of the university of Iowa, or by the eye bank association of America to remove or process eyes or parts of eyes.

7. "Hospital" means a hospital licensed under chapter 135B, a hospital licensed, accredited, or approved under federal law or the laws of any other state, and includes a hospital operated by the federal government, a state, or a political subdivision of a state, although not required to be licensed under state laws.

8. "Medical examiner" means an individual who is appointed as a medical examiner pursuant to section 331.801 or 691.5.

9. "Organ procurement organization" means an organization that performs or coordinates the performance of retrieving, preserving, or transplanting organs, which maintains a system of locating prospective recipients for available organs, and which is registered with the united network for organ sharing and designated by the United States secretary of health and human services pursuant to 42 C.F.R. § 485, subpt. D.

10. "Part" means organs, tissues, eyes, bones, vessels, whole blood, plasma, blood platelets, blood derivatives, fluid, or any other portion of a human body.

11. "Person" means person as defined in section 4.1.

12. "Physician" or "surgeon" means a physician, surgeon, or osteopathic physician and surgeon, licensed or otherwise authorized to practice medicine and surgery or osteopathy and surgery under the laws of any state.

13. "State" means any state, district, commonwealth, territory, or insular possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

14. "Technician" means an individual who is licensed, certified, or approved by an organ procurement organization or who is certified, or approved by a bank or storage organization to procure, remove, process, preserve, store, or distribute a part.

Sec. 3. NEW SECTION. 142C.3 DONATION OF ANATOMICAL GIFTS - PERSONS WHO MAY EXECUTE - MANNER OF EXECUTING.

1. A competent individual who is at least eighteen years of age, or a minor fourteen through seventeen years of age with written consent of a parent or legal guardian, may make an anatomical gift for one or more of the purposes listed in section 142C.5, may limit

an anatomical gift to one or more of the purposes listed in section 142C.5, or may refuse to make an anatomical gift, the gift to take effect upon the death of the donor.

2. An anatomical gift may be made only by completion of a document of gift or as otherwise provided in this section. If the prospective donor is a minor fourteen through seventeen years of age, to be valid, a document of gift shall be signed by the minor and the minor's parent or legal guardian. If the donor is unable to sign the document, the document of gift shall be signed by another individual and by two witnesses, all of whom sign at the direction and in the presence of the donor, the other individual, and the two witnesses. The document of gift shall provide certification that the document has been executed in the prescribed manner.

3. If a donor indicates the wish to become a donor, pursuant to section 321.189, and the indication is attached to or imprinted or noted on an individual's driver's license, the document shall be considered an expression of intent for the purposes of this section.

4. A document of gift may designate a particular physician, technician, or enucleator to perform the appropriate procedures. In the absence of a designation or if the designee is not available to perform the procedures, the donee or other person authorized to accept the anatomical gift may employ or authorize any physician, technician, or enucleator to perform the appropriate procedures.

5. A document of gift by will takes effect upon the death of the testator, whether or not the will is probated. For the purposes of a document of gift by will, invalidation of the will for testamentary purposes does not result in the invalidation of the document of gift.

6. A donor may amend or revoke a document of gift by any of the following means:

a. A signed statement, executed by the donor.

b. An oral statement made by the donor in the presence of two individuals.

c. Any form of communication during a terminal illness or injury addressed to a health care professional, licensed or certified pursuant to chapter 148, 148C, 150A, or 152.

d. The delivery of a written statement, signed by the donor, to a specified donee to whom a document of gift has been delivered.

7. The donor of an anatomical gift made by will may amend or revoke the gift as provided in subsection 6 or in the manner provided for amendment or revocation of wills.

8. A document of gift that is not revoked by the donor prior to the donor's death is irrevocable and does not require the consent or concurrence of any other person after the donor's death.

9. An individual may refuse to make an anatomical gift of the individual's body or part by completing any written document expressing the individual's refusal to make an anatomical gift. During a terminal illness or injury, the refusal may be by an oral statement or other form of unwritten communication addressed to a health care professional licensed or certified under chapter 148, 148C, 150A, or 152.

10. In the absence of a contrary indication by the donor, an anatomical gift of a part does not constitute a refusal to donate other parts nor does it constitute a limitation on an anatomical gift made pursuant to section 142C.4.

11. In the absence of a contrary indication by the donor, a revocation or amendment of an anatomical gift does not constitute a refusal to make a subsequent anatomical gift. If the donor intends a revocation to constitute a refusal to make an anatomical gift, the donor shall make the refusal pursuant to subsection 9.

12. A document of gift may be in the form of a specific donor card such as an eye donor card, a uniform donor card, a will, or any other written document executed pursuant to this chapter. A uniform donor card shall include the options of donating any and all parts, or any specific part or parts. A uniform donor card may, but is not required to be, in the following form:

UNIFORM DONOR CARD

I, _____, have made a commitment to be an anatomical gift donor.

I wish to donate the following:

____ Any needed part ____ Only the following part

_____

Donor Signature_____Date_____

Sec. 4. NEW SECTION. 142C.4 DONATION OF ANATOMICAL GIFTS BY INDIVIDUALS OTHER THAN THE DONOR.

1. Any available member of the following classes of persons, in the order of priority listed, may make an anatomical gift of a decedent's body or parts for an authorized purpose, unless the decedent, at the time of death, has made an unrevoked refusal to make an anatomical gift:

a. The attorney in fact pursuant to a durable power of attorney for health care.

b. The spouse of the decedent.

c. An adult child of the decedent.

d. A parent of the decedent.

e. An adult sibling of the decedent.

f. A grandparent of the decedent.

g. A guardian of the decedent at the time of the decedent's death.

2. An anatomical gift shall not be made by a person listed in subsection 1 if any of the following conditions apply:

a. A person in a prior class is available at the time of the death of the decedent to make an anatomical gift.

b. The person proposing to make an anatomical gift knows of a refusal by the decedent to make an anatomical gift.

c. The person proposing to make an anatomical gift knows of an objection to making an anatomical gift by a member of the person's class or a prior class.

3. An anatomical gift by a person authorized under subsection 1 shall be made by execution of a document of gift signed by the person or by the person's telegraphic, recorded telephonic, or other recorded message, or by any other form of communication from the person that is contemporaneously reduced to writing and signed by the recipient of the communication.

4. An anatomical gift by a person authorized under subsection 1 may be revoked by any member of the same or prior class if, before the procedures have begun for removal of a part from the body of the decedent, the physician, technician, or enucleator performing the removal procedures is notified of the revocation.

5. Failure to make an anatomical gift under subsection 1 does not constitute an objection to the making of an anatomical gift.

Sec. 5. NEW SECTION. 142C.5 REQUIREMENTS – ACCEPTABLE DONEES AND PURPOSES FOR WHICH ANATOMICAL GIFTS MAY BE MADE.

1. The following persons may be donees of anatomical gifts for the purposes stated:

a. A hospital, physician, organ procurement organization, or bank or storage organization for transplantation, therapy, medical or dental education, research, or advancement of medical or dental science.

b. An accredited medical or dental school, college, or university for education, research, or the advancement of medical or dental science.

c. A designated individual for transplantation or therapy needed by the individual.

2. An anatomical gift may be made to a designated donee or without designating a donee. If a donee is not designated or if the donee is not available or rejects the anatomical gift, the anatomical gift may be accepted by any person listed in subsection 1.

3. If the donee knows of the decedent's refusal or contrary indications to make an anatomical gift or that an anatomical gift by a member of a class having priority to act is opposed by a member of the same class or a prior class listed in section 142C.4, the donee shall not accept the anatomical gift.

Sec. 6. NEW SECTION. 142C.6 DELIVERY OF DOCUMENT OF GIFT.

1. Validity of an anatomical gift does not require delivery of the document of gift during the donor's lifetime.

2. If an anatomical gift is made to a designated donee, the document of gift, or a copy, may be delivered to the donee to expedite the appropriate procedures after the death of the donor. The document of gift, or a copy, may be deposited in any hospital, organ procurement organization, bank or storage organization, or registry office that accepts the document of gift for safekeeping or for the facilitation of procedures after the death of the donor. If a document is deposited by a donor in a hospital or bank or storage organization, the hospital or bank or storage organization may forward the document to an organ procurement organization which will retain the document for facilitating procedures following the death of the donor. Upon request of a hospital, physician, or surgeon, upon or after the donor's death, the person in possession of the document of gift may allow the hospital, physician, or surgeon to examine or copy the document of gift.

Sec. 7. NEW SECTION. 142C.7 CONFIDENTIAL INFORMATION.

A hospital, licensed or certified health care professional, pursuant to chapter 148, 148C, 150A, or 152, or medical examiner may release patient information to an organ procurement organization, or bank or storage organization as part of a referral or evaluation of the patient as a donor. Any information regarding a patient, including the patient's identity, however, constitutes confidential medical information and under any other circumstances is prohibited from disclosure without the written consent of the patient or the patient's legal representative.

Sec. 8. NEW SECTION. 142C.8 RIGHTS AND DUTIES AT DEATH.

1. The rights of a donee created by an anatomical gift are superior to the rights of any other person except with respect to autopsies pursuant to section 142C.11.

2. A donee may accept or reject an anatomical gift of an entire body or part. If the donee accepts the entire body as a gift, the donee, subject to the terms of the gift, may allow embalming and use of the body in funeral services. If the gift is of a part of a body, the donee, upon the death of the donor and prior to embalming, shall cause the part to be removed with minimal alteration to body appearance. Following removal of the part, custody of the remainder of the body vests in the person under a legal obligation to dispose of the body.

3. The time of death shall be determined by a physician who attends the donor at death, as defined in section 702.8, or, if no attending physician is present, the physician who certifies the death. The physician who attends the donor at death and the physician who certifies the time of death shall not participate in the procedures for removing or transplanting a part of the decedent. A medical examiner acting to determine the time of death or to certify the death, however, may remove a part if otherwise in accordance with this chapter.

4. If an anatomical gift is made, a physician or technician may remove any donated parts and an enucleator may remove any donated eyes or parts of eyes, after determination of death by a physician.

5. A donee may presume that a document of gift is valid absent actual knowledge to the contrary.

Sec. 9. NEW SECTION. 142C.9 COORDINATION OF PROCUREMENT AND USE.

Each hospital in the state shall establish agreements or affiliations for coordination of

procurement and use of human parts with an organ procurement organization for any purpose stated in section 142C.5.

Sec. 10. NEW SECTION. 142C.10 SALE OR PURCHASE OF PARTS PROHIBITED.

1. A person shall not knowingly, for valuable consideration, purchase or sell a part for transplantation or therapy, if removal of the part is intended to occur after the death of the decedent.

2. Valuable consideration does not include reasonable payment for the removal, processing, disposal, preservation, quality control, storage, distribution, transportation, or implantation of a part.

3. A person who violates this section is guilty of a class "C" felony and is subject to imprisonment not to exceed ten years and notwithstanding section 902.9, to a fine not to exceed two hundred fifty thousand dollars, or both.

Sec. 11. NEW SECTION. 142C.11 EXAMINATION, AUTOPSY, LIABILITY.

1. An anatomical gift is subject to reasonable examination, including but not limited to an autopsy, human immunodeficiency virus testing, and testing for communicable disease, which is necessary to ensure medical acceptability of the gift for the purposes intended.

2. Anatomical gifts made pursuant to this chapter are subject to the laws governing autopsies.

3. A hospital, health care professional licensed or certified pursuant to chapter 148, 148C, 150A, or 152, a medical examiner, technician, enucleator, or other person, who complies with this chapter in good faith or with the applicable anatomical gift law of another state, or who attempts in good faith to comply, is immune from any liability, civil or criminal, which might result from the making or acceptance of an anatomical gift.

4. An individual who makes an anatomical gift pursuant to section 142C.3 or 142C.4 and the individual's estate are not liable for any injury or damages that may result from the making or the use of the anatomical gift, if the gift is made in good faith.

Sec. 12. NEW SECTION. 142C.12 SERVICE BUT NOT A SALE.

The procurement, removal, preservation, processing, storage, distribution, or use of parts for the purpose of injecting, transfusing, or transplanting any of the parts into the human body is, for all purposes, the rendition of a service by every person participating in the act, and whether or not any remuneration is paid, is not a sale of the part for any purposes. However, any person that renders such service warrants only under this section that due care has been exercised and that acceptable professional standards of care in providing such service according to the state of the medical arts have been followed. Strict liability, in tort, shall not be applicable to the rendition of such services.

Sec. 13. NEW SECTION. 142C.13 TRANSITIONAL PROVISIONS.

This chapter applies to a document of gift, revocation, or refusal to make an anatomical gift signed by the donor or a person authorized to make or object to the making of an anatomical gift on or after July 1, 1995.

Sec. 14. NEW SECTION. 142C.14 UNIFORMITY OF APPLICATION AND CONSTRUCTION.

This chapter shall be applied and construed to effectuate the general purpose to make uniform the law with respect to anatomical gifts among states which enact this law.

Sec. 15. REPEAL. Chapter 142A, Code 1995, is repealed.

Approved April 19, 1995

CHAPTER 40

STATEWIDE TRAUMA CARE SYSTEM

S.F. 118

AN ACT relating to the development and implementation of a coordinated statewide trauma care delivery system and providing penalties and immunity from liability.

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

Section 1. NEW SECTION. 147A.20 TITLE OF DIVISION.

This division may be cited as the "Iowa Trauma Care System Development Act".

Sec. 2. NEW SECTION. 147A.21 DEFINITIONS.

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

1. "Categorization" means a preliminary determination by the department that a hospital or emergency care facility is capable of providing trauma care in accordance with criteria adopted pursuant to chapter 17A for level I, II, III, and IV care capabilities.
2. "Department" means the Iowa department of public health.
3. "Director" means the director of public health.
4. "Emergency care facility" means a physician's office, clinic, or other health care center which provides emergency medical care in conjunction with other primary care services.
5. "Hospital" means a facility licensed under chapter 135B, or a comparable emergency care facility located and licensed in another state.
6. "Trauma" means a single or multisystem life-threatening or limb-threatening injury, or an injury requiring immediate medical or surgical intervention or treatment to prevent death or permanent disability.
7. "Trauma care facility" means a hospital or emergency care facility which provides trauma care and has been verified by the department as having level I, II, III, or IV care capabilities and issued a certificate of verification pursuant to section 147A.23, subsection 2, paragraph "c".
8. "Trauma care system" means an organized approach to providing personnel, facilities, and equipment for effective and coordinated trauma care.
9. "Verification" means a formal process by which the department certifies a hospital or emergency care facility's capacity to provide trauma care in accordance with criteria established for level I, II, III, and IV trauma care facilities.

Sec. 3. NEW SECTION. 147A.22 LEGISLATIVE FINDINGS AND INTENT - PURPOSE.

The general assembly finds the following:

1. Trauma is a serious health problem in the state of Iowa and is the leading cause of death of younger Iowans. The death and disability associated with traumatic injury contributes to the significant medical expenses and lost work, and adversely affects the productivity of Iowans.
2. Optimal trauma care is limited in many parts of the state. With health care delivery in transition, access to quality trauma and emergency medical care continues to challenge our rural communities.
3. The goal of a statewide trauma care system is to coordinate the medical needs of the injured person with an integrated system of optimal and cost-effective trauma care. The result of a well-coordinated statewide trauma care system is to reduce the incidences of inadequate trauma care and preventable deaths, minimize human suffering, and decrease the costs associated with preventable mortality and morbidity.
4. The development of the Iowa trauma care system will achieve these goals while meeting the unique needs of the rural residents of the state.

Sec. 4. NEW SECTION. 147A.23 TRAUMA CARE SYSTEM DEVELOPMENT.

1. The department is designated as a lead agency in this state responsible for the development of a statewide trauma care system.

2. The department, in consultation with the trauma system advisory council, shall develop, coordinate, and monitor a statewide trauma care system. This system shall include, but not be limited to, the following:

a. The categorization of all hospitals and emergency care facilities by the department as to their capacity to provide trauma care services. The categorization shall be determined by the department from self-reported information provided to the department by the hospital or emergency care facility. This categorization shall not be construed to imply any guarantee on the part of the department as to the level of trauma care services available at the hospital or emergency care facility.

b. The issuance of a certificate of verification of all categorized hospitals and emergency care facilities from the department at the level preferred by the hospital or emergency care facility. The standards and verification process shall be established by rule and may vary as appropriate by level of trauma care capability. To the extent possible, the standards and verification process shall be coordinated with other applicable accreditation and licensing standards.

c. Upon verification and the issuance of a certificate of verification, a hospital or emergency care facility agrees to maintain a level of commitment and resources sufficient to meet responsibilities and standards as required by the trauma care criteria established by rule under this division. Verifications are valid for a period of three years or as determined by the department and are renewable. As part of the verification and renewal process, the department may conduct periodic on-site reviews of the services and facilities of the hospital or emergency care facility.

d. The department is responsible for the funding of the administrative costs of this division. Any funds received by the department for this purpose shall be deposited in the emergency medical services fund established in section 135.25.

e. This section shall not be construed to limit the number and distribution of level I, II, III, and IV categorized and verified trauma care facilities in a community or region.

Sec. 5. NEW SECTION. 147A.24 TRAUMA SYSTEM ADVISORY COUNCIL ESTABLISHED.

1. A trauma system advisory council is established. The following organizations or officials may recommend a representative to the council:

a. American academy of pediatrics.
b. American college of emergency physicians, Iowa chapter.
c. American college of surgeons, Iowa chapter.
d. Department of public health.
e. Governor's traffic safety bureau.
f. Iowa academy of family physicians.
g. Iowa emergency medical services association.
h. Iowa emergency nurses association.
i. Iowa hospital association representing rural hospitals.
j. Iowa hospital association representing urban hospitals.
k. Iowa medical society.
l. Iowa osteopathic medical society.
m. Iowa physician assistant society.
n. Iowa society of anesthesiologists.
o. Orthopedic system advisory council of the American academy of orthopedic surgeons, Iowa representative.
p. Rehabilitation services delivery representative.
q. State emergency medical services medical director.

r. State medical examiner.
s. Trauma nurse coordinator representing a trauma registry hospital.
t. University of Iowa, injury prevention research center.

2. The council shall be appointed by the director from the recommendations of the organizations in subsection 1 for terms of two years. Vacancies on the council shall be filled for the remainder of the term of the original appointment. Members whose terms expire may be reappointed.

3. The voting members of the council shall elect a chairperson and a vice chairperson and other officers as the council deems necessary. The officers shall serve until their successors are elected and qualified.

4. The council shall do all of the following:

a. Advise the department on issues and strategies to achieve optimal trauma care delivery throughout the state.

b. Assist the department in the implementation of an Iowa trauma care plan.

c. Develop criteria for the categorization of all hospitals and emergency care facilities according to their trauma care capabilities. These categories shall be for levels I, II, III, and IV, based on the most current guidelines published by the American college of surgeons committee on trauma, the American college of emergency physicians, and the model trauma care plan of the United States department of health and human services' health resources and services administration.

d. Develop a process for the verification of the trauma care capacity of each facility and the issuance of a certificate of verification.

e. Develop standards for medical direction, trauma care, triage and transfer protocols, and trauma registries.

f. Promote public information and education activities for injury prevention.

g. Review the rules adopted under this division and make recommendations to the director for changes to further promote optimal trauma care.

Sec. 6. NEW SECTION. 147A.25 SYSTEM EVALUATION AND QUALITY IMPROVEMENT COMMITTEE.

1. The department shall create a system evaluation and quality improvement committee to develop, implement, and conduct trauma care system evaluation, quality assessment, and quality improvement. The director shall appoint the members of the committee which shall include the following:

a. Two trauma surgeons.
b. One neurologic surgeon and one orthopedic surgeon.
c. Two emergency physicians.
d. Two trauma nurse coordinators.
e. Two emergency nurses.
f. Two out-of-hospital emergency medical care providers.
g. Department of public health trauma coordinator.
h. Iowa foundation of medical care director.
i. State emergency medical services medical director.
j. Two anesthesiologists.
k. Two family physicians.
l. Two physician assistants.

2. Proceedings, records, and reports developed pursuant to this section constitute peer review records under section 147.135, and are not subject to discovery by subpoena or admissible as evidence. All information and documents received from a hospital or emergency care facility under this division shall be confidential pursuant to section 272C.6, subsection 4.

Sec. 7. NEW SECTION. 147A.26 TRAUMA REGISTRY.

1. The department shall maintain a statewide trauma reporting system by which the

system evaluation and quality improvement committee, the trauma system advisory council, and the department may monitor the effectiveness of the statewide trauma care system.

2. The data collected by and furnished to the department pursuant to this section shall not be public records under chapter 22. The compilations prepared for release or dissemination from the data collected shall be public records under chapter 22, which are not subject to section 22.7, subsection 2. However, the confidentiality of patients is to be protected and the laws of this state apply with regard to patient confidentiality.

3. To the extent possible, activities under this section shall be coordinated with other health data collection methods.

Sec. 8. NEW SECTION. 147A.27 DEPARTMENT TO ADOPT RULES.

The department shall adopt rules, pursuant to chapter 17A, to implement the Iowa trauma care system plan, which specify all of the following:

1. Standards for trauma care.
2. Triage and transfer protocols.
3. Trauma registry procedures and policies.
4. Trauma care education and training requirements.
5. Hospital and emergency care facility categorization criteria.
6. Procedures for approval, denial, probation, and revocation of certificates of verification.

Sec. 9. NEW SECTION. 147A.28 PROHIBITED ACTS.

A hospital or emergency care facility that imparts or conveys, or causes to be imparted or conveyed, that it is a trauma care facility, or that uses any other term to indicate or imply that the hospital or emergency care facility is a trauma care facility without having obtained a certificate of verification under this division is subject to a civil penalty not to exceed one hundred dollars per day for each offense. In addition, the director may apply to the district court for a writ of injunction to restrain the use of the term "trauma health facility". However, nothing in this division shall be construed to restrict a hospital or emergency facility from providing any services for which it is duly authorized.

Sec. 10. IMPLEMENTATION. The trauma system advisory council and the Iowa department of public health, in implementing the Iowa trauma care system plan under this Act, shall utilize the findings and recommendation contained in the Iowa trauma care plan developed and adopted by the Iowa trauma systems project planning consortium. The consortium was organized through the Iowa department of public health in October 1992 to develop a statewide trauma care delivery system. The consortium included representatives from hospitals, physician groups, other health care professionals, and state departments involved in health care delivery. The consortium is abolished upon establishment of the trauma system advisory council.

Approved April 19, 1995

CHAPTER 41

REGULATION OF EMERGENCY MEDICAL SERVICES

S.F. 178

AN ACT relating to emergency medical services.

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

Section 1. Section 68B.2A, subsection 1, paragraph a, Code 1995, is amended to read as follows:

a. The outside employment or activity involves the use of the state's or the political subdivision's time, facilities, equipment, and supplies or the use of the state or political subdivision badge, uniform, business card, or other evidences of office or employment to give the person or member of the person's immediate family an advantage or pecuniary benefit that is not available to other similarly situated members or classes of members of the general public. This paragraph does not apply to off-duty peace officers who provide private duty security or fire fighters or ~~basic or advanced~~ emergency medical care providers certified under chapter ~~147 or~~ 147A who provide private duty fire safety or emergency medical services while carrying their badge or wearing their official uniform, provided that the person has secured the prior approval of the agency or political subdivision in which the person is regularly employed to engage in the activity. For purposes of this subsection, a person is not "similarly situated" merely by being or being related to a person who serves or is employed by the state or a political subdivision of the state.

Sec. 2. Section 85.36, subsection 10, paragraph a, Code 1995, is amended to read as follows:

a. In computing the compensation to be allowed a volunteer fire fighter, ~~basic or advanced~~ emergency medical care provider, or reserve peace officer, the earnings as a fire fighter, ~~basic or advanced~~ emergency medical care provider, or reserve peace officer shall be disregarded and the volunteer fire fighter, ~~basic or advanced~~ emergency medical care provider, or reserve peace officer shall be paid an amount equal to the compensation the volunteer fire fighter, ~~basic or advanced~~ emergency medical care provider, or reserve peace officer would be paid if injured in the normal course of the volunteer fire fighter's, ~~basic or advanced~~ emergency medical care provider's, or reserve peace officer's regular employment or an amount equal to one hundred and forty percent of the statewide average weekly wage, whichever is greater.

Sec. 3. Section 85.61, subsection 2, Code 1995, is amended to read as follows:

2. "Employer" includes and applies to a person, firm, association, or corporation, state, county, municipal corporation, school corporation, area education agency, township as an employer of volunteer fire fighters and ~~basic or advanced~~ emergency medical care providers only, benefited fire district, and the legal representatives of a deceased employer. "Employer" includes and applies to a rehabilitation facility approved for purchase-of-service contracts or for referrals by the department of human services or the department of education.

Sec. 4. Section 85.61, subsection 7, unnumbered paragraph 3, Code 1995, is amended to read as follows:

Personal injuries sustained by ~~basic emergency medical care providers, as defined in section 147.1, or by advanced~~ emergency medical care providers as defined in section 147A.1, arise in the course of employment if the injuries are sustained at any time from the time the emergency medical care providers are summoned to duty until the time those duties have been fully discharged.

Sec. 5. Section 85.61, subsection 11, unnumbered paragraph 3, Code 1995, is amended to read as follows:

"Worker" or "employee" includes ~~a basic~~ an emergency medical care ~~provider as defined in section 147.1, an advanced emergency medical care~~ provider as defined in section 147A.1, a volunteer ambulance driver, or an emergency medical technician trainee, only if an agreement is reached between such worker or employee and the employer for whom the volunteer services are provided that workers' compensation coverage under chapters 85, 85A, and 85B is to be provided by the employer. ~~A basic or advanced~~ An emergency medical care provider who is a worker or employee under this paragraph is not a casual employee. "Volunteer ambulance driver" means a person performing services as a volunteer ambulance driver at the request of the person in charge of a fire department or ambulance service of a municipality. "Emergency medical technician trainee" means a person enrolled in and training for emergency medical technician certification.

Sec. 6. Section 139B.1, subsection 1, paragraph d, Code 1995, is amended to read as follows:

d. "Emergency care provider" means a person who is trained and authorized by federal or state law to provide emergency medical assistance or treatment, for compensation or in a voluntary capacity, including but not limited to, all of the following:

~~(1) A basic emergency care provider as defined in section 147.1.~~

~~(2)~~ (1) An ~~advanced~~ emergency medical care provider as defined in section 147A.1.

~~(3)~~ (2) A health care provider as defined in this section.

~~(4)~~ (3) A fire fighter.

~~(5)~~ (4) A peace officer.

"Emergency care provider" also includes a person who renders direct emergency aid without compensation.

Sec. 7. Section 141.22A, subsection 1, paragraph a, Code 1995, is amended to read as follows:

a. "Emergency care provider" means a person who is trained and authorized by federal or state law to provide emergency medical assistance or treatment, for compensation or in a voluntary capacity, including but not limited to all of the following:

~~(1) A basic emergency medical care provider as defined in section 147.1.~~

~~(2)~~ (1) An ~~advanced~~ emergency medical care provider as defined in section 147A.1.

~~(3)~~ (2) A health care provider as defined in this section.

~~(4)~~ (3) A fire fighter.

~~(5)~~ (4) A peace officer.

"Emergency care provider" also includes a person who renders emergency aid without compensation.

Sec. 8. Section 147.1, Code 1995, is amended by striking subsections 1, 3, 4, and 6.

Sec. 9. Section 147A.1, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

147A.1 DEFINITIONS.

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

1. "Board" means the board of medical examiners appointed pursuant to section 147.14, subsection 2.

2. "Department" means the Iowa department of public health.

3. "Director" means the director of the Iowa department of public health.

4. "Emergency medical care" means such medical procedures as:

a. Administration of intravenous solutions.

b. Intubation.

c. Performance of cardiac defibrillation and synchronized cardioversion.

d. Administration of emergency drugs as provided by rule by the department.

e. Any other medical procedure approved by the department, by rule, as appropriate to be performed by emergency medical care providers who have been trained in that procedure.

5. "Emergency medical care provider" means an individual trained to provide emergency and nonemergency medical care at the first-responder, EMT-basic, EMT-intermediate, EMT-paramedic level, or other certification levels adopted by rule by the department, who has been issued a certificate by the department.

6. "Emergency medical services" or "EMS" means an integrated medical care delivery system to provide emergency and nonemergency medical care at the scene or during out-of-hospital patient transportation in an ambulance.

7. "Emergency medical services instructor" means an individual who has successfully completed an EMS curriculum determined in rules in accordance with chapter 17A by the director and subject to the approval of the state board of health.

8. "Emergency rescue technician" or "ERT" means an individual trained in various rescue techniques including, but not limited to, extrication from vehicles and agricultural rescue, and who has successfully completed a curriculum approved by the department in cooperation with the Iowa fire service institute.

9. "First responder" or "FR" means an individual trained in patient-stabilizing techniques, through the use of initial emergency medical care procedures and skills prior to the arrival of an ambulance, pursuant to rules established by the department and who is currently certified as a first responder by the department.

10. "Physician" means an individual licensed under chapter 148, 150, or 150A.

Sec. 10. NEW SECTION. 147A.2 COUNCIL ESTABLISHED – TERMS OF OFFICE.

An EMS advisory council shall be appointed by the director. Membership of the council shall be comprised of individuals nominated from, but not limited to, the following state or national organizations: Iowa osteopathic medical association, Iowa medical society, American college of emergency physicians, Iowa physician assistant society, Iowa academy of family physicians, university of Iowa hospitals and clinics, Iowa EMS association, Iowa firemen's association, Iowa professional firefighters, EMS education programs committee, EMS regional council, Iowa nurses association, Iowa hospital association, and the Iowa state association of counties.

The EMS advisory council shall advise the director and develop policy recommendations concerning the regulation, administration, and coordination of emergency medical services in the state.

Sec. 11. NEW SECTION. 147A.3 MEETINGS OF THE COUNCIL – QUORUM – EXPENSES.

Membership, terms of office, quorum, and expenses shall be determined by the director pursuant to chapter 135.

Sec. 12. Section 147A.4, Code 1995, is amended to read as follows:

147A.4 RULEMAKING AUTHORITY.

1. The department shall adopt rules required or authorized by this chapter pertaining to the operation of ambulance, rescue, and first response services which have received authorization under section 147A.5 to utilize the services of certified ~~advanced~~ emergency medical care providers. These rules shall include, but need not be limited to, requirements concerning physician supervision, necessary equipment and staffing, and reporting by ambulance, rescue, and first response services which have received the authorization pursuant to section 147A.5.

The director, pursuant to rule, may grant exceptions and variances from the requirements of rules adopted under this chapter for any ambulance, rescue, or first response service. Exceptions or variations shall be reasonably related to undue hardships which existing services experience in complying with this chapter or the rules adopted pursuant to this chapter. However, no exception or variance may be granted unless the service has adopted a plan approved by the department prior to July 1, 1996, to achieve compliance during a period not to exceed seven years with this chapter and rules adopted pursuant to

this chapter. Services requesting exceptions and variances shall be subject to other applicable rules adopted pursuant to this chapter.

2. The department shall adopt rules required or authorized by this chapter pertaining to the examination and certification of ~~advanced~~ emergency medical care providers. These rules shall include, but need not be limited to, requirements concerning prerequisites, training, and experience for ~~advanced~~ emergency medical care providers and procedures for determining when individuals have met these requirements. The department shall adopt rules to recognize the previous EMS training and experience of first responders and emergency medical technicians to provide for an equitable transition to the EMT-basic certification. The department may require additional training and examinations as necessary and appropriate to ensure that individuals seeking certification have met the EMT-basic knowledge and skill requirements. The department shall consult with the board concerning these rules.

3. The department shall establish the fee for the examination of the ~~advanced~~ emergency medical care providers to cover the administrative costs of the examination program.

Sec. 13. Section 147A.5, subsections 1 and 3, Code 1995, are amended to read as follows:

1. An ambulance, rescue, or first response service in this state, that desires to provide ~~advanced~~ emergency medical care in the ~~prehospital~~ out-of-hospital setting, shall apply to the department for authorization to establish a program ~~utilizing certified advanced emergency medical care providers~~ for delivery of the care at the scene of an emergency, during transportation to a hospital, during transfer from one medical care facility to another or to a private residence, or while in the hospital emergency department, and until care is directly assumed by a physician or by authorized hospital personnel.

3. The department may deny an application for authorization ~~to establish a program utilizing the services of certified advanced emergency medical care providers~~, or may place on probation, suspend, or revoke existing authorization if the department finds reason to believe the program has not been or will not be operated in compliance with this chapter and the rules adopted pursuant to this chapter, or that there is insufficient assurance of adequate protection for the public. The denial or period of probation, suspension, or revocation shall be effected and may be appealed as provided by section 17A.12.

Sec. 14. Section 147A.6, Code 1995, is amended to read as follows:

147A.6 ~~ADVANCED~~ EMERGENCY MEDICAL CARE PROVIDER CERTIFICATES - RENEWAL.

1. The department, upon application and receipt of the prescribed fee, shall issue a certificate ~~attesting to the qualifications of~~ to an individual who has met all of the requirements for ~~advanced~~ emergency medical care provider certification established by the rules adopted under section 147A.4, subsection 2.

2. ~~Advanced emergency~~ Emergency medical care provider certificates are valid for the multiyear period determined by the department, unless sooner suspended or revoked. The certificate shall be renewed upon application of the holder and receipt of the prescribed fee if the holder has satisfactorily completed continuing medical education programs as required by rule.

Sec. 15. Section 147A.7, subsection 1, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The ~~board~~ department may deny an application for issuance or renewal of an ~~advanced~~ emergency medical care provider certificate, or suspend or revoke the certificate when it finds that the applicant or certificate holder is guilty of any of the following acts or offenses:

Sec. 16. Section 147A.7, subsection 1, paragraphs j and k, Code 1995, are amended to read as follows:

j. Violating a statute of this state, another state, or the United States, without regard to its designation as either a felony or misdemeanor, which relates to the practice of an ~~advanced~~ emergency medical care provider. A copy of the record of conviction or plea of guilty is conclusive evidence of the violation.

k. Having certification to practice as an ~~advanced~~ emergency medical care provider revoked or suspended, or having other disciplinary action taken by a licensing or certifying authority of another state, territory, or country. A certified copy of the record or order of suspension, revocation, or disciplinary action is conclusive or prima facie evidence.

Sec. 17. Section 147A.8, Code 1995, is amended to read as follows:

147A.8 AUTHORITY OF CERTIFIED ~~ADVANCED~~ EMERGENCY MEDICAL CARE PROVIDER.

An ~~advanced~~ emergency medical care provider properly certified under this chapter may:

1. Render ~~advanced~~ emergency and nonemergency medical care, rescue, and lifesaving services in those areas for which the ~~advanced~~ emergency medical care provider is certified, as defined and approved in accordance with the rules of the department, at the scene of an emergency, during transportation to a hospital or while in the hospital emergency department, and until care is directly assumed by a physician or by authorized hospital personnel.

2. Function in any hospital when:

a. Enrolled as a student or participating as a preceptor in a training program approved by the department; or

b. Fulfilling continuing education requirements as defined by rule; or

c. Employed by or assigned to a hospital as a member of an authorized ambulance, rescue, or first response service, by rendering lifesaving services in the facility in which employed or assigned pursuant to the ~~advanced~~ emergency medical care provider's certification and under the direct supervision of a physician, physician assistant, or registered nurse. An ~~advanced~~ emergency medical care provider shall not routinely function without the direct supervision of a physician, physician assistant, or registered nurse. However, when the physician, physician assistant, or registered nurse cannot directly assume emergency care of the patient, the ~~advanced~~ emergency medical care provider may perform without direct supervision ~~advanced~~ emergency medical care procedures for which that individual is certified if the life of the patient is in immediate danger and such care is required to preserve the patient's life; or

d. Employed by or assigned to a hospital as a member of an authorized ambulance, rescue, or first response service to perform nonlifesaving procedures for which those individuals have been trained and are designated in a written job description. Such procedures may be performed after the patient is observed by and when the ~~advanced~~ emergency medical care provider is under the supervision of the physician, physician assistant, or registered nurse and where the procedure may be immediately abandoned without risk to the patient.

The department shall consult with the board concerning rules and training requirements related to this section.

Nothing in this chapter shall be construed to require any voluntary ambulance, rescue, or first response service to provide a level of care beyond minimum basic care standards.

Sec. 18. Section 147A.9, Code 1995, is amended to read as follows:

147A.9 REMOTE SUPERVISION OF ~~ADVANCED~~ EMERGENCY MEDICAL CARE PROVIDERS - EMERGENCY COMMUNICATION FAILURE - AUTHORIZATION ~~OF IMMEDIATE LIFESAVING~~ TO INITIATE EMERGENCY MEDICAL CARE PROCEDURES.

1. When voice contact or a telemetered electrocardiogram is monitored by a physician, physician's designee, or physician assistant, and direct communication is maintained, an ~~advanced~~ emergency medical care provider may upon order of the monitoring physician or upon standing orders of a physician transmitted by the monitoring physician's designee or physician assistant perform any ~~advanced~~ emergency medical care procedure for which that ~~advanced~~ emergency medical care provider is certified.

2. If communications fail during an emergency or nonemergency situation, the ~~advanced~~ emergency medical care provider may perform any ~~advanced~~ emergency medical care procedure for which that individual is certified and which is included in written protocols if in the judgment of the ~~advanced~~ emergency medical care provider the life of the patient is in immediate danger and such care is required to preserve the patient's life.

3. The department shall adopt rules to authorize ~~the institution of lifesaving~~ medical care procedures which can be initiated in accordance with written protocols ~~in instances where~~ prior to the establishment of communication ~~in lieu of immediate action may cause patient harm or death~~.

4. The department shall consult with the board concerning rules related to this section.

Sec. 19. Section 147A.10, Code 1995, is amended to read as follows:

147A.10 EXEMPTIONS FROM LIABILITY IN CERTAIN CIRCUMSTANCES.

1. A physician, physician's designee, advanced registered nurse practitioner, or physician assistant, who gives orders, either directly or via communications equipment from some other point, or via standing protocols to an appropriately certified ~~advanced~~ emergency medical care provider, registered nurse, or licensed practical nurse at the scene of an emergency, and an appropriately certified ~~advanced~~ emergency medical care provider, registered nurse, or licensed practical nurse following the orders, are not subject to criminal liability by reason of having issued or executed the orders, and are not liable for civil damages for acts or omissions relating to the issuance or execution of the orders unless the acts or omissions constitute recklessness.

2. A physician, physician's designee, advanced registered nurse practitioner, physician assistant, registered nurse, licensed practical nurse, or ~~advanced~~ emergency medical care provider shall not be subject to civil liability solely by reason of failure to obtain consent before rendering emergency medical, surgical, hospital or health services to any individual, regardless of age, when the patient is unable to give consent for any reason and there is no other person reasonably available who is legally authorized to consent to the providing of such care.

3. An act of commission or omission of any appropriately certified ~~advanced~~ emergency medical care provider, registered nurse, licensed practical nurse, or physician assistant while rendering ~~advanced~~ emergency medical care under the responsible supervision and control of a physician to a person who is deemed by them to be in immediate danger of serious injury or loss of life, shall not impose any liability upon the certified ~~advanced~~ emergency medical care provider, registered nurse, licensed practical nurse, or physician assistant, the supervising physician, physician designee, advanced registered nurse practitioner, or any hospital, or upon the state, or any county, city or other political subdivision, or the employees of any of these entities; provided that this section shall not relieve any person of liability for civil damages for any act of commission or omission which constitutes recklessness.

Sec. 20. Section 147A.11, subsections 1 and 2, Code 1995, are amended to read as follows:

1. Any person not certified as required by this chapter who claims to be an ~~advanced~~ emergency medical care provider, or who uses any other term to indicate or imply that the person is an ~~advanced~~ emergency medical care provider, or who acts as an ~~advanced~~ emergency medical care provider without having obtained the appropriate certificate under this chapter, is guilty of a class "D" felony.

2. An owner of an unauthorized ambulance, rescue, or first response service in this state who operates or purports to operate an ~~authorized~~ ambulance, rescue, or first response service, or who uses any term to indicate or imply ~~such~~ authorization without having obtained the appropriate authorization under this chapter, is guilty of a class "D" felony.

Sec. 21. Section 147A.12, subsection 1, Code 1995, is amended to read as follows:

1. This chapter does not restrict a registered nurse, licensed pursuant to chapter 152, from staffing an authorized ambulance, rescue, or first response service provided the registered nurse can document equivalency through education and additional skills training essential in the delivery of ~~prehospital~~ out-of-hospital emergency care. The equivalency shall be accepted when:

a. Documentation has been reviewed and approved at the local level by the medical director of the ambulance, rescue, or first response service in accordance with the rules of the board of nursing developed jointly with the ~~board of medical examiners~~ department.

b. Authorization has been granted to that ambulance, rescue, or first response service by the department.

Sec. 22. Section 147A.13, Code 1995, is amended to read as follows:

147A.13 PHYSICIAN ASSISTANT EXCEPTION.

This chapter does not restrict a physician assistant, licensed pursuant to chapter 148C, from staffing an authorized ambulance, rescue, or first response service if the physician assistant can document equivalency through education and additional skills training essential in the delivery of ~~prehospital~~ out-of-hospital emergency care. The equivalency shall be accepted when:

1. Documentation has been reviewed and approved at the local level by the medical director of the ambulance, rescue, or first response service in accordance with the rules of the board of physician assistant examiners developed after consultation with the department.

2. Authorization has been granted to that ambulance, rescue, or first response service by the department.

Sec. 23. Section 152B.11, unnumbered paragraph 3, Code 1995, is amended to read as follows:

This section does not apply to persons who are licensed to practice a health profession covered by chapter 147 or to any person who performs respiratory care procedures as a first responder, emergency rescue technician, ~~emergency medical technician-ambulance, advanced~~ emergency medical care provider, or other person functioning as part of a rescue unit or in a hospital as authorized by chapter 147A, or to persons whose function with respect to respiratory care is limited to the home delivery and connection of oxygen tanks.

Sec. 24. Section 232.68, subsection 5, Code 1995, is amended to read as follows:

5. "Health practitioner" includes a licensed physician and surgeon, osteopath, osteopathic physician and surgeon, dentist, optometrist, podiatrist or chiropractor; a resident or intern in any of such professions; a licensed dental hygienist, a registered nurse or licensed practical nurse; a physician assistant; and ~~a basic~~ an emergency medical care provider ~~certified under section 147.161 or an advanced emergency medical care provider~~ certified under section 147A.6.

Sec. 25. Section 321.423, subsection 1, Code 1995, is amended to read as follows:

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

a. ~~"Advanced emergency~~ Emergency medical care provider" means as defined in section 147A.1.

~~b. "Basic emergency medical care provider" means as defined in section 147.1.~~

~~c.~~ b. "Fire department" means a paid or volunteer fire protection service provided by a benefited fire district under chapter 357B or by a county, municipality or township, or a

private corporate organization that has a valid contract to provide fire protection service for a benefited fire district, county, municipality, township or governmental agency.

~~d.~~ c. "Member" means a person who is a member in good standing of a fire department or a person who is an ~~advanced or basic~~ emergency medical care provider employed by an ambulance, rescue, or first responder service.

Sec. 26. Section 724.6, subsection 2, Code 1995, 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 "b", subparagraph (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. 27. Section 147.161, Code 1995, is repealed.

Sec. 28. COSTS PAID BY IOWA DEPARTMENT OF PUBLIC HEALTH. The Iowa department of public health shall pay any additional training and equipment costs, excluding vehicle costs, incurred by a political subdivision after the effective date of this Act and as a result of this Act.

Approved April 19, 1995

CHAPTER 42

COMMERCIAL FEED LAW - FUNDING OF COMMERCIAL PESTICIDE APPLICATOR TRAINING

S.F. 255

AN ACT relating to the administration of the department of agriculture and land stewardship, providing for moneys previously appropriated to the department, and providing an effective date.

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

Section 1. Section 198.9, subsection 3, unnumbered paragraph 3, Code 1995, is amended to read as follows:

The secretary shall publish a report not later than ~~September~~ January 1 of each year. The report shall provide a detailed accounting of all sources of revenue deposited under and all dispositions of funds 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.

Sec. 2. Section 198.10, Code 1995, is amended to read as follows:

198.10 RULES.

1. The secretary may adopt rules for commercial feeds and pet foods as specifically authorized in this chapter and other reasonable rules necessary in order to carry out the purpose and intent of this chapter or to secure the efficient enforcement of this chapter.

In the interest of uniformity the secretary shall ~~by rule~~ adopt~~, unless~~ any rule based on regulations promulgated under the authority of the federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 et seq., provided the secretary has the authority under this chapter to adopt the rule. However, the secretary is not required to adopt such a rule, if the secretary determines that ~~they are~~ the rule would be inconsistent with this chapter or ~~are~~ not appropriate to conditions which exist in this state~~, the following~~:.

~~a. The official definitions of feed ingredients and official feed terms adopted by the Association of American Feed Control Officials and published in the official publication of that organization, and~~

~~b. Any rule adopted pursuant to the authority of the federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 et seq., provided the secretary has the authority under this chapter to adopt such rules.~~

2. Before the issuance, amendment, or repeal of a rule authorized by this chapter, the secretary shall publish the proposed rule, amendment, or notice to repeal an existing rule in a manner reasonably calculated to give interested parties, including all current licensees, adequate notice, and shall afford all interested persons an opportunity to be heard, orally or in writing, within a reasonable period of time. After consideration of all views presented by interested persons, the secretary shall take appropriate action to issue the proposed rule or to amend or repeal an existing rule. However, if the secretary, ~~pursuant to this chapter, adopts the official definitions of feed ingredients or official feed terms as adopted by the association of American feed control officials, or~~ adopts rules based on regulations promulgated ~~pursuant to~~ under the authority of the federal Food, Drug, and Cosmetic Act, any amendment or modification adopted by ~~that association, or by~~ the United States secretary of health and human services ~~in the case of regulations promulgated pursuant to the federal Food, Drug, and Cosmetic Act,~~ shall be adopted automatically under this chapter without regard to publication of the notice required by this subsection, unless the secretary by order specifically determines that an amendment or modification shall not be adopted.

Sec. 3. 1994 Iowa Acts, chapter 1198, section 1, subsection 3, paragraph a, unnumbered paragraph 3, is amended to read as follows:

Of the amount appropriated under this paragraph "a" or paragraph "c" of this subsection, the department shall allocate $160,000 ~~shall be allocated~~ from ~~the~~ either appropriation to Iowa state university for purposes of training commercial pesticide applicators.

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

Approved April 19, 1995

CHAPTER 43

LIVESTOCK CLASSIFICATION OF OSTRICHES, RHEAS, AND EMUS

S.F. 278

AN ACT providing that animals classified as ostriches, rheas, and emus are considered livestock.

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

Section 1. Section 4.1, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 13A. "Livestock" includes but is not limited to an animal classified as an ostrich, rhea, or emu.

Sec. 2. Section 9H.5A, subsection 3, paragraph g, Code 1995, is amended to read as follows:

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

Sec. 3. Section 96.19, subsection 18, paragraph g, subparagraph (3), subparagraph subdivision (f), Code 1995, is amended to read as follows:

(f) The term "farm" includes ~~stock~~ livestock, dairy, poultry, fruit, fur-bearing animals, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

Sec. 4. Section 162.2, subsection 17, Code 1995, is amended to read as follows:

17. "Vertebrate animal" means those vertebrate animals other than members of the equine, bovine, ovine, and porcine species, and ostriches, rheas, or emus.

Sec. 5. Section 166D.2, subsection 29, Code 1995, is amended to read as follows:

29. "Livestock" means swine, cattle, sheep, goats, ~~and~~ horses, ostriches, rheas, or emus.

Sec. 6. Section 172B.1, subsection 2, Code 1995, is amended to read as follows:

2. "Livestock" means and includes live cattle, swine, sheep, ~~or~~ horses, ostriches, rheas, or emus, and the carcasses of such animals whether in whole or in part.

Sec. 7. Section 172D.1, subsection 9, Code 1995, is amended to read as follows:

9. "Livestock" means cattle, sheep, swine, ostriches, rheas, emus, poultry, and other animals or fowl, which are being produced primarily for use as food or food products for human consumption.

Sec. 8. Section 189A.2, subsections 14, 16, and 25, Code 1995, are amended to read as follows:

14. "Livestock" means ~~any~~ cattle, sheep, swine, goats, ostriches, rheas, emus, or equines, including horses~~,~~ and mules ~~or other equines~~, whether live or dead.

16. "Meat food product" means any product capable of use as human food which is made wholly or in part from any meat or other portion of the carcass of any cattle, sheep, swine, or goats, excepting products which contain meat or other portions of such carcasses only in a relatively small proportion or historically have not been considered by consumers as products of the meat food industry, and which are exempted from definition as a meat food product by the secretary under such conditions as the secretary may prescribe to assure that the meat or other portions of such carcass contained in such product are not adulterated and that such products are not represented as meat food products. This term as applied to food products of equines or ostriches, rheas, or emus shall have a meaning comparable to that provided in this paragraph with respect to cattle, sheep, swine, and goats.

25. "Poultry" means any domesticated bird, whether live or dead. However, poultry does not include ostriches, rheas, or emus.

Sec. 9. Section 189A.18, Code 1995, is amended to read as follows:

189A.18 HUMANE SLAUGHTER PRACTICES.

Every establishment subject to the provisions of this chapter engaged in the slaughter of bovine, porcine, or ovine animals or ostriches, rheas, or emus shall slaughter all such animals in an approved humane slaughtering method. For purposes of this section an

approved humane slaughtering method shall include and be limited to slaughter by shooting, electrical shock, captive bolt, or use of carbon dioxide gas prior to the animal being shackle hoisted, thrown, cast or cut; however, the slaughtering, handling or other preparation of livestock in accordance with the ritual requirements of the Jewish or any other faith that prescribes and requires a method whereby slaughter becomes effected by severance of the carotid arteries with a sharp instrument is hereby designated and approved as a humane method of slaughter under the law.

Sec. 10. Section 267.1, subsection 2, Code 1995, is amended to read as follows:

2. "Livestock" means swine, sheep, poultry, ~~and~~ cattle, ostriches, rheas, or emus.

Sec. 11. Section 427C.10, Code 1995, is amended to read as follows:

427C.10 RESTRAINT OF LIVESTOCK AND LIMITATION ON USE.

Cattle, horses, mules, sheep, goats, ostriches, rheas, emus, and ~~hogs~~ swine shall not be permitted upon a fruit-tree or forest reservation. Fruit-tree and forest reservations shall not be used for economic gain other than the gain from raising fruit or forest trees.

Sec. 12. Section 554A.1, subsection 1, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Notwithstanding section 554.2316, subsection 2, all implied warranties arising under sections 554.2314 and 554.2315 are excluded from a sale of cattle, hogs, sheep, ostriches, rheas, emus, and horses if the following information is disclosed to the prospective buyer or the buyer's agent in advance of the sale, and if confirmed in writing at or before the time of acceptance of the livestock when confirmation is requested by the buyer or the buyer's agent:

Sec. 13. Section 570A.1, subsection 11, Code 1995, is amended to read as follows:

11. "Livestock" means cattle, sheep, swine, ostriches, rheas, emus, poultry, or other animals or fowl.

Sec. 14. Section 717.1, subsection 2, Code 1995, is amended to read as follows:

2. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine, or porcine species, ostriches, rheas, emus, or poultry.

Sec. 15. Section 717A.1, subsection 1, paragraph a, Code 1995, is amended to read as follows:

a. "Animal" means a ~~warm~~ warm-blooded or cold-blooded animal, including an animal belonging to the bovine, canine, feline, equine, ovine, or porcine species, or ostriches, rheas, or emus; an animal which belongs to a species of poultry or fish~~,~~; or an animal which is an invertebrate.

Sec. 16. The department of agriculture and land stewardship shall adopt rules providing for the slaughter of ostriches, rheas, and emus under voluntary inspection. The rules shall provide for humane slaughter and include a fee schedule for such inspections. In order to implement this Act, the department shall adopt rules as required under this section to be effective no later than January 1, 1996.

Approved April 19, 1995

CHAPTER 44

ELIMINATION OF POLYSTYRENE BAN

S.F. 157

AN ACT relating to solid waste by eliminating the polystyrene ban and providing an effective date.

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

Section 1. Section 216B.3, subsection 14, Code 1995, is amended to read as follows:

14. In conjunction with the recommendations made by the department of natural resources, purchase and use recycled printing and writing paper in accordance with the schedule established in section 18.18; establish a wastepaper recycling program, by January 1, 1990, in accordance with the recommendations made by the department of natural resources and requirements of section 18.20; ~~comply with the recycling goal, recycling schedule, and ultimate termination of purchase and use of polystyrene products for the purpose of storing, packaging, or serving food for immediate consumption pursuant to section 455D.16;~~ and, in accordance with 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 contract bidding.

Sec. 2. Section 262.9, subsection 5, Code 1995, 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 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. 3. Section 307.21, subsection 4, paragraph b, subparagraph (3), Code 1995, is amended by striking the subparagraph.

Sec. 4. Section 455D.5, subsection 3, Code 1995, is amended by striking the subsection.

Sec. 5. REPEALS. Section 18.21 and section 455D.16, Code 1995, are repealed.

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

Approved April 20, 1995

CHAPTER 45

CONSUMER PROTECTION PROVISIONS PERTAINING TO MOTOR VEHICLES
S.F. 214

AN ACT to provide greater protection for consumers who purchase or lease motor vehicles and providing effective dates.

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

Section 1. Section 321.24, unnumbered paragraphs 4 and 10, Code 1995, are amended to read as follows:

If the prior certificate of title is from another state and indicates that the vehicle was rebuilt the new certificate of title ~~and the registration receipt~~ shall contain the designation of "REBUILT" stamped or printed on its face together with the name of the state issuing the prior title. The designation of "REBUILT" and the name of the other state shall be retained on all subsequent Iowa certificates of title ~~and registration receipts~~ for the vehicle. If the prior certificate of title is from another state and indicates that the vehicle was rebuilt the registration receipt shall contain the designation of "REBUILT" stamped and printed on its face. The stamped designation of "REBUILT" shall be located on the center of the right side of the registration receipt in black letters no bigger than sixteen point type. The designation shall be retained on the face of all subsequent registration receipts for the vehicle.

If the county treasurer or department is not satisfied as to the ownership of the vehicle or that there are no undisclosed security interests in it, or a junking certificate has been issued for the vehicle but a certificate of title will not be reissued under section 321.52, subsection 3, and the vehicle qualifies as an antique vehicle under section 321.115, subsection 1, the county treasurer or department may register the vehicle but shall as a condition of issuing a certificate of title and registration receipt, require the applicant to file with the department a bond in the form prescribed by the department and executed by the applicant, and either accompanied by the deposit of cash with the department or also executed by a person authorized to conduct a surety business in this state. The bond shall be in an amount equal to one and one-half times the current value of the vehicle as determined by the department and conditioned to indemnify any prior owner and secured party and any subsequent purchaser of the vehicle or person acquiring any security interest in it, and their respective successors in interest, against any expense, loss or damage, including reasonable attorney's fees, by reason of the issuance of the certificate of title of the vehicle or on account of any defect in or undisclosed security interest upon the right, title and interest of the applicant in and to the vehicle. Any such interested person has a right of action to recover on the bond for any breach of its conditions, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond, and any deposit accompanying it, shall be returned at the end of three years or prior thereto if the vehicle is no longer registered in this state and the currently valid certificate of title is surrendered to the department, unless the department has been notified of the pendency of an action to recover on the bond.

Sec. 2. Section 321.52, subsection 3, unnumbered paragraph 2, Code 1995, is amended to read as follows:

However, upon application the department upon a showing of good cause may issue a certificate of title after the fourteen-day period for a junked vehicle for which a junking certificate has been issued. For purposes of this subsection, "good cause" means that the junking certificate was obtained by mistake or inadvertence. If a person's application to the department is denied, the person may make application for a certificate of title under the bonding procedure as provided in section 321.24, if the vehicle qualifies as an antique

vehicle under section 321.115, subsection 1, or the person may seek judicial review as provided under sections 17A.19 and 17A.20.

Sec. 3. Section 321.52, subsection 4, paragraphs a* and b, Code 1995, are amended to read as follows:

a. A vehicle rebuilder or a person engaged in the business of buying, selling, or exchanging vehicles of a type required to be registered in this state, upon acquisition of a wrecked or salvage vehicle, shall surrender the certificate of title or manufacturer's or importer's statement of origin properly assigned, together with an application for a salvage certificate of title to the county treasurer of the county of residence of the purchaser or transferee within fifteen days after the date of assignment of the certificate of title for the wrecked or salvage motor vehicle. This subsection applies only to vehicles with a fair market value of five hundred dollars or more, based on the value before the vehicle became wrecked or salvage. Upon payment of a fee of two dollars, the county treasurer shall issue a salvage certificate of title which shall bear the word "SALVAGE" stamped or printed on the face of the title in a manner prescribed by the department. A salvage certificate of title may be assigned to an educational institution, a new motor vehicle dealer licensed under chapter 322, a person engaged in the business of purchasing bodies, parts of bodies, frames or component parts of vehicles for sale as scrap metal, a salvage pool, or an authorized vehicle recycler licensed under chapter 321H. An authorized vehicle recycler licensed under chapter 321H or a new motor vehicle dealer licensed under chapter 322 may assign a salvage certificate of title to any person. A vehicle on which ownership has transferred to an insurer of the vehicle, as a result of a settlement with the owner of the vehicle arising out of damage to, or unrecovered theft of the vehicle, shall be deemed to be a wrecked or salvage vehicle and the insurer shall comply with this subsection to obtain a salvage certificate of title within fifteen days after the date of assignment of the certificate of title of the vehicle.

b. When a wrecked or salvage vehicle has been repaired, the owner may apply for a regular certificate of title by paying the appropriate fees and surrendering the salvage certificate of title and a properly executed salvage theft examination certificate. The county treasurer shall issue a regular certificate of title which shall bear a designation stamped or printed on the face of the title and stamped and printed on the registration receipt indicating that the vehicle was previously titled on a salvage certificate of title in a form approved by the department. This designation shall be included on every Iowa certificate of title and registration receipt issued thereafter for the vehicle. The stamped designation shall be in black and shall be in letters no bigger than sixteen point type and located on the center of the right side of the registration receipt. However, if ownership of a stolen vehicle has been transferred to an insurer organized under the laws of this state or admitted to do business in this state, or if the transfer was the result of a settlement with the owner of the vehicle arising from damage to or the unrecovered theft of the vehicle, and if the insurer certifies to the county treasurer on a form approved by the department that the insurance company has received one or more written estimates which states that the retail cost of repairs including labor, parts, and other materials of all damage to the vehicle is less than three thousand dollars, the county treasurer shall issue to the insurance company the regular certificate of title and registration receipt without this designation.

Sec. 4. Section 321.69, subsections 2, 7, and 8, Code 1995, are amended to read as follows:

2. The damage disclosure statement required by this section shall, at a minimum, state the total retail dollar amount of all damage to the vehicle during the period of the transferor's ownership of the vehicle and whether the transferor knows if the vehicle was titled as a salvage or flood vehicle in this or any other state prior to the transferor's ownership of the vehicle. For the purposes of this section, "damage" refers to damage to the vehicle caused by fire, vandalism, collision, weather, falling objects, submersion in water, or flood, where

*Paragraph "a" amendment not enacted

the cost of repair is three thousand dollars or more per incident, but does not include normal wear and tear, glass damage, mechanical repairs or electrical repairs that have not been caused by fire, vandalism, collision, weather, falling objects, submersion in water, or flood. "Damage" does not include the cost of repairing, replacing, or reinstalling an inflatable restraint system. A determination of the amount of damage to a vehicle shall be based on estimates of the retail cost of repairing the vehicle, including labor, parts, and other materials, if the vehicle has not been repaired or on the actual retail cost of repair, including labor, parts, and other materials, if the vehicle has been repaired. Only individual incidents in which the retail cost of repairs is three thousand dollars or more are required to be disclosed by this section. If the vehicle has incurred damage of three thousand dollars or more per incident in more than one incident, the damage amounts must be combined and disclosed as the total of all separate incidents.

7. A person, authorized vehicle recycler licensed under chapter 321H, or motor vehicle dealer licensed under chapter 322 shall not be liable to a subsequent owner of a vehicle because a prior owner or lessee gave a false or inaccurate damage disclosure statement or failed to disclose that the vehicle had previously been damaged and repaired or had been titled on a salvage or rebuilt certificate of title unless the person, recycler, or dealer knew or reasonably should have known that the prior owner or lessee gave a false or inaccurate damage disclosure statement or failed to disclose that the vehicle had been damaged and repaired or had been titled on a salvage or rebuilt certificate of title.

8. This section does not apply to motor trucks and truck tractors with a gross vehicle weight rating of sixteen thousand pounds or more, vehicles more than nine model years old, ~~vehicles with titles stating the vehicle is salvage or rebuilt,~~ motorcycles, motorized bicycles, and special mobile equipment. The section does apply to motor homes.

Sec. 5. Section 321.69, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. A lessee who has executed a lease as defined in section 321F.1 shall provide a damage disclosure statement to the lessor at the termination of the lease. The damage disclosure statement shall be made on a separate disclosure document and shall state the total dollar amount of all damage to the vehicle which occurred during the term of the lease. The lessee's damage disclosure statement shall not be submitted with the application for title, but the lessor shall retain the lessee's damage disclosure statement for five years following the date of the statement.

Sec. 6. Section 322G.2, subsection 13, Code 1995, is amended to read as follows:

13. "Motor vehicle" means a self-propelled vehicle purchased or leased in this state, except as provided in section 322G.15, and primarily designed for the transportation of persons or property over public streets and highways, but does not include mopeds, motorcycles, motor homes, or vehicles over ten thousand pounds gross vehicle weight rating.

Sec. 7. Section 322G.11, Code 1995, is amended to read as follows:

322G.11 DEALER LIABILITY.

This chapter, except for the requirements of section 322G.12, does not impose any liability on a franchised motor vehicle dealer or create a cause of action by a consumer against a dealer. A dealer shall not be made a party defendant in any action involving or relating to this chapter, except as provided in this section. The manufacturer shall not charge back or require reimbursement by the dealer for any costs, including but not limited to any refunds or vehicle replacements, incurred by the manufacturer pursuant to this chapter, in the absence of a finding by a court that the related repairs had been carried out by the dealer in a manner substantially inconsistent with the manufacturer's published instructions. A manufacturer who is found by a court to have improperly charged back a dealer because of a violation of this section is liable to the injured dealer for full reimbursement plus reasonable costs and any attorney's fees.

Sec. 8. Section 322G.12, Code 1995, is amended to read as follows:

322G.12 RESALE OF RETURNED VEHICLES.

Subsequent to December 31, 1991, a manufacturer who accepts the return of a motor vehicle pursuant to a settlement, determination, or decision under this chapter shall notify the state department of transportation and report the vehicle identification number of that motor vehicle within ten days after the acceptance. The state department of transportation shall note the fact that the motor vehicle was returned pursuant to this chapter on the title for the motor vehicle. A person shall not knowingly lease; or sell, either at wholesale or retail; or transfer a title to a motor vehicle returned by reason of a settlement, determination, or decision pursuant to this chapter or a similar statute of any other state unless the nature of the nonconformity is clearly and conspicuously disclosed to the prospective transferee, lessee, or buyer. The attorney general shall prescribe by rule the form, content, and procedure pertaining to such a disclosure statement, recognizing the need of manufacturers to implement a uniform disclosure form. The manufacturer shall make a reasonable effort to ensure that such disclosure is made to the first subsequent retail buyer or lessee. For purposes of this subsection, "settlement" includes an agreement entered into between the manufacturer and the consumer that occurs after the dispute has been submitted to a state-operated dispute resolution program or to a manufacturer-established program certified in this or any other state, but does not include agreements reached in informal proceedings prior to the first written or oral presentation to the ~~certified~~ state-operated or state-certified dispute resolution program by either party. "Settlement" also includes an agreement entered into between a manufacturer and a consumer that occurs after the dispute has been submitted to a dispute resolution program that is not state-operated or state-certified.

Sec. 9. Section 322G.15, Code 1995, is amended to read as follows:

322G.15 EFFECTIVE DATES.

This chapter applies to motor vehicles originally purchased or leased in this state by consumers on or after July 1, 1991. Except for section 322G.3, subsections 1 and 2, and section 322G.6, subsection 1, this chapter applies to motor vehicles originally purchased or leased in other states, if the consumer is a resident of this state at the time the consumer's rights are asserted under this chapter. Section 322G.14, which concerns rulemaking, shall take effect May 9, 1991.

Sec. 10. EFFECTIVE DATE. The amendments to section 321.69, subsections 2 and 8, in section 4 of this Act take effect on the date the state department of transportation prescribes the appropriate forms or January 1, 1996, whichever date is earlier. The remainder of this Act takes effect on July 1, 1995.

Approved April 20, 1995

CHAPTER 46

SCIENTIFIC COLLECTOR'S LICENSES AND RELATED PERMITS

S.F. 234

AN ACT relating to the powers and duties of the department of natural resources by amending procedures for issuing and establishing fees for scientific collector's licenses or permits.

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

Section 1. Section 481A.65, Code 1995, is amended to read as follows:

481A.65 LICENSES.

The director ~~may~~, after investigation, may issue to any person a scientific collector's license, a wildlife salvage permit, educational project permit, or a wildlife rehabilitation permit. A scientific collector's license will authorize the licensee to collect for scientific purposes only, any birds, nests, eggs, or wildlife. A wildlife salvage permit will authorize the permittee to salvage for educational purposes, any birds, nests, eggs, or animals according to the rules of the department. An educational project permit authorizes the permittee to collect, keep, or possess for educational purposes birds, fish or wildlife which are not endangered, threatened or otherwise specially managed according to the rules of the department. A wildlife rehabilitation permit will authorize the permittee to possess for rehabilitation purposes only, any orphaned or injured wildlife according to the rules of the department. A person to whom a license or permit is issued shall not dispose of any birds, nests, eggs, or wildlife or their parts except upon written permission of the director. The application for such licenses and permits shall be made upon blanks furnished by the department. The commission shall establish, by rule, the tenure and applicable fee for each permit authorized in this section. Each holder of a license or permit shall, by January 31 of each year, file with the department a report showing all specimens collected or possessed under authority of the license or permit. Upon a showing of cause the department may enter and inspect the premises and collections authorized by this section. A license or permit may be revoked by the director, after due notice, at any time for cause.

Sec. 2. Section 483A.1, subsection 6, paragraph a, Code 1995, is amended by striking the paragraph.

Sec. 3. Section 483A.17, Code 1995, is amended to read as follows:

483A.17 TENURE OF LICENSE.

Every license, except lifetime hunting and fishing licenses, scientific collecting licenses, and falconry licenses, ~~shall be~~ are valid from the date issued to January 10 of the succeeding calendar year for which it is issued. A license shall not be issued prior to December 15 for the subsequent calendar year.

Approved April 20, 1995

CHAPTER 47

DRAINAGE AND LEVEE DISTRICT AND WATER DISTRICT WORK - NOTICE REQUIREMENTS

S.F. 333

AN ACT relating to notice requirements required for work involving drainage and levee districts and water districts.

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

Section 1. Section 468.101, Code 1995, is amended to read as follows:

468.101 COMPLETION OF WORK - REPORT - NOTICE.

When the work to be done under ~~any~~ a contract is completed to the satisfaction of the engineer in charge of construction, the engineer shall ~~so~~ report and certify that the contract is completed to the board~~, which~~. Upon receipt of the report, the board shall ~~fix~~ set a day to consider the report and shall give notice of the time and purpose of the meeting by ordinary mail to the ~~landowners of the district~~ owners of the land on which the work was done, and to the owners of each tract of land or lot within the district by publication in a newspaper of general circulation in the county~~, and the~~. The publication is not required to name the owners of any tract of land or lot within the district. The date ~~fixed~~ for considering the report by the board shall be not less than ten days after the date of mailing, or publication, whichever is later.

Approved April 20, 1995

CHAPTER 48

OPERATING WHILE INTOXICATED AND RELATED PROVISIONS

S.F. 446

†**AN ACT** relating to the possession or use of alcohol while operating a motor vehicle by requiring the administrative revocation of driving privileges of persons under the age of twenty-one who operate a motor vehicle with an alcohol concentration of .02 or more, denying issuance of temporary restricted licenses during the period of revocation, including the revocation under implied consent provisions, providing for civil penalties, excluding the revocation from application of certain motor vehicle financial responsibility requirements, providing for minimum periods of license revocation, providing a scheduled fine for possession of an open alcohol container while operating a motor vehicle, providing for the impoundment or immobilization of motor vehicles driven or owned by person convicted of operating while intoxicated and being a second or subsequent offender, providing criminal penalties, and other related matters.

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

Section 1. Section 123.28, unnumbered paragraph 2, Code 1995, is amended by striking the unnumbered paragraph.

Sec. 2. Section 321.12, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The director shall destroy any operating records pertaining to revocations for violations of section 321J.2A which are more than twelve

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

years old. The twelve-year period shall commence with the date the revocation of the person's operating privileges becomes effective. This paragraph shall not apply to records of revocations which pertain to violations of section 321J.2A by persons operating a commercial motor vehicle.

Sec. 3. Section 321.89, subsection 1, paragraph b, Code 1995, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (6) A vehicle that has been impounded pursuant to section 321J.4B by order of the court and whose owner has not paid the impoundment fees after notification by the person or agency responsible for carrying out the impoundment order.

Sec. 4. Section 321.218, subsection 1, Code 1995, is amended to read as follows:

1. A person whose motor vehicle license or operating privilege has been denied, canceled, suspended, or revoked as provided in this chapter, and who operates a motor vehicle upon the highways of this state while the license or privilege is denied, canceled, suspended, or revoked, commits a ~~simple~~ serious misdemeanor.

Sec. 5. NEW SECTION. 321.284 OPEN CONTAINERS IN MOTOR VEHICLES.

A person driving a motor vehicle shall not knowingly possess in a motor vehicle upon a public street or highway an open or unsealed bottle, can, jar, or other receptacle containing an alcoholic beverage, wine, or beer with the intent to consume the alcoholic beverage, wine, or beer while the motor vehicle is upon a public street or highway. Evidence that an open or unsealed receptacle containing an alcoholic beverage, wine, or beer was found during an authorized search in the glove compartment, utility compartment, console, front passenger seat, or any unlocked portable device and within the immediate reach of the driver while the motor vehicle is upon a public street or highway is evidence from which the court or jury may infer that the driver intended to consume the alcoholic beverage, wine, or beer while upon the public street or highway if the inference is supported by corroborative evidence. However, an open or unsealed receptacle containing an alcoholic beverage, wine, or beer may be transported at any time in the trunk of the motor vehicle or in some other area of the interior of the motor vehicle not designed or intended to be occupied by the driver and not readily accessible to the driver while the motor vehicle is in motion. A person convicted of a violation of this paragraph is guilty of a simple misdemeanor punishable as a scheduled violation under section 805.8, subsection 10, paragraph "c".

Sec. 6. Section 321A.17, subsection 5, Code 1995, 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, or following a period of revocation under section 321J.2A, is not required to maintain proof of financial responsibility under this section.

Sec. 7. NEW SECTION. 321J.2A PERSONS UNDER THE AGE OF TWENTY-ONE.

A person who is under the age of twenty-one shall not operate a motor vehicle while having an alcohol concentration, as defined under section 321J.1, of .02 or more. The motor vehicle license or nonresident operating privilege of a person who is under the age of twenty-one and who operates a motor vehicle while having an alcohol concentration of .02 or more shall be revoked by the department for the period of time specified under section 321J.12. A revocation under this section shall not preclude a prosecution or conviction under any applicable criminal provisions of this chapter. However, if the person is convicted of a criminal offense under section 321J.2, the revocation imposed under this section shall be superseded by any revocation imposed as a result of the conviction.

In any proceeding regarding a revocation under this section, evidence of the results of analysis of a specimen of the defendant's blood, breath, or urine is admissible upon proof

of a proper foundation. The alcohol concentration established by the results of an analysis of a specimen of the defendant's blood, breath, or urine withdrawn within two hours after the defendant was driving or in physical control of a motor vehicle is presumed to be the alcohol concentration at the time of driving or being in physical control of the motor vehicle.

Sec. 8. Section 321J.4, subsections 1 and 2, Code 1995, are amended to read as follows:

1. If a defendant is convicted of a violation of section 321J.2 and the defendant's motor vehicle license or nonresident operating privilege has not been revoked under section 321J.9 or 321J.12 for the occurrence from which the arrest arose, the department shall revoke the defendant's motor vehicle license or nonresident operating privilege for one hundred eighty days if the defendant has had no previous conviction ~~under section 321J.2~~ or revocation under ~~section 321J.9 or 321J.12~~ this chapter within the previous six years and the defendant shall not be eligible for any temporary restricted license for at least thirty days after the effective date of the revocation if a test was obtained, and for at least ninety days if a test was refused.

If a defendant is convicted of a violation of section 321J.2, and the defendant's motor vehicle license or nonresident operating privilege has not already been revoked under section 321J.9 or 321J.12 for the occurrence from which the arrest arose, the department shall revoke the defendant's motor vehicle license or nonresident operating privilege for one year if the defendant has had one or more previous convictions or revocations under ~~those sections~~ this chapter within the previous six years. The defendant shall not be eligible for any temporary restricted license during the entire one year revocation period.

2. If the court defers judgment pursuant to section 907.3 for a violation of section 321J.2, and if the defendant's motor vehicle license or nonresident operating privilege has not been revoked under section 321J.9 or 321J.12, or has not otherwise been revoked for the occurrence from which the arrest arose, the court shall order the department to revoke the defendant's motor vehicle license or nonresident operating privilege for a period of not less than thirty days nor more than ninety days ~~if the defendant's motor vehicle license or nonresident operating privilege has not been revoked under section 321J.9 or 321J.12 or has not otherwise been revoked for the occurrence from which the arrest arose~~. The defendant shall not be eligible for any temporary restricted license for at least thirty days after the effective date of the revocation if a test was obtained and for at least ninety days if a test was refused. The court shall immediately require the defendant to surrender to it all Iowa licenses or permits held by the defendant, which the court shall forward to the department with a copy of the order deferring judgment.

Sec. 9. Section 321J.4, subsection 3, paragraph a, Code 1995, is amended to read as follows:

a. Upon a plea or verdict of guilty of a third or subsequent violation of section 321J.2, the court shall order the department to revoke the defendant's motor vehicle license or nonresident operating privilege for a period of six years. The defendant shall not be eligible for a temporary restricted license for at least one year after the effective date of the revocation. The court shall require the defendant to surrender to it all Iowa licenses or permits held by the defendant, which the court shall forward to the department with a copy of the order for revocation.

Sec. 10. Section 321J.4, subsections 4, 5, and 8, Code 1995, are amended to read as follows:

4. Upon a plea or verdict of guilty of a violation of section 321J.2 which involved a personal injury, the court shall determine in open court, from consideration of the information in the file and any other evidence the parties may submit, whether a serious injury was sustained by any person other than the defendant and, if so, whether the defendant's

conduct in violation of section 321J.2 caused the serious injury. If the court so determines, the court shall order the department to revoke the defendant's motor vehicle license or nonresident operating privilege for a period of one year in addition to any other period of suspension or revocation. The defendant shall not be eligible for any temporary restricted license until the minimum period of ineligibility has expired under section 321J.4, 321J.9, 321J.12, or 321J.20. 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 order for revocation.

5. Upon a plea or verdict of guilty of a violation of section 321J.2 which involved a death, the court shall determine in open court, from consideration of the information in the file and any other evidence the parties may submit, whether a death occurred and, if so, whether the defendant's conduct in violation of section 321J.2 caused the death. If the court so determines, the court shall order the department to revoke the defendant's motor vehicle license or nonresident operating privilege for a period of six years. The defendant shall not be eligible for any temporary restricted license until the minimum period of ineligibility has expired under section 321J.4, 321J.9, 321J.12, or 321J.20. 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 order for revocation.

8. A person whose motor vehicle license has either been revoked under this chapter, or revoked or suspended under chapter 321 solely for violations of this chapter, or who has been determined to be a habitual offender under chapter 321 based solely on violations of this chapter, and who is not eligible for a temporary restricted license under this chapter may petition the court upon the expiration of the minimum period of ineligibility for a temporary restricted license provided for under section 321J.4, 321J.9, 321J.12, or 321J.20 for an order to the department to require the department to issue a temporary restricted license to the person notwithstanding section 321.560. Upon the filing of a petition for a temporary restricted license under this section, the clerk of the district court in the county where the violation that resulted in the revocation occurred shall send notice of the petition to the department and the prosecuting attorney. The department and the prosecuting attorney shall each be given an opportunity to respond to and request a hearing on the petition. The court shall determine if the temporary restricted license is necessary for the person to maintain the person's present employment. However, a temporary restricted license shall not be ordered or issued for violations of section 321J.2A or to persons under the age of twenty-one who commit violations under section 321J.2. If the court determines that the temporary restricted license is necessary for the person to maintain the person's present employment, and that the minimum period of ineligibility for receipt of a temporary license has expired, the court shall order the department to issue to the person a temporary restricted license conditioned upon the person's certification to the court of the installation of approved ignition interlock devices in all motor vehicles that it is necessary for the person to operate to maintain the person's present employment. Section 321.561 does not apply to a person operating a motor vehicle in the manner permitted under this subsection. If the person operates a motor vehicle which does not have an approved ignition interlock device or if the person tampers with or circumvents an ignition interlock device, in addition to other penalties provided, the person's temporary restricted license shall be revoked. A person holding a temporary restricted license issued under this subsection shall not operate a commercial motor vehicle, as defined in section 321.1, on a highway if a commercial driver's license is required for the person to operate the commercial motor vehicle.

Sec. 11. NEW SECTION. 321J.4B MOTOR VEHICLE IMPOUNDMENT OR IMMOBILIZATION - PENALTY.

1. If a person is convicted of a second, third, or subsequent offense of operating while intoxicated, the court shall order that any motor vehicles owned by the person and used to commit the offense and any other motor vehicles used by the person in the commission of

the offense be impounded or immobilized. For purposes of this section, "immobilized" means the installation of a device that completely prevents a motor vehicle from being operated, or the installation of an ignition interlock device, of a type approved by the commissioner of public safety, in a motor vehicle.

2. The order shall specify all of the following:

a. The motor vehicles that are subject to the order.

b. The period of impoundment or immobilization.

c. The person or agency responsible for carrying out the order requiring impoundment or immobilization of the motor vehicle. If a vehicle which is to be impounded or immobilized is in the custody of a law enforcement agency, the court shall designate that agency as the responsible agency. If the vehicle is not in the custody of a law enforcement agency, the person or agency responsible for carrying out the order shall be any person deemed appropriate by the court, including but not limited to a law enforcement agency with jurisdiction over the area in which the residence of the vehicle owner is located. The person or agency responsible for carrying out the order shall determine whether the motor vehicle shall be impounded or immobilized.

3. The period of impoundment or immobilization of a motor vehicle under this section shall be the period of license revocation imposed upon the person convicted of the offense or one hundred eighty days, whichever period is longer. The impoundment or immobilization period shall commence on the day that the vehicle is actually impounded or immobilized.

4. The clerk of the district court shall send a copy of the order to the department, the person convicted of the offense, the motor vehicle owner if the owner is not the person convicted, and the person or agency responsible for executing the order for impoundment or immobilization.

5. If the vehicle to be impounded or immobilized is in the custody of a law enforcement agency, the agency shall immobilize or impound the vehicle upon receipt of the order, seize the motor vehicle's license plates and registration, and shall send or deliver the vehicle's license plates and registration to the department.

6. If the vehicle to be impounded or immobilized is not in the custody of a law enforcement agency, the person or agency designated in the order as the person or agency responsible for executing the order shall, upon receipt of the order, promptly locate the vehicle specified in the order, seize the motor vehicle and the license plates, and send or deliver the vehicle's license plates to the department.

7. If the vehicle is located at a place other than the place at which the impoundment or immobilization is to be carried out, the person or agency responsible for executing the order shall arrange for the vehicle to be moved to the place of impoundment or immobilization. When the vehicle is found, is impounded or immobilized, and is at the place of impoundment or immobilization, the person or agency responsible for executing the order shall notify the clerk of the date on which the order was executed. The clerk shall notify the department of the date on which the order was executed.

8. Upon receipt of the court order for impoundment or immobilization and seizure of the motor vehicle, if the agency responsible for carrying out the order determines that the motor vehicle is to be impounded, the agency shall review the value of the vehicle in relation to the costs associated with the period of impoundment of the motor vehicle specified in the order. If the agency determines that the costs of impoundment of the motor vehicle exceed the actual wholesale value of the motor vehicle, the agency may treat the vehicle as an abandoned vehicle pursuant to section 321.89. If the agency elects to treat the motor vehicle as abandoned, the agency shall notify the registered owner of the motor vehicle that the vehicle shall be deemed abandoned and shall be sold in the manner provided in section 321.89 if payment of the total cost of impoundment is not received within twenty-one days of the mailing of the notice. The agency shall provide documentation

regarding the valuation of the vehicle and the costs of impoundment. This paragraph shall not apply to vehicles that are immobilized pursuant to this section or if subsection 15 or 16 applies.

9. The department shall destroy license plates received under this section and shall not authorize the release of the vehicle or the issuance of new license plates for the vehicle until the period of impoundment or immobilization has expired, and the fee and costs assessed under subsection 10 have been paid. The fee for issuance of new license plates and certificates of registration shall be the same as for the replacement of lost, mutilated, or destroyed license plates and certificates of registration.

10. Except where the person who is convicted of operating while intoxicated and being a second or subsequent offender is not lawfully in possession of the motor vehicle, the owner of any motor vehicle that is impounded or immobilized under this section shall be assessed a fee of one hundred dollars plus the cost of any expenses for towing, storage, and any other costs of impounding or immobilizing the motor vehicle, to be paid to the clerk of the district court. The person or agency responsible for carrying out the order shall inform the court of the costs of towing, storage, and any other costs of impounding or immobilizing the motor vehicle. Upon payment of the fee and costs, the clerk shall forward a copy of the receipt to the department.

11. If a law enforcement agency impounds or immobilizes a motor vehicle, the amount of the fee and expenses deposited with the clerk shall be paid by the clerk to the law enforcement agency responsible for executing the order to reimburse the agency for costs incurred for impoundment or immobilization equipment and, if required, in sending officers to search for and locate the vehicle specified in the impoundment or immobilization order.

12. A motor vehicle which is subject to an order of impoundment or immobilization that is operated on a street or highway in this state during the period of impoundment or immobilization shall be seized and forfeited to the state under chapter 809.

13. Once the period of impoundment or immobilization has expired, the owner of the motor vehicle shall have thirty days to claim the motor vehicle and pay the fees and charges imposed under this section. If the owner or the owner's designee has not claimed the vehicle and paid the fees and charges imposed under this section within seven days from the date of expiration of the period, the clerk shall send written notification to the motor vehicle owner, at the owner's last known address, notifying the owner of the date of expiration of the period of impoundment or immobilization and of the period in which the motor vehicle must be claimed. If the motor vehicle owner fails to claim the motor vehicle and pay the fees and charges imposed within the thirty-day period, the motor vehicle shall be forfeited to the state under chapter 809.

14. a. During the period of impoundment or immobilization, a person convicted of the offense of operating while intoxicated which resulted in the impoundment or immobilization shall not sell or transfer the title of the motor vehicle which is subject to the order of impoundment or immobilization. The person convicted of the offense of operating while intoxicated shall also not purchase another motor vehicle or register any motor vehicle during the period of impoundment or immobilization. Violation of this paragraph is a serious misdemeanor.

b. If, during the period of impoundment or immobilization, the title to the motor vehicle which is the subject of the order is transferred by the foreclosure of a chattel mortgage, a sale upon execution, the cancellation of a conditional sales contract, or an order of a court, the court which enters the order that permits transfer of the title shall notify the department of the transfer of the title. The department shall enter notice of the transfer of the title to the motor vehicle in the previous owner's vehicle registration record.

15. Notwithstanding the requirements of this section, if the owner of the motor vehicle is not the person who is convicted of the offense which resulted in the issuance of the order of impoundment or immobilization or the owner of the motor vehicle is a motor

vehicle rental or leasing company, the owner, the owner's designee, or the rental or leasing company shall be permitted to submit a claim for return of the motor vehicle within twenty-four hours from receipt of the order for impoundment or immobilization. Upon learning the address or phone number of a rental or leasing company which owns a motor vehicle, the peace officer, county attorney, or attorney general shall immediately contact the company to inform the company that the vehicle is available for return to the company. The vehicle shall be returned to the owner, owner's designee, or rental or leasing company and the order for impoundment or immobilization shall be rescinded with respect to the particular motor vehicle, if the owner or owner's designee can prove to the satisfaction of the court that the owner did not know or should not have known that the vehicle was to be used in the commission of the offense of operating while intoxicated, or if the rental or leasing company did not know, should not have known, and did not consent to the operation of the motor vehicle used in the commission of the offense of operating while intoxicated. For purposes of this section, unless the person convicted of the offense which results in the imposition of the order for impoundment or immobilization is not in lawful possession of the motor vehicle used in the commission of the offense, an owner of a motor vehicle shall be presumed to know that the vehicle was to be used by the person who is convicted of the offense, in the commission of the offense of operating while intoxicated.

16. Notwithstanding the requirements of this section, the holder of a security interest in a vehicle which is impounded or immobilized pursuant to this section or forfeited in the manner provided in chapter 809 shall be notified of the impoundment, immobilization, or forfeiture within seventy-two hours of the seizure of the vehicle and shall have the right to claim the motor vehicle without payment of any fees or surcharges unless the value of the vehicle exceeds the value of the security interest held by the creditor.

17. Notwithstanding the requirements of this section, any of the following persons may make application to the court for permission to operate a motor vehicle, which is impounded or immobilized pursuant to this section, during the period of impoundment or immobilization, if the applicant's motor vehicle license or operating privilege has not been suspended, denied, or revoked, and an ignition interlock device of a type approved by the commissioner of public safety is installed in the motor vehicle prior to operation:

a. A person, other than the person who committed the offense which resulted in the impoundment or immobilization, who is not a member of the immediate family of the person who committed the offense but is a joint owner of the motor vehicle.

b. A member of the immediate family of the person who committed the offense which resulted in the impoundment or immobilization, if the member demonstrates that the motor vehicle that is subject to the order for impoundment or immobilization is the only motor vehicle possessed by the family.

For purposes of this section, "a member of the immediate family" means a spouse, child, or parent of the person who committed the offense.

18. The impoundment, immobilization, or forfeiture of a motor vehicle under this chapter does not constitute loss of use of a motor vehicle for purposes of any contract of insurance.

Sec. 12. Section 321J.5, Code 1995, is amended to read as follows:

321J.5 PRELIMINARY SCREENING TEST.

1. When a peace officer has reasonable grounds to believe that ~~a~~ either of the following have occurred, the peace officer may request that the operator provide a sample of the operator's breath for a preliminary screening test using a device approved by the commissioner of public safety for that purpose:

a. A motor vehicle operator may be violating or has violated section 321J.2~~,~~ or ~~the~~ 321J.2A.

b. The operator has been involved in a motor vehicle collision resulting in injury or

~~death, the peace officer may request the operator to provide a sample of the operator's breath for a preliminary screening test using a device approved by the commissioner of public safety for that purpose~~.

2. The results of this preliminary screening test may be used for the purpose of deciding whether an arrest should be made ~~and~~ or whether to request a chemical test authorized in this chapter, but shall not be used in any court action except to prove that a chemical test was properly requested of a person pursuant to this chapter.

Sec. 13. Section 321J.6, subsection 1, unnumbered paragraph 1, Code 1995, is amended to read as follows:

A person who operates a motor vehicle in this state under circumstances which give reasonable grounds to believe that the person has been operating a motor vehicle in violation of section 321J.2 or 321J.2A is deemed to have given consent to the withdrawal of specimens of the person's blood, breath, or urine and to a chemical test or tests of the specimens for the purpose of determining the alcohol concentration or presence of drugs, subject to this section. The withdrawal of the body substances and the test or tests shall be administered at the written request of a peace officer having reasonable grounds to believe that the person was operating a motor vehicle in violation of section 321J.2 or 321J.2A, and if any of the following conditions exist:

Sec. 14. Section 321J.6, subsection 1, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. The preliminary breath screening test was administered and it indicated an alcohol concentration of .02 or more but less than .10 and the person is under the age of twenty-one.

Sec. 15. Section 321J.8, Code 1995, is amended to read as follows:

321J.8 STATEMENT OF OFFICER.

A person who has been requested to submit to a chemical test shall be advised by a peace officer of the following:

1. If the person refuses to submit to the test, the person's motor vehicle license or nonresident operating privilege will be revoked by the department as required by and for the applicable period specified under section 321J.9.

2. If the person submits to the test and the results indicate an alcohol concentration as defined in section 321J.1 of .10 or more, or the person is under the age of twenty-one and the results indicate an alcohol concentration of .02 or more, but less than .10, the person's motor vehicle license or nonresident operating privilege will be revoked by the department as required by and for the applicable period specified under section 321J.12.

3. If the person is operating a commercial motor vehicle as defined in section 321.1 and either refuses to submit to the test or submits to the test and the results indicate an alcohol concentration of 0.04 or more, the person is disqualified from operating a commercial motor vehicle for the applicable period under section 321.208 in addition to any revocation of the person's motor vehicle license or nonresident operating privilege which may be applicable under this chapter.

This section does not apply in any case involving a person described in section 321J.7.

Sec. 16. Section 321J.9, Code 1995, is amended to read as follows:

321J.9 REFUSAL TO SUBMIT - REVOCATION.

1. If a person refuses to submit to the chemical testing, a test shall not be given, but the department, upon the receipt of the peace officer's certification, subject to penalty for perjury, that the officer had reasonable grounds to believe the person to have been operating a motor vehicle in violation of section 321J.2 or 321J.2A, that specified conditions existed for chemical testing pursuant to section 321J.6, and that the person refused to submit to the chemical testing, shall revoke the person's motor vehicle license and any nonresident operating privilege for ~~a period~~ the following periods of ~~two~~ time:

a. Two hundred forty days if the person has no previous revocation within the previous six years under this chapter; and ~~five~~

b. Five hundred forty days if the person has one or more previous revocations within the previous six years under this chapter~~; or if~~.

2. A person whose motor vehicle license or nonresident operating privileges are revoked for two hundred forty days under subsection 1, paragraph "a", shall not be eligible for a temporary restricted license for at least ninety days after the effective date of the revocation. A person whose motor vehicle license or nonresident operating privileges are revoked for five hundred forty days under subsection 1, paragraph "b", shall not be eligible for a temporary restricted license for at least one year after the effective date of the revocation.

3. If the person is a resident without a license or permit to operate a motor vehicle in this state, the department shall deny to the person the issuance of a license or permit for the same period a license or permit would be revoked, and deny issuance of a temporary restricted license for the same period of ineligibility for receipt of a temporary restricted license, subject to review as provided in this chapter.

4. The effective date of revocation shall be ~~twenty~~ ten days after the department has mailed notice of revocation to the person by certified mail or, on behalf of the department, a peace officer offering or directing the administration of a chemical test may serve immediate notice of intention to revoke and of revocation on a person who refuses to permit chemical testing. If the peace officer serves that immediate notice, the peace officer shall take the Iowa license or permit of the driver, if any, and issue a temporary license effective for only ~~twenty~~ ten days. The peace officer shall immediately send the person's license to the department along with the officer's certificate indicating the person's refusal to submit to chemical testing.

Sec. 17. Section 321J.12, Code 1995, is amended to read as follows:

321J.12 TEST RESULT REVOCATION.

1. Upon certification, subject to penalty for perjury, by the peace officer that there existed reasonable grounds to believe that the person had been operating a motor vehicle in violation of section 321J.2, that there existed one or more of the necessary conditions for chemical testing described in section 321J.6, subsection 1, and that the person submitted to chemical testing and the test results indicated an alcohol concentration as defined in section 321J.1 of .10 or more, the department shall revoke the person's motor vehicle license or nonresident operating privilege for ~~a period~~ the following periods of ~~one~~ time:

a. One hundred eighty days if the person has had no revocation within the previous six years under this chapter~~;~~. ~~and one~~

b. One year if the person has had one or more previous revocations within the previous six years under this chapter.

2. A person whose motor vehicle license or nonresident operating privileges have been revoked under subsection 1, paragraph "a", shall not be eligible for any temporary restricted license for at least thirty days after the effective date of the revocation. A person whose license or privileges have been revoked under subsection 1, paragraph "b", for one year shall not be eligible for any temporary restricted license for one year after the effective date of the revocation.

3. The effective date of the revocation shall be ~~twenty~~ ten days after the department has mailed notice of revocation to the person by certified mail. The peace officer who requested or directed the administration of the chemical test may, on behalf of the department, serve immediate notice of revocation on a person whose test results indicated an alcohol concentration of .10 or more.

4. If the peace officer serves that immediate notice, the peace officer shall take the person's Iowa license or permit, if any, and issue a temporary license valid only for ~~twenty~~ ten days. The peace officer shall immediately send the person's driver's license to the

department along with the officer's certificate indicating that the test results indicated an alcohol concentration of .10 or more.

5. Upon certification, subject to penalty of perjury, by the peace officer that there existed reasonable grounds to believe that the person had been operating a motor vehicle in violation of section 321J.2A, that there existed one or more of the necessary conditions for chemical testing described in section 321J.6, subsection 1, and that the person submitted to chemical testing and the test results indicated an alcohol concentration as defined in section 321J.1 of .02 or more but less than .10, the department shall revoke the person's motor vehicle license or operating privilege for a period of thirty days if the person has had no revocations within the previous six years under section 321J.2A, and for a period of ninety days if the person has had one or more previous revocations within the previous six years under section 321J.2A.

6. The results of a chemical test may not be used as the basis for a revocation of a person's motor vehicle license or nonresident operating privilege if the alcohol concentration indicated by the chemical test minus the established margin of error inherent in the device or method used to conduct the chemical test does not equal an alcohol concentration of .10 or more for violations under section 321J.2 or of .02 or more for violations of section 321J.2A.

Sec. 18. Section 321J.13, subsections 1 through 5, Code 1995, are amended to read as follows:

1. Notice of revocation of a person's motor vehicle license or operating privilege served pursuant to section 321J.9 or 321J.12 shall include a form accompanied by a preaddressed envelope on which the person served may indicate by a checkmark if the person only wishes to request a temporary restricted license ~~only~~ after the mandatory ineligibility period for issuance of a temporary restricted license has ended, or if the person wishes a hearing to contest the revocation. The form shall clearly state on its face that the form must be completed and returned within ~~thirty~~ ten days of receipt or the person's right to a hearing to contest the revocation is foreclosed. The form shall also be accompanied by a statement of the operation of and the person's rights under this chapter.

2. The department shall grant the person an opportunity to be heard within forty-five days of receipt of a request for a hearing if the request is made not later than ~~thirty~~ ten days after receipt of notice of revocation served pursuant to section 321J.9 or 321J.12. The hearing shall be before the department in the county where the alleged events occurred, unless the director and the person agree that the hearing may be held in some other county, or the hearing may be held by telephone conference at the discretion of the agency conducting the hearing. The hearing may be recorded and its scope shall be limited to the issues of whether a peace officer had reasonable grounds to believe that the person was operating a motor vehicle in violation of section 321J.2 or section 321J.2A and either of the following:

a. Whether the person refused to submit to the test or tests.

b. Whether a test was administered and the test results indicated an alcohol concentration as defined in section 321J.1 of .10 or more or whether a test was administered and the test results indicated an alcohol concentration as defined in section 321J.1 of .02 or more pursuant to section 321J.2A.

3. After the hearing the department shall order that the revocation be either rescinded or sustained. ~~If the revocation is sustained, the administrative law judge who conducted the hearing may issue a temporary restricted license to the person whose motor vehicle license or operating privilege was revoked.~~ Upon receipt of the decision of the department to sustain a revocation, the person contesting the revocation has ten days to file a request for review of the decision by the director. The director or the director's designee shall review the decision within fifteen days and shall either rescind or sustain the revocation or order a new hearing. If the director orders a new hearing, the department shall grant the person a new hearing within ~~thirty~~ twenty days of the director's order.

4. A person whose motor vehicle license or operating privilege has been or is being revoked under section 321J.9 or 321J.12 may reopen a department hearing on the revocation if the person submits a petition stating that new evidence has been discovered which provides grounds for rescission of the revocation, or prevail at the hearing to rescind the revocation, if the person submits a petition stating that a criminal action on a charge of a violation of section 321J.2 filed as a result of the same circumstances which resulted in the revocation has resulted in a decision in which the court has held that the peace officer did not have reasonable grounds to believe that a violation of section 321J.2 or 321J.2A had occurred to support a request for or to administer a chemical test or which has held the chemical test to be otherwise inadmissible or invalid. Such a decision by the court is binding on the department and the department shall rescind the revocation.

5. The department shall stay the revocation of a person's motor vehicle license or operating privilege for the period that the person is contesting the revocation under this section or section 321J.14 if it is shown to the satisfaction of the department that the new evidence is material and that there were valid reasons for failure to present it in the contested case proceeding before the department. However, a stay shall not be granted for violations of section 321J.2A.

Sec. 19. Section 321J.15, Code 1995, is amended to read as follows:

321J.15 EVIDENCE IN ANY ACTION.

Upon the trial of a civil or criminal action or proceeding arising out of acts alleged to have been committed by a person while operating a motor vehicle in violation of section 321J.2 or 321J.2A, evidence of the alcohol concentration or the presence of drugs in the person's body substances at the time of the act alleged as shown by a chemical analysis of the person's blood, breath, or urine is admissible. If it is established at trial that an analysis of a breath specimen was performed by a certified operator using a device and methods approved by the commissioner of public safety, no further foundation is necessary for introduction of the evidence.

Sec. 20. Section 321J.16, Code 1995, is amended to read as follows:

321J.16 PROOF OF REFUSAL ADMISSIBLE.

If a person refuses to submit to a chemical test, proof of refusal is admissible in any civil or criminal action or proceeding arising out of acts alleged to have been committed while the person was operating a motor vehicle in violation of section 321J.2 or 321J.2A.

Sec. 21. Section 321J.20, subsections 1 and 2, Code 1995, are amended to read as follows:

1. The department may, on application, issue a temporary restricted license to a person whose motor vehicle license is revoked under this chapter allowing the person to drive to and from the person's home and specified places at specified times which can be verified by the department and which are required by the person's full-time or part-time employment, continuing health care or the continuing health care of another who is dependent upon the person, continuing education while enrolled in an educational institution on a part-time or full-time basis and while pursuing a course of study leading to a diploma, degree, or other certification of successful educational completion, substance abuse treatment, and court-ordered community service responsibilities if the person's motor vehicle license has not been revoked under section 321J.4, 321J.9, or 321J.12 within the previous six years and if any of the following apply:

a. The person's motor vehicle license is revoked under section 321J.4, subsection 1, 2, 4, or 6, and the minimum period of ineligibility for issuance of a temporary restricted license has expired.

b. The person's motor vehicle license is revoked under section 321J.9 and the person has entered a plea of guilty on a charge of a violation of section 321J.2 which arose from the same set of circumstances which resulted in the person's motor vehicle license

revocation under section 321J.9 and the guilty plea is not withdrawn at the time of or after application for the temporary restricted license, and the minimum period of ineligibility for issuance of a temporary restricted license has expired.

c. The person's motor vehicle license is revoked under section 321J.12, and the minimum period of ineligibility for issuance of a temporary restricted license has expired.

However, a temporary restricted license may be issued if the person's motor vehicle license is revoked under section 321J.9, and the revocation is a second revocation under this chapter, and the first three hundred and ~~sixty~~ sixty-five days of the revocation have expired.

2. This section does not apply to a person whose license was revoked under section 321J.2A or section 321J.4, subsection 3 or 5, or to a person whose license is suspended or revoked for another reason.

Sec. 22. Section 805.8, subsection 10, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. For violations of section 321.284, the scheduled fine is fifty dollars.

Sec. 23. Section 809.1, subsection 4, Code 1995, is amended to read as follows:

4. The definitions contained in subsections 1 through 3 shall not apply to violations of chapter 321 ~~or 321J~~.

Sec. 24. REPEAL. Section 321J.4A, Code 1995, is repealed.

Sec. 25. IMPLEMENTATION OF ACT – LEGISLATIVE INTENT. Section 25B.2, subsection 3, shall not apply to this Act. However, it is the intent of the general assembly that the fees and funds generated as a result of the passage of this Act be used to cover the costs associated with the additional duties imposed.

Approved April 20, 1995

CHAPTER 49

SUBSTANTIVE CODE CORRECTIONS

S.F. 88

AN ACT relating to statutory corrections which may adjust language to reflect current practices, insert earlier omissions, delete redundancies and inaccuracies, delete temporary language, resolve inconsistencies and conflicts, update ongoing provisions, or remove ambiguities.

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

Section 1. Section 17A.8, subsection 9, Code 1995, is amended to read as follows:

9. Upon a vote of two-thirds of its members, the administrative rules review committee may delay the effective date of a rule until the adjournment of the next regular session of the general assembly. The committee shall refer a rule whose effective date has been delayed to the speaker of the house of representatives and the president of the senate who shall refer the rule to the appropriate standing committees of the general assembly. If the general assembly has not disapproved of the rule by a joint resolution, the rule shall become effective. The speaker of the house of representatives and the president of the senate shall notify the administrative code editor of the final disposition of each rule delayed

pursuant to this subsection. If a rule is disapproved, it shall not become effective and the agency shall ~~withdraw~~ rescind the rule. This section shall not apply to rules made effective under section 17A.5, subsection 2, paragraph "b".

Sec. 2. Section 99F.7, subsection 10, Code 1995, is amended to read as follows:

10. a. A license to conduct gambling games on an excursion gambling boat in a county shall be issued only if the county electorate approves the conduct of the gambling games as provided in this subsection. The board of supervisors, upon receipt of a valid petition meeting the requirements of section 331.306, shall direct the commissioner of elections to submit to the ~~qualified electors~~ registered voters of the county a proposition to approve or disapprove the conduct of gambling games on an excursion gambling boat in the county. The proposition shall be submitted at a general election or at a special election called for that purpose. To be submitted at a general election, the petition must be received by the board of supervisors at least five working days before the last day for candidates for county offices to file nomination papers for the general election pursuant to section 44.4. If a majority of the county voters voting on the proposition favor the conduct of gambling games, the commission may issue one or more licenses as provided in this chapter. If a majority of the county voters voting on the proposition do not favor the conduct of gambling games, a license to conduct gambling games in the county shall not be issued. After a referendum has been held, another referendum requested by petition shall not be held for at least two years.

b. If licenses to conduct gambling games and to operate an excursion gambling boat are in effect pursuant to a referendum as set forth in this section and are subsequently disapproved by a referendum of the county electorate, the licenses issued by the commission after a referendum approving gambling games on excursion gambling boats shall remain valid and are subject to renewal for a total of nine years from the date of original issue unless the commission revokes a license at an earlier date as provided in this chapter.

c. ~~If, after January 1, 1994, section 99F.4, subsection 4, or 99F.9, subsection 2, is amended or stricken, including any amending or striking by 1994 Iowa Acts, chapter 1021, 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.

d. 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. 3. Section 235A.19, subsection 5, Code 1995, is amended to read as follows:

5. Whenever the registry corrects or eliminates information as requested or as ordered by the court, the registry shall advise all persons who have received the incorrect information of such fact. Upon application to the court and service of notice on the registry, any

~~individual~~ subject of a child abuse report may request and obtain a list of all persons who have received child abuse information referring to the ~~individual~~ subject.

Sec. 4. Section 256.3, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The state board of education is established for the department. The state board consists of nine members appointed by the governor subject to senate confirmation. The members shall be ~~qualified electors~~ registered voters of the state and hold no other elective or appointive state office. A member shall not be engaged in professional education for a major portion of the member's time nor shall the member derive a major portion of income from any business or activity connected with education. Not more than five members shall be of the same political party.

Sec. 5. Section 275.12, subsection 1, Code 1995, is amended to read as follows:

1. A petition describing the boundaries, or accurately describing the area included therein by legal descriptions, of the proposed district, which boundaries or area described shall conform to plans developed or the petition shall request change of the plan, shall be filed with the area education agency administrator of the area education agency in which the greatest number of ~~qualified electors~~ registered voters reside. However, the area education agency administrator shall not accept a petition if any of the school districts affected have approved the issuance of general obligation bonds at an election pursuant to section 296.6 during the preceding six-month period. The petition shall be signed by ~~qualified electors~~ registered voters in each existing school district or portion affected equal in number to at least twenty percent of the number of ~~qualified electors~~ registered voters or four hundred ~~qualified electors~~ registered voters, whichever is the smaller number.

Sec. 6. Section 275.27, Code 1995, is amended to read as follows:

275.27 COMMUNITY SCHOOL DISTRICTS – PART OF AREA EDUCATION AGENCY.

School districts created or enlarged under this chapter are community school districts and are part of the area education agency in which the greatest number of ~~qualified electors~~ registered voters of the district reside at the time of the special election called for in section 275.18, and sections of the Code applicable to the common schools generally are applicable to these districts in addition to the powers and privileges conferred by this chapter. If a school district, created or enlarged under this chapter and assigned to an area education agency under this section, can demonstrate that students in the district were utilizing a service or program prior to the formation of the new or enlarged district that is unavailable from the area education agency to which the new or enlarged district is assigned, the district may be reassigned to the area education agency which formerly provided the service or program, upon an affirmative majority vote of the boards of the affected area education agencies to permit the change.

Sec. 7. Section 275.51, unnumbered paragraph 1, Code 1995, 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 ~~qualified electors~~ registered voters 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 ~~qualified electors~~ registered voters.

Sec. 8. Section 331.508, subsection 3, Code 1995, is amended to read as follows:

3. ~~Estray~~ Lost property book as provided in ~~section 169B.30~~ chapter 556F.

Sec. 9. Section 331.756, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 23. Represent the state fire marshal in legal proceedings as provided in section 100.20.

Sec. 10. Section 347.16, subsection 2, Code 1995, is amended to read as follows:

2. Free care and treatment shall be furnished in a county public hospital to any sick or injured person who fulfills the residency requirements under section 47.4, subsection 1, paragraph "d", Code 1993, in the county maintaining the hospital, and who is indigent. The board of hospital trustees shall determine whether a person is indigent and entitled to free care under this subsection, or may delegate that determination to the general assistance director or the office of the department of human services in that county, subject to guidelines the board may adopt in conformity with applicable statutes.

Sec. 11. Section 384.84, subsection 4, Code 1995, is amended to read as follows:

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~~ five 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.

Sec. 12. Section 421.1, unnumbered paragraph 2, Code 1995, is amended to read as follows:

The members of the state board shall be ~~qualified electors~~ registered voters of the state and shall hold no other elective or appointive public office.

Sec. 13. Section 479.33, Code 1995, is amended to read as follows:

479.33 AUTHORIZED FEDERAL AID.

The board may enter into agreements with and receive moneys from the United States department of transportation for the inspection of pipelines to determine compliance with applicable standards of pipeline safety, and for enforcement of the applicable standards of pipeline safety as provided by ~~Public Law 90-481, the Natural Gas Pipeline Safety Act of 1968 (49 United States Code 1671-1684)~~ Pub. L. No. 103-272, as codified in 49 U.S.C. § 60101–60125.

Sec. 14. Section 479A.18, Code 1995, is amended to read as follows:

479A.18 FEDERAL INSPECTION.

The board may enter into agreements with and receive moneys from the United States department of transportation for the inspection of pipelines to determine compliance with the applicable standards of pipeline safety as provided by Pub. L. No. ~~90-481, the Natural Gas Pipeline Safety Act of 1968, 49 U.S.C. § 1671-1684~~ 103-272, as codified in 49 U.S.C. § 60101–60125.

Sec. 15. Section 548.101, subsection 1, paragraph a, Code 1995, is amended to read as follows:

a. The use of the mark has been discontinued with intent not to resume such use. Intent not to resume may be inferred from circumstances. Nonuse for two consecutive years shall constitute prima facie evidence of abandonment.

Sec. 16. Section 554.4109, subsection 2, Code 1995, is amended to read as follows:

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 or computer facilities, suspension of payments by another bank, war, emergency conditions, failure of equipment, or other circumstances beyond the control of the bank, and (ii) the bank exercises such diligence as the circumstances require.

Sec. 17. Section 554.4215, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 2. If provisional settlement for an item does not become final, the item is not finally paid.

Sec. 18. Section 556F.2, Code 1995, is amended to read as follows:

556F.2 WARRANT - APPRAISAL - RETURN - RECORD.

The ~~said~~ district judge, district associate judge, judicial magistrate, or district court clerk shall thereupon issue a warrant, directed to some peace officer, commanding the peace officer to summon three respectable householders of the neighborhood, who shall proceed without delay to examine and appraise ~~such~~ the property, including cargo, tackle, rigging, and other appendages if ~~any there be~~ applicable, and to ~~make report thereof under their hands~~ submit a report regarding the examination and appraisal to the magistrate, judge, or clerk issuing ~~such~~ the warrant, who shall transmit a certified copy ~~thereof~~ to the county auditor to be recorded in ~~the estray~~ a lost property book in the auditor's office.

Sec. 19. Section 556F.7, Code 1995, is amended to read as follows:

556F.7 WHEN OWNER UNKNOWN.

If the owner ~~be~~ is unknown, ~~such person~~ the finder shall, within five days after ~~such~~ finding the property, take ~~such~~ the money, bank notes, and a description of any other property before the county auditor of the county where the property was found, and ~~make~~ provide an affidavit ~~of the description thereof~~ describing the property, the time when and place where the ~~same~~ property was found, and attesting that no alteration has been made in the appearance ~~thereof~~ of the property since the finding~~; whereupon the~~. The county auditor shall enter a description of the property and the value thereof, as nearly as the auditor can determine it, in the auditor's ~~estray~~ lost property book, together with the affidavit of the finder.

Sec. 20. Section 556F.16, Code 1995, is amended to read as follows:

556F.16 RESPONSIBILITY OF TAKER-UP.

If the taker-up of any watercraft, logs, or lumber, or finder of lost goods, bank notes, or other things, ~~shall take~~ takes reasonable care of the ~~same~~ property, and any unavoidable accident happens ~~thereto~~ to the property without the fault or neglect of the finder or taker-up before the owner ~~shall have~~ has an opportunity of reclaiming the ~~same~~ property, ~~such~~ the taker-up or finder shall not be accountable ~~therefor~~ for the unavoidable accident, if ~~in cases of accident as aforesaid the finder or taker-up~~ within ten days ~~thereafter shall certify~~ of the accident, the finder or taker-up certifies the ~~same~~ accident to the county auditor, who shall make an entry ~~thereof~~ of the accident in the auditor's ~~estray~~ lost property book.

Sec. 21. Section 600A.5, subsection 3, paragraph c, Code 1995, is amended to read as follows:

c. A plain statement of the facts and grounds in section 600A.8, subsections ~~1 to 4~~ 1, 2, 3, 4, and 7, which indicate that the parent-child relationship should be terminated.

Sec. 22. Section 615.3, Code 1995, 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~~, or real estate contract upon property 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. 23. Section 631.1, subsection 5, Code 1995, is amended to read as follows:

5. The district court sitting in small claims has concurrent jurisdiction of an action for abandonment of a mobile home or personal property pursuant to section 555B.3, if no money judgment in excess of ~~two~~ four thousand dollars is sought for actions commenced on or after July 1, 1995. If commenced under this chapter, the action is a small claim for the purposes of this chapter.

Sec. 24. Section 716B.3, Code 1995, is amended to read as follows:

716B.3 UNLAWFUL TRANSPORTATION OF HAZARDOUS WASTE - PENALTIES.

A person who knowingly or with reason to know, transports or causes to be transported any hazardous waste to any location other than a facility that is authorized to receive, treat, store, or dispose of the hazardous waste under rules adopted pursuant to the federal Resource Conservation and Recovery Act, 42 U.S.C. § ~~9601-9675~~ 6901-6992, is guilty of an aggravated misdemeanor and upon conviction shall be punished by a fine of not more than twenty-five thousand dollars for each day of violation or imprisonment for not more than two years, or both. If the conviction is for a violation committed after a first conviction under this section, the person is guilty of a class "D" felony and shall be punished by a fine of not more than fifty thousand dollars for each day of violation or imprisonment for not more than five years, or both.

Sec. 25. Section 717B.3, subsection 3, Code 1995, is amended to read as follows:

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~~ neglect which results in serious injury to or the death of an animal is guilty of a serious misdemeanor.

Sec. 26. Section 729.1, Code 1995, is amended to read as follows:

729.1 RELIGIOUS TEST.

Any violation of section 4, Article I of the Constitution of Iowa is hereby declared to be a ~~serious~~ simple misdemeanor unless a greater penalty is otherwise provided by law.

Sec. 27. Section 729.3, Code 1995, is amended to read as follows:

729.3 PENALTY.

Any person, agency, bureau, corporation, or association that violates provisions of ~~sections 729.1 and~~ section 729.2 shall be guilty of a simple misdemeanor.

Sec. 28. JURISDICTIONAL AMOUNT REVERSION. The jurisdictional amount in the section of this Act which amends section 631.1, subsection 5, shall revert to two thousand dollars if a court of competent jurisdiction declares the four thousand dollar amount unconstitutional.

Approved April 24, 1995

CHAPTER 50

ACCESS TO DEPENDENT ADULT ABUSE INFORMATION

S.F. 116

AN ACT authorizing certain persons to access dependent adult abuse information.

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

Section 1. Section 235B.6, subsection 2, paragraph b, Code 1995, is amended to read as follows:

b. A person involved in an investigation of dependent adult abuse including all of the following:

(1) A health practitioner or mental health professional who is examining, attending, or treating an adult whom such practitioner or professional believes or has reason to believe has been the victim of abuse or to a health practitioner or mental health professional whose consultation with respect to an adult believed to have been the victim of abuse is requested by the department.

(2) An employee or agent of the department responsible for the investigation of a dependent adult abuse report.

(3) A representative of the department involved in the certification or accreditation of an agency or program providing care or services to a dependent adult believed to have been a victim of abuse.

~~(3)~~ (4) A law enforcement officer responsible for assisting in an investigation of a dependent adult abuse allegation.

~~(4)~~ (5) A multidisciplinary team, if the department of human services approves the composition of the multidisciplinary team and determines that access to the team is necessary to assist the department in the investigation, diagnosis, assessment, and disposition of a case of dependent adult abuse.

~~(5)~~ (6) The mandatory reporter who reported the dependent adult abuse in an individual case.

Approved April 24, 1995

CHAPTER 51

REGULATION OF HEALTH CARE FACILITIES - DEPENDENT ADULT ABUSE

S.F. 174

AN ACT relating to health facilities under the purview of the department of inspections and appeals.

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

Section 1. Section 135B.9, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The department shall make or cause to be made inspections as it deems necessary in order to determine compliance with applicable rules. ~~A licensee or applicant for a license desiring to make a specific type of alteration or addition to its facilities or to construct new facilities shall, before commencing the alteration, addition, or new construction, submit plans and specifications to the department for preliminary inspection and approval or recommendations with respect to compliance with the applicable rules and standards.~~

Sec. 2. NEW SECTION. 135H.8A PROVISIONAL LICENSE.

The department may issue a provisional license, effective for not more than one year, to a licensee whose psychiatric institution does not meet the requirements of this chapter, if, prior to issuance of the license, written plans to achieve compliance with the applicable requirements are submitted to and approved by the department. The plans shall specify the deadline for achieving compliance.

Sec. 3. Section 235B.2, subsection 5, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Sexual exploitation of a dependent adult who is a resident of a health care facility, as defined in section 135C.1, by a caretaker providing services to or employed by the health care facility, whether within the health care facility or at a location outside of the health care facility.

"Sexual exploitation" means any consensual or nonconsenual sexual conduct with a dependent adult for the purpose of arousing or satisfying the sexual desires of the caretaker or dependent adult, which includes but is not limited to kissing; touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals; or a sex act, as defined in section 702.17. Sexual exploitation does not include touching which is part of a necessary examination, treatment, or care by a caretaker acting within the scope of the practice or employment of the caretaker; the exchange of a brief touch or hug between the dependent adult and a caretaker for the purpose of reassurance, comfort or casual friendship; or touching between spouses.

Sec. 4. Section 235B.3, subsection 3, Code 1995, is amended to read as follows:

3. If a staff member or employee is required to report pursuant to this section, the person shall immediately notify the person in charge or the person's designated agent, and the person in charge or the designated agent shall make the report by the end of the next business day.

Approved April 24, 1995

CHAPTER 52

MISCELLANEOUS CHILD SUPPORT RECOVERY PROVISIONS

S.F. 149

AN ACT relating to child support recovery.

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

Section 1. Section 234.39, subsection 1, Code 1995, 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, or any order establishing paternity and support for a child in foster care, shall establish, after notice and a reasonable opportunity to be heard is provided to a parent or guardian, the amount of the parent's or guardian's support obligation for the cost of foster care provided by the department. 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 shall be established 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. 2. Section 252A.3A, subsection 2, unnumbered paragraph 1, Code 1995, is amended to read as follows:

~~Establishment of~~ When paternity has not been legally established, paternity may be established by affidavit under this section ~~may be used to establish paternity of~~ for the following children:

Sec. 3. Section 252C.3, subsection 1, paragraph a, Code 1995, is amended to read as follows:

a. A statement that the support obligation will be set pursuant to the child support guidelines established pursuant to section 598.21, subsection 4, and the criteria established pursuant to section 252B.7A, and that the responsible person is required to provide medical support in accordance with chapter 252E.

Sec. 4. Section 252C.3, subsection 1, paragraph c, Code 1995, is amended by striking the paragraph.

Sec. 5. Section 252D.17, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The child support recovery unit or the district court shall provide notice ~~of~~ by sending a copy of the order for income withholding to the obligor's employer, trustee, or other payor of income. ~~Notice shall be sent~~ by regular mail, with proof of service completed according to rule of civil procedure 82 ~~and, in~~. The order may be sent to the employer, trustee, or other payor of income on the same date that the order is sent to the clerk of court for filing. In addition to the amount to be withheld for payment of support, the order shall include all of the following information regarding the duties of the payor in implementing the withholding order:

Sec. 6. Section 252D.17, subsection 4, Code 1995, is amended to read as follows:

4. ~~Income~~ The income withholding order is binding on an existing or future employer, trustee, or other payor ten days after receipt of the ~~notice~~ copy of the order, and is binding whether or not the copy of the order received is file-stamped.

Sec. 7. Section 252D.23, Code 1995, 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~~ For the purposes of demonstrating compliance by the employer, trustee, or other payor, the copy of the withholding order received, whether or not the copy is file-stamped, 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. 8. Section 598.21, subsection 4A, paragraph c, Code 1995, is amended to read as follows:

c. Notwithstanding paragraph "a", in a pending dissolution action under this chapter, 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 following conditions are met:

(1) The established father and mother of the child ~~submit~~ file a written statement with the court that both parties agree that the established father is not the biological father of the child ~~and the~~.

(2) 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".

If the court overcomes a prior determination of paternity, the previously established father shall be relieved of support obligations as specified in section 600B.41A, subsection 4. In any action to overcome paternity other than through a pending dissolution action, the provisions of section 600B.41A apply. Overcoming paternity under this paragraph does not bar subsequent actions to establish paternity if it is subsequently determined that the written statement attesting that the established father is not the biological father of the child may have been submitted erroneously, and that the person previously determined not to be the child's father during the dissolution action may actually be the child's biological father.

Sec. 9. Section 600B.41, subsection 2, Code 1995, is amended to read as follows:

2. If a blood or genetic test is required, the court shall direct that inherited characteristics~~, including but not limited to blood types,~~ be determined by appropriate testing procedures, and shall appoint an expert qualified as an examiner of genetic markers to analyze and interpret the results and to report to the court.

Approved April 24, 1995

CHAPTER 53

FAMILY INVESTMENT AND RELATED HUMAN SERVICES PROGRAMS – ADDITIONAL REQUIREMENTS

S.F. 352

AN ACT relating to the family investment program and related human services programs by requiring the department of human services to apply for certain federal waivers and providing applicability provisions.

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

Section 1. WELFARE REFORM.

1. The department of human services shall submit a waiver request or requests to the United States department of health and human services as necessary to implement the

changes in the family investment program under chapter 239 and the job opportunities and basic skills program under chapter 249C, as provided by this section. In addition, the department may submit additional waiver requests to the United States department of agriculture to make changes in the federal food stamp program and to the United States department of health and human services to make changes to the medical assistance program under chapter 249A, as necessary to revise these programs in accordance with any waiver provision implemented pursuant to this section.

2. For the purposes of this section unless the context otherwise requires:

a. "Applicant" means an individual who has applied to be a recipient of public assistance.

b. "Minor parent" means an applicant or recipient parent who is less than eighteen years of age and has never been married.

c. "Public assistance" means the family investment program under chapter 239 and job opportunities and basic skills or JOBS program under chapter 249C.

d. "Recipient" means the same as provided in chapter 239 and includes individuals whose income is considered by the department.

3. The department of human services shall apply for federal waivers to implement the following provisions for applicants for and recipients of public assistance:

a. To promote responsibility and strengthen family values, the department shall require the following of minor parents, and recipient parents who are 19 years of age or less, as indicated:

(1) Unless any of the following conditions apply, a minor parent shall be required to live with their parent or legal guardian:

(a) The parent or guardian of the minor parent is deceased, missing, or living in another state.

(b) The minor parent's health or safety would be jeopardized if the minor parent is required to live with the parent or guardian.

(c) The minor parent is in foster care.

(d) The minor parent is participating in the job corps solo parent program or independent living program.

(e) Other good cause exists which is identified in rules adopted by the department for this purpose for the minor parent to receive public assistance while living apart from the minor parent's parent or guardian.

(2) A minor parent who is a recipient and is not required to live with the minor parent's parent or guardian pursuant to subparagraph (1) shall be required to participate in a family development program identified in rules adopted by the department.

(3) Minor parents who are recipients and recipient parents who are 19 years of age or less shall be required to attend parenting classes.

b. To focus on the educational needs of minor parents, the department shall require, subject to the availability of child day care for a minor parent's children, that a minor parent must either have graduated from high school or have received a high school equivalency diploma, or be engaged full-time in completing high school graduation or equivalency requirements.

c. To encourage the development of a strong work ethic, in calculating public assistance eligibility and the amount of assistance, the department shall disregard earnings of an applicant or a recipient who is 19 years of age or younger who is engaged full-time in completing high school graduation or equivalency requirements.

d. To strengthen measures addressing welfare fraud, the department shall strengthen sanctions to disqualify recipients who commit fraud relating to public assistance. In establishing sanctions pursuant to this paragraph, the department shall establish the same or similar penalties for the family investment program and for the food stamp program.

e. To make expectations of recipients consistent with practices in the private sector, contingent upon the availability of funding to provide child day care for the children of recipients who would not be exempt, the department shall revise the JOBS program

exemption for recipient parents with young children to be limited to parents with children who are less than three months of age.

f. To remove incentives for parent and caretaker relative applicants who received public assistance in another state and move to Iowa to seek public assistance, the department shall limit public assistance payment amounts to the lesser of Iowa's standard of payment or the standard of payment of the person's previous state of residence. If such an applicant received aid to families with dependent children in another state within one year of applying for public assistance in this state, the requirements of this paragraph shall apply for the period of six months from the date of applying for public assistance in this state. The department shall determine the applicant's eligibility for public assistance in this state using the eligibility requirements of this state. If eligible in this state, based upon the family size used to determine eligibility, the department shall compare the standard grant amount the applicant would receive in this state with the standard grant amount in the other state. For the six-month period, the applicant's standard grant amount when receiving public assistance shall be the lesser of the two amounts. The department shall apply this state's policies in determining the applicant's amount of net income and the resulting amount shall be subtracted from the applicant's applicable standard grant.

g. To encourage responsible decision making by families receiving public assistance, the department shall do all of the following with newly eligible and existing recipient parents:

(1) Discuss orally and in writing the financial implications of newly born children on the recipient's family.

(2) Discuss orally and in writing the available family planning resources.

(3) Include family planning counseling as an optional component of the job opportunities and basic skills program.

(4) Include the recipient's family planning objectives in the family investment agreement.

Sec. 2. CONTINGENCY PROVISION – TRANSFER. The waiver request or requests submitted by the department of human services pursuant to section 1 of this Act to the United States department of health and human services shall be to apply the provisions of section 1 statewide. If federal waiver approval of a provision of section 1 of this Act is granted, the department of human services shall implement the provision in accordance with the federal approval. If a provision of this Act is in conflict with a provision of chapter 239 or 249C, notwithstanding that provision in chapter 239 or 249C, the provision of this Act shall be implemented and the department shall propose an amendment to chapter 239 or 249C to resolve the conflict. The department may transfer moneys appropriated for a waiver provision to another appropriation as deemed necessary by the department if the waiver provision is denied by the federal government.

Sec. 3. RULES. The department of human services shall adopt administrative rules pursuant to chapter 17A to implement the provisions of section 1 of this Act. If necessary to conform with federal waiver terms and conditions or to efficiently administer the provisions, the rules may apply additional policies and procedures which are consistent with the provisions of section 1 of this Act.

Sec. 4. APPLICABILITY. The effective date of each waiver provision in section 1 of this Act granted by the federal government shall be set by rule. However, none of the waiver provisions of section 1 of this Act shall be implemented before July 1, 1996. If federal law is amended to permit this state to initiate any of the provisions of section 1 of this Act without a federal waiver, the department of human services shall proceed to implement the provisions within the time period required by this section.

Approved April 24, 1995

CHAPTER 54

NOTICE FOR VACATING AND CLOSING ROADS

S.F. 141

AN ACT relating to notice for vacating and closing roads.

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

Section 1. Section 306.12, Code 1995, 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 <u>located outside the boundary of a city, who own ten or more acres of land</u> within one mile of the road by regular mail.

Approved April 24, 1995

CHAPTER 55

SUSPENSION AND REVOCATION OF DRIVER'S LICENSES

S.F. 233

AN ACT relating to the suspension and revocation of driver's licenses and providing penalties for violations of out-of-service orders.

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

Section 1. Section 321.1, subsection 8, Code 1995, is amended by adding the following new unnumbered paragraph:

<u>NEW UNNUMBERED PARAGRAPH</u>. If authorized to transport students or clients by the superintendent of the Iowa braille and sight saving school or of the Iowa school for the deaf, or the superintendent's respective designee, an employee of the Iowa braille and sight saving school or the Iowa school for the deaf is not a chauffeur when transporting the students or clients.

Sec. 2. Section 321.1, subsection 11, Code 1995, is amended by adding the following new paragraph and relettering the remaining paragraphs:

<u>NEW PARAGRAPH</u>. d. "Commercial motor carrier" means a person responsible for the safe operation of a commercial motor vehicle.

Sec. 3. Section 321.12, unnumbered paragraph 2, Code 1995, is amended to read as follows:

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 or if all of the provisions of the court order have not been satisfied.

Sec. 4. Section 321.30, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 12. If a commercial motor vehicle has been assigned to be operated by a commercial motor carrier whose ability to operate has been terminated or denied by a federal agency.

Sec. 5. Section 321.101, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 8A. If a commercial motor vehicle has been assigned to be operated by a commercial motor carrier whose ability to operate has been terminated or denied by a federal agency.

Sec. 6. Section 321.208, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. A person is disqualified from operating a commercial motor vehicle:

a. For ninety days upon conviction for the first violation of an out-of-service order; for one year, upon conviction for a second violation of an out-of-service order in separate incidents within a ten-year period; and for not less than three and not more than five years upon conviction for a third or subsequent violation of an out-of-service order in separate incidents within a ten-year period.

b. For one year upon conviction for the first violation and for not less than three years and not more than five years upon conviction for a second or subsequent violation of an out-of-service order while transporting hazardous materials required to be placarded, or while operating a commercial motor vehicle designed to transport more than fifteen passengers including the driver.

Sec. 7. Section 321.208A, Code 1995, is amended to read as follows:

321.208A TWENTY-FOUR HOUR OUT-OF-SERVICE ORDER.

A person required to hold a commercial driver's license to operate a commercial motor vehicle shall not operate a commercial motor vehicle on the highways of this state in violation of an out-of-service order issued by a peace officer for a violation of the out-of-service rules adopted by the department. An employer shall not allow an employee to drive a commercial motor vehicle in violation of such out-of-service order. The department shall adopt out-of-service rules which shall be consistent with 49 C.F.R. § 392.5 adopted as of a specific date by the department. A person who violates this section shall be subject to a penalty of one hundred dollars.

Sec. 8. Section 321.213, Code 1995, is amended to read as follows:

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

Upon the entering of an order at the conclusion of an adjudicatory hearing under section 232.47 that the child violated a provision of this chapter or chapter 124, 126, 321A, 321J, or 453B for which the penalty is greater than a simple misdemeanor, the clerk of the juvenile court in the adjudicatory hearing shall forward a copy of the adjudication to the department. Notwithstanding section 232.55, a final adjudication in a juvenile court that the child violated a provision of this chapter ~~or section 124.401, 124.402, 124.403~~, chapter 124, a drug offense under section 126.3, or chapter 321A, 321J, or 453B constitutes a final conviction ~~of a violation of a provision of this chapter or section 124.401, 124.402, 124.403, a drug offense under section 126.3, or chapter 321A, 321J, or 453B~~ for purposes of section 321.189, subsection 8, paragraph "b", and sections 321.193, 321.194, 321.200, 321.209, 321.210, 321.215, 321.555, 321A.17, 321J.2, 321J.3, and 321J.4. However, suspensions for

violations of chapter 124, section 126.3, or chapter 453B shall be in accordance with section 321.213A.

Sec. 9. Section 321.213A, Code 1995, is amended to read as follows:

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, section 126.3, chapter 453B, 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. 10. Section 321.215, subsections 1 and 2, Code 1995, are amended to read as follows:

1. The department, on application, may issue a temporary restricted license to a person whose motor vehicle license is suspended or revoked under this chapter, allowing the person to drive to and from the person's home and specified places at specified times which can be verified by the department and which are required by any of the following:

a. The person's full-time or part-time employment.

b. The person's continuing health care or the continuing health care of another who is dependent upon the person.

c. The person's continuing education while enrolled in an educational institution on a part-time or full-time basis and while pursuing a course of study leading to a diploma, degree, or other certification of successful educational completion.

d. The person's substance abuse treatment.

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

However, a temporary restricted license shall not be issued to a person whose license is revoked under section 321.205 for a drug or drug-related offense or under section 321.209, subsections 1 through 5 or subsection 7 or 8 or to a juvenile whose license has been suspended under section 321.213A for a violation of chapter 124 or 453B, or section 126.3. A temporary restricted license may be issued to a person whose license is revoked under section 321.209, subsection 6, only if the person has no previous drag racing convictions. A person holding a temporary restricted license issued by the department under this section shall not operate a motor vehicle for pleasure.

2. Upon conviction and the suspension or revocation of a person's motor vehicle license under section 321.205 for a drug or drug-related offense; 321.209, subsection 5, 6, or 8; 321.210; 321.210A; 321.513; or 321.555, subsection 2; or a juvenile, whose license has been suspended under section 321.213A for a violation of chapter 124 or 453B, or section 126.3, and upon the denial by the director of an application for a temporary restricted license, a person may apply to the district court having jurisdiction for the residence of the person for a temporary restricted permit to operate a motor vehicle for the limited purpose or purposes specified in subsection 1. The application may be granted only if all of the following criteria are satisfied:

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

b. The permit applicant has not made an application for a temporary restricted permit in any district court in the state which was denied.

c. The temporary restricted permit is restricted to the limited purpose or purposes specified in subsection 1 at times specified in the permit.

d. Proof of financial responsibility is established as defined in chapter 321A. However, such proof is not required if the motor vehicle license was suspended under section 321.210A

or 321.513 or revoked under section 321.209, subsection 8, or suspended or revoked under section 321.205 for a drug or drug-related offense.

The district court shall forward a record of each application for such temporary restricted permit to the department, together with the results of the disposition of the request by the court. A temporary restricted permit is valid only if the department is in receipt of records required by this section.

Sec. 11. Section 321A.17, subsection 5, Code 1995, is amended to read as follows:

5. An individual applying for a motor vehicle license following a period of suspension or revocation under section 321.205 for a drug or drug-related offense, section 321.209, subsection 8, section 321.210, subsection 1, paragraph "d", or section 321.210A, 321.213A, 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. 12. Section 321J.4, subsection 2, Code 1995, is amended to read as follows:

2. If the court defers judgment pursuant to section 907.3 for a violation of section 321J.2, the ~~court shall order the~~ department ~~to~~ shall revoke the defendant's motor vehicle license or nonresident operating privilege for a period of not less than thirty days nor more than ninety days if the defendant's motor vehicle license or nonresident operating privilege has not been revoked under section 321J.9 or 321J.12 or has not otherwise been revoked for the occurrence from which the arrest arose. ~~The court shall immediately require the defendant to surrender to it all Iowa licenses or permits held by the defendant, which the court shall forward to the department with a copy of the order deferring judgment.~~

Approved April 24, 1995

CHAPTER 56

IMPLEMENTS OF HUSBANDRY

S.F. 298

AN ACT relating to implements of husbandry, concerning the definition of implements of husbandry and weight restrictions for certain implements of husbandry.

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

Section 1. Section 321.1, subsection 32, paragraph f, Code 1995, is amended to read as follows:

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

Approved April 24, 1995

CHAPTER 57

DUTIES OF COUNTY TREASURERS

S.F. 458

†**AN ACT** relating to the duties of the county treasurer and providing effective and applicability dates.

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

Section 1. Section 321.40, unnumbered paragraph 2, Code 1995, is amended to read as follows:

On or before the fifteenth day of the month of expiration of a vehicle's registration the county treasurer shall send a statement by mail of fees due to the appropriate owner of record. The statement shall be mailed to the most current address of record, showing information sufficient to identify the vehicle and a listing of the various fees as appropriate. Failure to receive a statement shall have no effect upon the accrual of penalty at the appropriate date. ~~This paragraph applies to counties with a population of one hundred thousand or more. This paragraph applies to any county with a population of less than one hundred thousand at the discretion of the county treasurer.~~

Sec. 2. Section 321.45, subsection 4, Code 1995, is amended to read as follows:

4. ~~Within seven days of the sale and delivery of a mobile home, the dealer making the sale shall certify to the county treasurer of the county where the unit is delivered, the name and address of the purchaser, the point of delivery to the purchaser, and the make, year of manufacture, taxable size, and identification number of the unit.~~ A mobile home dealer, as defined in section 322B.2, shall within fifteen days of acquiring a used mobile or manufactured home, titled in Iowa, apply for and obtain from the county treasurer of the dealer's county of residence a new certificate of title for the mobile or manufactured home.

Sec. 3. Section 331.506, subsection 1, Code 1995, is amended to read as follows:

1. Except as provided in subsections 2 and 3, the auditor shall sign or issue a county warrant only after approval of the board by recorded vote. Each warrant shall be numbered and the date, amount, number, ~~and the~~ name of the person to whom issued, and the purpose for which the warrant is issued, shall be ~~recorded and filed in the auditor's office~~ entered in the county system. Each warrant shall be made payable to the person performing the service or furnishing the supplies for which the warrant makes payment ~~and the purpose for which the warrant is issued shall be stated on it~~.

Sec. 4. Section 331.552, subsection 4, Code 1995, is amended to read as follows:

4. Keep the official county seal provided by the county. The official seal shall be an impression seal on the face of which shall appear the name of the county, the word "county" which may be abbreviated, the word "treasurer" which may be abbreviated, and the word "Iowa". The impression of the seal shall be placed on each motor vehicle ~~registration~~ certificate of title signed by the treasurer.

Sec. 5. Section 331.553, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Charge five dollars, as an administrative expense, for every rate, charge, rental, or special assessment certified as a lien to the treasurer for collection. This amount shall be added to the amount of the lien, collected at the time of payment from the payor, and credited to the county general fund.

Sec. 6. Section 331.554, subsections 1, 3, and 4, Code 1995, are amended to read as follows:

1. Upon receipt of a warrant, scrip, or other evidence of the county's indebtedness, the treasurer shall endorse on it the date of ~~its receipt, from whom it is received, and the amount which the treasurer paid on it~~ payment.

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

3. The treasurer shall ~~keep a record of all warrants issued by the auditor and presented for payment in a warrant book~~ enter into the county system the warrant number, date paid, and interest paid, if any. ~~The treasurer shall record for each warrant its number, date, principal, name of the drawee, when paid, to whom paid, and the amount of interest paid.~~

4. The treasurer shall return the paid warrants to the auditor. ~~The treasurer shall compare the warrants with the warrant book and the word "canceled" shall be written over the minute of the proper numbers in the warrant book.~~ The original warrant shall be preserved for at least two years. The treasurer shall make monthly reports to show for each warrant the number, date, drawee's name, when paid, to whom paid, original amount, and interest.

Sec. 7. Section 331.554, subsection 2, Code 1995, is amended by striking the subsection.

Sec. 8. Section 384.65, subsection 6, Code 1995, is amended to read as follows:

6. ~~Any~~ After December 1, if a special assessment is not delinquent, a property owner may ~~elect to~~ pay one-half or all of ~~any~~ the next annual installment of principal and interest of a special assessment ~~in advance, with the second semiannual payment of ordinary taxes collected in the year preceding the due date of such installment~~ prior to the delinquency date of the installment. When the next installment has been paid in full, successive principal installments may be prepaid. The county treasurer shall accept ~~such partial payment~~ the payments of the special assessment, and shall credit the next annual installment or future installments of ~~such~~ the special assessment to the extent of ~~such~~ the payment or payments, and shall remit the payments to the city. If a property owner elects to pay one or more principal installments in advance, the pay schedule shall be advanced by the number of principal installments prepaid.

Sec. 9. Section 384.84, subsection 4, Code 1995, is amended to read as follows:

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~~ five 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.

Sec. 10. Section 435.1, subsection 4, unnumbered paragraph 1, Code 1995, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

"Mobile home park" means a site, lot, field, or tract of land upon which three or more mobile homes, manufactured homes, or modular homes, or a combination of any of these homes are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

Sec. 11. Section 445.1, subsection 6, Code 1995, is amended to read as follows:

6. "Taxes" means an annual ad valorem tax, a special assessment, a drainage tax, a rate or charge, and taxes on ~~mobile~~ homes pursuant to chapter 435 which are collectible by the county treasurer.

Sec. 12. Section 445.3, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. This section is remedial and shall apply to all delinquent taxes included in a tax sale certificate of purchase issued to a county.

Upon assignment of a county-held tax sale certificate, this section shall not apply to the assignee.

Sec. 13. Section 445.4, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. This section is remedial and shall apply to all delinquent taxes included in a tax sale certificate of purchase issued to a county. Upon assignment of a county-held tax sale certificate, this section shall not apply to the assignee.

Sec. 14. Section 445.16, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If the treasurer determines that it is impractical to pursue collection of the total amount due through the tax sale and the personal judgment remedies, the treasurer shall make a written recommendation to the board of supervisors to abate the amount due. The board of supervisors shall abate, by resolution, the amount due and direct the treasurer to strike the amount due from the county system.

Sec. 15. Section 445.37, unnumbered paragraph 1, Code 1995, is amended to read as follows:

If the semiannual installment of any tax has not been paid before October 1 succeeding the levy, that amount becomes delinquent from October 1 after due ~~unless~~, including those instances when the last day of September is a Saturday or Sunday ~~in which case the amount of those taxes becomes delinquent from the following Tuesday~~. If the second installment is not paid before April 1 succeeding its maturity, it becomes delinquent from April 1 after due ~~unless~~, including those instances when the last day of March is a Saturday or Sunday ~~in which case the amount of that installment becomes delinquent from the following Tuesday~~. This paragraph ~~does not apply~~ applies to ~~special assessments or rates or charges~~ all taxes as defined in section 445.1, subsection 6.

Sec. 16. Section 446.15, Code 1995, is amended to read as follows:

446.15 OFFER FOR SALE.

The county treasurer shall~~,~~ offer for sale, on the day of the sale ~~offer for sale~~, each parcel separately~~,~~ for the total amount due against each parcel advertised for sale.

Sec. 17. Section 446.16, Code 1995, is amended to read as follows:

446.16 BID - PURCHASER.

The person who offers to pay the total amount due, which is a lien on any parcel, for the smallest percentage of the parcel is the purchaser, and when the purchaser designates the percentage of any parcel for which the purchaser will pay the total amount due, the percentage thus designated shall give the person an undivided interest upon the issuance of a treasurer's deed, as provided in chapter 448. If two or more persons have placed an equal bid and the bids are the smallest percentage offered, the county treasurer shall use a random selection process to select the bidder to whom a certificate of purchase will be issued.

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

Sec. 18. Section 446.19, unnumbered paragraph 1, Code 1995, is amended to read as follows:

When a parcel is offered at a tax sale under section 446.18, and no bid is received, or if the bid received is less than the total amount due, the county in which the parcel is located, through its ~~board of supervisors~~ county treasurer, shall bid for the parcel a sum equal to

the total amount due. Money shall not be paid by the county or other tax-levying or tax-certifying body for the purchase, but each of the tax-levying and tax-certifying bodies having any interest in the taxes shall be charged with the total amount due the tax-levying or tax-certifying body as its just share of the purchase price.

Sec. 19. Section 446.20, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 3. This section is remedial and shall apply to all delinquent taxes included in a tax sale certificate of purchase issued to a county. Upon assignment of a county-held tax sale certificate, this section shall not apply to the assignee.

Sec. 20. Section 446.31, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The certificate of purchase is assignable by endorsement and entry in the county system in the office of county treasurer of the county from which the certificate was issued, and when the assignment is so entered and the assignment transaction fee paid, it shall vest in the assignee or legal representatives of the assignee all the right and title of the assignor. The statement in the treasurer's deed of the fact of the assignment is presumptive evidence of that fact. For each assignment transaction, the treasurer shall charge the assignee an assignment transaction fee of ten dollars to be deposited in the county general fund. The assignment transaction fee shall not be added to the amount necessary to redeem.

PARAGRAPH DIVIDED. When the county acquires a certificate of purchase, the ~~board of supervisors~~ county may assign the certificate for the total amount due as of the date of assignment or compromise the total amount due and assign the certificate. ~~A~~ An assignment or a compromise and assignment shall be by written agreement. A copy of the agreement shall be filed with the treasurer. For each assignment transaction, the treasurer shall collect from the assignee an assignment transaction fee of ten dollars to be deposited in the county general fund. The assignment transaction fee shall not be added to the amount necessary to redeem. All money received from the assignment of county-held certificates of purchase shall be apportioned to the tax-levying and certifying bodies in proportion to their interests in the taxes for which the parcel was sold with all interest, fees, and costs deposited in the county general fund. After assignment of a certificate of purchase which is held by the county, section 446.37 applies. In that instance, the three-year requirement shall be calculated from the date ~~of~~ the assignment is recorded by the treasurer in the county system. When the assignment is entered and the assignment transaction fee is paid, all of the rights and title of the assignor shall vest in the assignee or the legal representative of the assignee. The statement in the treasurer's deed of the fact of the assignment is presumptive evidence of that fact.

Sec. 21. Section 447.9, unnumbered paragraph 2, Code 1995, is amended to read as follows:

Service of the notice shall ~~also~~ be made by mail on any mortgagee having a lien upon the parcel, a vendor of the parcel under a recorded contract of sale, a lessor who has a recorded lease or memorandum of a recorded lease, and any other person who has an interest of record, at the person's last known address, and on the state of Iowa in case of an old-age assistance lien by service upon the state department of human services. The notice shall ~~also~~ be served on any city where the parcel is situated. Notice shall not be served after the filing of the affidavit required by section 447.12. Only those persons who are required to be ~~sent~~ served the notice of expiration as provided in this section or who have acquired an interest in or possession of the parcel subsequent to the filing of the notice of expiration of the right of redemption are eligible to redeem a parcel from tax sale.

Sec. 22. Section 448.3, Code 1995, is amended to read as follows:

448.3 EXECUTION AND EFFECT OF DEED.

The deed shall be signed by the county treasurer as such, and acknowledged by the treasurer before some officer authorized to take acknowledgments, and when substantially thus executed and recorded in the proper record in the office of the recorder of the county in which the parcel is situated, shall vest in the purchaser all the right, title, interest, and estate of the former owner in and to the parcel conveyed, subject to all restrictive covenants, resulting from prior conveyances in the chain of title to the former owner, all the right and interest of a holder of a certificate of purchase from a tax sale occurring after the tax sale for which the deed was issued, and all the right, title, interest, and claim of the state and county to the parcel. The issuance of the deed shall operate to cancel all suspended taxes.

Sec. 23. Section 448.15, unnumbered paragraph 2, Code 1995, is amended to read as follows:

State of Iowa,)
..... County.) ss.

I, ..., being first duly sworn, on oath depose and say that on ..... (date) the county treasurer issued a tax deed to ..... (grantee) for the following described parcel: .....; that the tax deed was filed for record in the office of the county recorder of ..... county, Iowa, on ..... (date), and appears in the records of the office in ..... county as recorded in Book ..... Page ..... of the ..... Records; and that ..... ~~is now in possession of the parcel and~~ claims title to an undivided ..... percent interest in the parcel by virtue of the tax deed, or purported tax title.

Sec. 24. Section 468.57, subsection 2, unnumbered paragraph 1, Code 1995, is amended to read as follows:

To pay the assessments in not less than ten nor more than twenty equal installments, with the number of payments and interest rate determined by the board, 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~~ including those instances when 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. 25. EFFECTIVE DATES.

1. This section and sections 17, 18, 20, and 21 of this Act, being deemed of immediate importance, take effect upon enactment.

2. The remaining sections of this Act take effect July 1, 1995.

Sec. 26. APPLICABILITY DATE. Section 10 of this Act applies to the tax year beginning July 1, 1995, for which taxes are payable during the fiscal year beginning July 1,

1996, and ending June 30, 1997.

Sec. 27. POLITICAL SUBDIVISIONS RESPONSIBLE FOR ADDED COSTS. Except as otherwise provided in this Act, the state shall not pay any additional costs incurred by a political subdivision as a result of this Act.

Approved April 24, 1995

CHAPTER 58

CITY ASSESSMENTS FOR PUBLIC IMPROVEMENT COSTS

H.F. 470

AN ACT relating to the assessment of certain public improvement costs to abutting property at the request of the property owner.

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

Section 1. Section 364.12, Code 1995, is amended by adding the following new subsections:

NEW SUBSECTION. 5. A city may cause, without prior determination and notice, the repair or replacement of public improvements including, but not limited to, sidewalks, water stop boxes, and driveway approaches if the property owner does all of the following:

a. Requests the repair and replacement of the public improvements specified in this subsection abutting the property owner's property located outside the lot and property lines and inside the curb lines.

b. Waives the requirement of a prior finding by the city council that the condition of the public improvements constitutes a nuisance and the requirement of prior notice.

c. Consents to the repair of the public improvements and the assessment of the cost of the repair to the abutting property.

NEW SUBSECTION. 6. If, in repairing and replacing improvements in the area between the lot or property lines and the curb lines pursuant to subsection 5, it becomes necessary for the city to repair or replace adjacent improvements in the area, the cost of repairing or replacing the adjacent public improvements may be assessed, with consent of the property owner, against the property which the public improvements abut.

NEW SUBSECTION. 7. A city may accumulate individual assessments for the repair and replacement of sidewalks, driveway approaches, water stop boxes, or similar improvements or for the abatement of nuisances, and may periodically certify the assessments to the county treasurer under one or more assessment schedules.

Approved April 24, 1995

CHAPTER 59

CUSTOM CATTLE FEEDLOT LIENS

H.F. 198

AN ACT creating a lien arising from the care and feeding of livestock in a custom cattle feedlot.

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

Section 1. Section 579.1, Code 1995, is amended to read as follows:

579.1 NATURE OF LIEN.

1. Livery and feed stable keepers, herders, feeders, or keepers of stock ~~and of places for the storage of motor vehicles, boats and boat engines and boat motors~~ shall have a lien on all property coming into their hands, as such, for their charges and the expense of keeping, but such lien shall be subject to chapter 579A and all prior liens of record.

2. Places for the storage of motor vehicles, boats, and boat engines and boat motors shall have a lien on all property coming into their hands, as such, for their charges and the expense of keeping, but such lien shall be subject to all prior liens of record.

Sec. 2. NEW SECTION. 579A.1 DEFINITIONS.

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

1. "Cattle" means an animal classified as bovine, regardless of the age or sex of the animal.

2. "Custom cattle feedlot" means a feedlot where cattle owned by a person are subject to care and feeding performed by another person.

3. "Custom cattle feedlot operator" means the owner of a custom cattle feedlot or a person managing the custom cattle feedlot, if the person is authorized by the owner to file and enforce a lien under this chapter.

4. "Feedlot" means the same as defined in section 172D.1.

5. "Processor" means the same as defined in section 9H.1.

Sec. 3. NEW SECTION. 579A.2 ESTABLISHMENT OF LIEN – PRIORITY.

1. A custom cattle feedlot operator shall have a lien upon the cattle and the identifiable cash proceeds from the sale of the cattle for the amount of the contract price for the feed and care of the livestock at the custom cattle feedlot agreed upon by the custom cattle feedlot operator and the person who owns the cattle, which may be enforced as provided in section 579A.3.

2. The lien is created at the time the cattle arrive at the custom cattle feedlot and continues for one year after the cattle have left the custom cattle feedlot. In order to preserve the lien, the custom cattle feedlot operator must, within twenty days after the cattle arrive at the custom cattle feedlot, file in the office of the secretary of state, a lien statement on a form prescribed by the secretary of state. The secretary of state shall charge a fee of not more than ten dollars for filing the statement. The secretary of state may adopt rules pursuant to chapter 17A for the electronic filing of the statements. The statement must include all of the following:

a. An estimate of the amount of feed and care provided to the cattle pursuant to the contract.

b. The estimated duration of the period when the cattle are subject to feed and care at the custom cattle feedlot.

c. The name of the party to the contract whose cattle are subject to feed and care at the custom cattle feedlot.

d. The description of the location of the custom cattle feedlot, by county and township.

e. The signature of the person filing the form.

3. Except as provided in chapter 581, a lien created under this section until preserved and a lien preserved under this section is superior to and shall have priority over a conflicting

lien or security interest in the cattle, including a lien that was perfected prior to the creation of the lien provided under this section.

Sec. 4. NEW SECTION. 579A.3 ENFORCEMENT.

While the cattle are located at the custom cattle feedlot, the custom cattle feedlot operator may foreclose a lien created in section 579A.2 in the manner provided for the foreclosure of secured transactions as provided in sections 554.9504, 554.9506, and 554.9507. After the cattle have left the custom cattle feedlot, the custom cattle feedlot operator may enforce the lien by commencing an action at law for the amount of the lien against either of the following:

1. The holder of the identifiable cash proceeds from the sale of the cattle.
2. The processor who has purchased the cattle within three days after the cattle have left the custom cattle feedlot.

Sec. 5. Section 580.1, Code 1995, is amended to read as follows:

580.1 NATURE OF LIEN – FORFEITURE.

~~The~~ Except as provided in chapter 579A, the owner or keeper of any stallion, bull or jack kept for public service, or any person, firm, or association which invokes pregnancy of animals for the public by means of artificial insemination shall have a prior lien on the progeny of such stallion, bull, artificial insemination or jack, to secure the amount due such owner, artificial inseminator or keeper for the service resulting in such progeny, but no such lien shall obtain where the owner or keeper misrepresents the animal by a false or spurious pedigree, or fails to substantially comply with the laws of Iowa relating to such animals.

Approved April 24, 1995

CHAPTER 60

REGISTERED BRANDS

S.F. 402

AN ACT relating to brands registered by the department of agriculture and land stewardship and providing for penalties.

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

Section 1. Section 169A.1, Code 1995, is amended to read as follows:

169A.1 DEFINITIONS.

When used in this chapter:

1. "Brand" means an identification mark that is burned into the hide of a live animal by a hot iron or another method approved by the secretary. A brand shall include a cryo-brand.

2. ~~"Cryo-branding"~~ "Cryo-brand" means a brand produced by application of extreme cold temperature.

~~3. "Person" means an individual, firm, association, partnership, or corporation; the singular shall also mean the plural where applicable.~~

3. "Livestock" means horses, cattle, sheep, mules, or asses.

Sec. 2. Section 169A.2, Code 1995, is amended to read as follows:

169A.2 ADOPTION OF BRAND.

Any person ~~having cattle, sheep, horses, mules, or asses shall have the right to~~ owning livestock may adopt a brand for the ~~use of which the~~ purpose of branding the livestock.

The person shall have the exclusive right to use the brand in this state, after recording ~~such~~ the brand as provided in sections 169A.4 and 169A.6 or 169A.9.

Sec. 3. Section 169A.3, Code 1995, is amended to read as follows:

169A.3 MUST BE RECORDED.

~~No evidence~~ Evidence of an animal's ownership shall not be established in court by the animal's brand, ~~shall be permitted in any court in this state~~ unless the animal is livestock, the brand ~~shall be~~ complies with the requirements of this chapter, and the brand is recorded as provided in sections 169A.4 and 169A.6 or 169A.9. ~~In no case shall cryo-brands be accepted as evidence of ownership.~~

Sec. 4. Section 169A.6, Code 1995, is amended to read as follows:

169A.6 CERTIFIED ~~COPIES~~ COPY FURNISHED.

As soon as the brand is recorded by the secretary, the secretary shall furnish the owner ~~thereof~~ of the brand with ~~two~~ a certified ~~copies~~ copy of the record of ~~such~~ the brand.

Sec. 5. Section 169A.7, Code 1995, is amended to read as follows:

169A.7 UNLAWFUL USE OF BRAND — PENALTY.

~~It shall be unlawful to~~ A person shall not use any brand for branding ~~any horses, cattle, sheep, mules, or asses~~ livestock, unless the brand has been recorded as provided by this chapter. ~~Hot brands and cryo-brands~~ A person may use an unrecorded hot brand or an unrecorded cryo-brand, consisting only of Arabic numerals ~~only~~, ~~may be used~~ if the person uses the unrecorded brand in conjunction with the person's recorded ~~brands~~ brand, and only for ~~within the herd identification and as such shall not be recorded; and when so used~~ purposes of identifying animals within a herd. However, the unrecorded brand shall not be evidence of ownership. ~~Anyone~~ A person convicted of violating this section shall be guilty of ~~a simple~~ an aggravated misdemeanor.

Sec. 6. Section 169A.10, Code 1995, is amended to read as follows:

169A.10 EVIDENCE OF OWNERSHIP.

In ~~all suits~~ a suit at law or equity or in any criminal proceedings in which the title to ~~animals~~ livestock is an issue, ~~the~~ a certified ~~copies~~ copy recorded as provided for in section 169A.6 or 169A.9 shall be prima facie evidence of the ownership of ~~such animal~~ the livestock by the person in whose name the brand is recorded. ~~Disputes in~~ A dispute involving the custody or ownership of ~~branded animals~~ livestock branded under this chapter shall be investigated, on request, by the sheriff of the county where the ~~animals are~~ livestock is located ~~and the~~. The sheriff may call upon the services of an authorized person, approved by the secretary ~~of agriculture~~, in reading the brands on animals. The cost of ~~such~~ the services shall be ~~borne~~ paid by the person requesting the investigation. The results of the sheriff's investigation shall be a public record and ~~be~~ is admissible ~~in~~ as evidence.

Sec. 7. Section 169A.11, Code 1995, is amended to read as follows:

169A.11 PUBLICATION OF BRANDS LIST.

~~It shall be the duty of the~~ The secretary from time to time ~~to~~ shall cause to be published in book form a list of all brands on record at the time of ~~such~~ the publication. ~~Such~~ The secretary may supplement the lists ~~may be supplemented~~ from time to time. The publication shall contain a facsimile of all brands recorded and the owner's name and post-office address. The records shall be arranged in convenient form for reference. ~~It shall be the duty of the~~ The secretary ~~to send~~ shall deliver one copy of the brand book and supplements to the ~~county recorder~~ sheriff of each county. ~~Such~~ The books and supplements shall be delivered without cost to the county ~~and~~. The books and supplements shall be ~~kept as a matter of~~ public ~~record~~ records as provided in chapter 22. The secretary may sell the books and supplements ~~may be sold~~ to the general public at the cost of printing and mailing each book.

Sec. 8. Section 169A.13, Code 1995, is amended to read as follows:

169A.13 FEE EACH FIFTH YEAR.

Each owner of a brand of record beginning on January 1, 1970, shall pay to the secretary a fee of five dollars and a renewal fee on January 1 of each fifth year after the payment of the five dollar fee, or on January 1 of each fifth year following the original recording of a brand recorded after June 30, 1975. The amount of the renewal fee required for January 1, 1976, and each year thereafter shall be established by rule of the secretary pursuant to chapter 17A. ~~Such~~ The amount of the fee shall be based upon the administrative costs of maintaining the brand program provided for in this chapter. ~~It shall be the duty of the~~ The secretary ~~to~~ shall notify every owner of a brand of record at least thirty days prior to the date of the renewal period. ~~The secretary shall give a receipt for all such payments made and if any~~ If the owner of a brand of record ~~shall fail, refuse, or neglect to~~ does not pay ~~such~~ the fee by July 1 of each year in which it is due, ~~such~~ the owner shall forfeit the brand ~~shall become forfeited~~ and ~~no~~ the brand shall no longer ~~carried in the record~~ be recorded. ~~Any such~~ A forfeited brand shall not be issued to any other person ~~within a period of less than~~ for five or more years following date of forfeiture.

Sec. 9. NEW SECTION. 169A.16 ELIMINATION OF COMPETING BRANDS - FEE WAIVER.

The department shall notify any person who has registered a brand pursuant to this chapter, if the brand is the same as another brand registered pursuant to this chapter. The notice shall provide that effective July 1, 1996, all duplicate brands shall be eliminated based on the priority established pursuant to this section. First, brands shall be eliminated which are not used to mark or identify livestock, if duplicate brands are used to mark or identify livestock. Second, all brands shall be eliminated except for the brand which was registered pursuant to this chapter for the longest period of time. In calculating the date of registration, the department shall not count any period during which a registration has lapsed. The transfer of a brand under this chapter shall not affect the brand's registration date. A person whose brand has been eliminated and who registers a new brand under this chapter is not required to pay a recording fee as provided in section 169A.4.

Sec. 10. REPEALS.

1. Section 169A.15, Code 1995, is repealed.
2. Section 169A.16, as enacted in this Act, is repealed on July 1, 1998.

Approved April 24, 1995

CHAPTER 61

WATER QUALITY AND SOLID WASTE DISPOSAL - SINGLE GENERAL PERMITS

S.F. 147

AN ACT providing for the issuance of single general permits by the department of natural resources and providing an effective date.

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

Section 1. Section 455B.173, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 12. Adopt rules for the issuance of a single general permit, after notice and opportunity for a public hearing. The single general permit shall cover numerous

facilities to the extent that they are representative of a class of facilities which can be identified and conditioned by a single permit.

Sec. 2. Section 455B.304, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 19. The commission shall adopt rules for the issuance of a single general permit, after notice and opportunity for a public hearing. The single general permit shall cover numerous facilities to the extent that they are representative of a class of facilities which can be identified and conditioned by a single permit.

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

Approved April 24, 1995

CHAPTER 62

STATE PURCHASES OF PLASTIC GARBAGE CAN LINERS

S.F. 247

AN ACT relating to plastic garbage can liners with recycled content.

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

Section 1. Section 18.18, Code 1995, is amended to read as follows:

18.18 STATE PURCHASES - RECYCLED PRODUCTS - ~~STARCH-BASED PLASTICS AND~~ SOYBEAN-BASED INKS.

1. When purchasing paper products, the department ~~of general services~~ shall, when the price is reasonably competitive and the quality as intended, purchase the recycled product. The department ~~of general services~~ shall also purchase, when the price is reasonably competitive and the quality as intended, and in keeping with the schedule established in this subsection, soybean-based inks and ~~starch-based plastics,~~ plastic products with recycled content including but not limited to ~~starch-based~~ plastic garbage can liners.

a. By July 1, ~~1989, a minimum of fifty~~ 1991, one hundred percent of the purchases of inks which are used for newsprint printing services performed internally or contracted for by the department ~~of general services~~ shall be soybean-based. ~~The percentage of purchases by the department 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. By July 1, ~~1991, a minimum of twenty-five~~ 1993, one hundred percent of the purchases of inks, other than inks which are used for newsprint printing services, and which are used internally or contracted for by the department ~~of general services~~, shall be soybean-based to the extent formulations for such inks are available. ~~The percentage of purchases by the department 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. ~~By July 1, 1989, a minimum of fifteen percent of the purchases of garbage can liners made by the department of general services 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.~~ By July 1, 1995, a minimum of ten percent of the purchases of garbage can liners made by the department shall be plastic garbage can liners with recycled content. The percentage shall increase by ten percent annually until fifty percent of the purchases of garbage can liners are plastic garbage can liners with recycled content.

d. The department ~~of general services~~ shall report to the general assembly on February 1 of each year the following:

(1) ~~Plastic~~ A listing of plastic products which are regularly purchased by the department ~~of general services~~ and other state agencies for which ~~starch-based~~ recycled content product alternatives are available~~. The report shall also include~~, including the cost of the plastic products purchased and the cost of the ~~starch-based~~ recycled content product alternatives.

(2) Information relating to soybean-based inks and ~~starch-based~~ plastic garbage can liners with recycled content regularly purchased by the department and other state agencies~~. The report shall include~~, including the cost of purchasing soybean-based inks and ~~starch-based~~ plastic garbage can liners~~,~~ with recycled content and the ~~percentage of inks purchased which are soybean-based and the percentage of liners purchased which are starch-based~~ percentages of soybean-based inks and plastic garbage can liners with recycled content that have been purchased.

e. For purposes of this section "recycled content" means that the content of the product contains a minimum of thirty percent postconsumer material.

2. a. As used in this subsection, unless the context otherwise requires:

(1) "Recycled paper" means a paper product with not less than fifty percent of its total weight consisting of secondary and postconsumer material. At least ten percent of the total weight of recycled paper shall be postconsumer materials.

(2) "Postconsumer material" means only those products generated by a business or consumer which have served their intended end uses, and which have been separated or diverted from solid waste for the purposes of collection, recycling, and disposition. Postconsumer material does not include manufacturing wastes.

(3) "Secondary material" means fragments of finished products or finished products of a manufacturing process which has converted a resource into a commodity of real economic value, and includes postconsumer material but does not include excess virgin resources of the manufacturing process.

b. The department, in conjunction with recommendations made by the department of natural resources, shall purchase and use recycled printing and writing paper so that ~~twenty-five percent by January 1, 1990,~~ fifty percent by January 1, 1992, seventy-five percent by January 1, 1996, and ninety percent by January 1, 2000, of the volume of printing and writing paper purchased is recycled paper.

c. The department shall adopt standards for the allowable content of postconsumer and secondary material of recycled paper which shall conform with but may be more stringent than the American society for testing and materials standards.

d. The department shall establish a prioritization procedure for the purchase of recycled paper which provides for a five percent differential in the cost of the purchase of paper which has been recycled through the use of a nonchlorinated process.

e. If a provision under this subsection results in the limitation of sources for the purchase of printing and writing paper to three or fewer sources, the department may waive the requirement in order to purchase necessary amounts of printing and writing paper.

f. The department of general services, in conjunction with the department of natural resources, shall review the availability of a higher percentage content of postconsumer content printing and writing paper and shall, by rule, adjust the percentage requirement accordingly.

g. Notwithstanding the requirements of this subsection regarding the purchase of recycled paper, the department shall purchase acid-free permanent paper in the amount

necessary for the production or reproduction of documents, papers, or similar materials produced or reproduced for permanent preservation pursuant to law.

3. The department of general services, in conjunction with the department of natural resources, shall review the procurement specifications currently used by the state to eliminate, wherever possible, discrimination against the procurement of products manufactured with recovered materials~~, starch-based plastics,~~ and soybean-based inks.

4. The department of natural resources shall assist the department of general services in locating suppliers of recycled products~~, starch-based plastics,~~ and soybean-based inks and collecting data on recycled content~~, starch-based plastic,~~ and soybean-based ink purchases.

5. Information on recycled content shall be requested on all bids for paper products issued by the state and on other bids for products which could have recycled content such as oil, plastic products, including but not limited to starch-based plastic products, compost materials, aggregate, solvents, soybean-based inks, and rubber products.

6. The department of general services, in conjunction with the department of natural resources, shall adopt rules and regulations to carry out the provisions of this section.

7. All state agencies shall fully cooperate with the departments of general services and natural resources in all phases of implementing this section.

8. The department ~~of general services~~, by January 1, 1993, shall seek an agreement with the agencies of the states of Minnesota and Wisconsin authorized to purchase general use items for state agencies, to provide for the cooperative purchase of recycled products.

9. The department ~~shall~~, whenever technically feasible, shall purchase and use degradable loose foam packing material manufactured from grain starches or other renewable resources, unless the cost of the packing material is more than ten percent greater than the cost of packing material made from nonrenewable resources. For the purposes of this subsection, "packing material" means material, other than an exterior packing shell, that is used to stabilize, protect, cushion, or brace the contents of a package.

Sec. 2. Section 216B.3, subsection 12, Code 1995, is amended to read as follows:

12. Manage and control the property, both real and personal, belonging to the department. The commission shall, according to the schedule established in this subsection, when the price is reasonably competitive and the quality as intended, purchase soybean-based inks and ~~starch-based plastics~~ plastic products with recycled content, including but not limited to ~~starch-based~~ plastic garbage can liners. For purposes of this subsection, "recycled content" means that the content of the product contains a minimum of thirty percent postconsumer material.

a. By July 1, ~~1989, a minimum of fifty~~ 1991, one hundred percent of the purchases of inks which are used for newsprint paper for printing services performed internally or contracted for by the commission shall be soybean-based. ~~The percentage of purchases by the commission 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. ~~By July 1, 1989, a minimum of fifteen percent of the purchases of garbage can liners made by the commission 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.~~ By July 1, 1995, a minimum of ten percent of the purchases of garbage can liners made by the commission shall be plastic garbage can liners with recycled content. The percentage purchased shall increase by ten percent annually until fifty percent of the purchases of garbage can liners are plastic garbage can liners with recycled content.

c. By July 1, ~~1991, a minimum of twenty-five~~ 1993, one hundred percent of the purchases of inks, other than inks which are used for newsprint printing services, and which

are used internally or contracted for by the commission, shall be soybean-based to the extent formulations for such inks are available. ~~The percentage of purchases by the commission 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.~~

d. The commission shall report to the general assembly on February 1 of each year, the following:

(1) ~~Plastic~~ A listing of plastic products which are regularly purchased by the commission for which ~~starch-based~~ recycled content product alternatives are available~~. The report shall also include~~, including the cost of the plastic products purchased and the cost of the ~~starch-based~~ recycled content product alternatives.

(2) Information relating to soybean-based inks and ~~starch-based~~ plastic garbage can liners with recycled content regularly purchased by the commission~~. The report shall include~~, including the cost of purchasing soybean-based inks and ~~starch-based~~ plastic garbage can liners~~,~~ with recycled content and the ~~percentage of inks purchased which are soybean-based and the percentage of liners purchased which are starch-based~~ percentages of soybean-based inks and plastic garbage can liners with recycled content that have been purchased.

e. The department of natural resources shall review the procurement specifications currently used by the commission to eliminate, wherever possible, discrimination against the procurement of products manufactured with ~~starch-based plastics~~ recycled content and soybean-based inks.

f. The department of natural resources shall assist the commission in locating suppliers of ~~starch-based plastics~~ products with recycled content and soybean-based inks, and collecting data on recycled content~~, starch-based plastic,~~ and soybean-based ink purchases.

g. The commission, in conjunction with the department of natural resources, shall adopt rules to carry out the provisions of this section.

h. The department of natural resources shall cooperate with the commission in all phases of implementing this section.

Sec. 3. Section 262.9, subsection 4, Code 1995, is amended to read as follows:

4. Manage and control the property, both real and personal, belonging to the institutions. The board shall purchase or require the purchase of, when the price is reasonably competitive and the quality as intended, and in keeping with the schedule established in this subsection, soybean-based inks and ~~starch-based plastics~~ plastic products with recycled content, including but not limited to ~~starch-based~~ plastic garbage can liners. For purposes of this subsection, "recycled content" means that the content of the product contains a minimum of thirty percent postconsumer material.

a. All inks purchased that are used internally or contracted for by the board shall be soybean-based to the extent formulations for such inks are available.

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.~~ By July 1, 1995, a minimum of ten percent of the purchases of garbage can liners made by the board shall be plastic garbage can liners with recycled content. The percentage shall increase by ten percent annually until fifty percent of the purchases of garbage can liners are plastic garbage can liners with recycled content.

c. The board shall report to the general assembly on February 1 of each year, the following:

(1) ~~Plastic~~ A listing of plastic products which are regularly purchased by the board for which ~~starch-based~~ recycled content product alternatives are available~~. The report shall also include~~, including the cost of the plastic products purchased and the cost of the ~~starch-based~~ recycled content product alternatives.

(2) Information relating to soybean-based inks and ~~starch-based~~ plastic garbage can liners regularly purchased by the board~~. The report shall include~~, including the cost of purchasing soybean-based inks and ~~starch-based~~ plastic garbage can liners~~,~~ with recycled content and the ~~percentage of inks purchased which are soybean-based and the percentage of liners purchased which are starch-based~~ percentages of soybean-based inks and plastic garbage can liners with recycled content that have been purchased.

d. The department of natural resources shall review the procurement specifications currently used by the board to eliminate, wherever possible, discrimination against the procurement of products manufactured with ~~starch-based plastics and~~ soybean-based inks.

e. The department of natural resources shall assist the board in locating suppliers of ~~starch-based plastics~~ recycled content products and soybean-based inks and collecting data on ~~starch-based plastic~~ recycled content and soybean-based ink purchases.

f. The board, in conjunction with the department of natural resources, shall adopt rules to carry out the provisions of this section.

g. The department of natural resources shall cooperate with the board in all phases of implementing this section.

Sec. 4. Section 307.21, subsection 4, paragraphs a and c, Code 1995, are amended to read as follows:

a. Provide centralized purchasing services for the department, in co-operation with the department of general services. The administrator shall, when the price is reasonably competitive and the quality as intended, purchase soybean-based inks and ~~starch-based plastics~~ plastic products with recycled content, including but not limited to ~~starch-based~~ plastic garbage can liners, and shall purchase these items in accordance with the schedule established in section 18.18. However, the administrator need not purchase garbage can liners in accordance with the schedule if the liners are utilized by a facility approved by the environmental protection commission created under section 455A.6, for purposes of recycling. For purposes of this subsection, "recycled content" means that the content of the product contains a minimum of thirty percent postconsumer material.

c. The department shall report to the general assembly by February 1 of each year, the following:

(1) ~~Plastic~~ A listing of plastic products which are regularly purchased by the board for which ~~starch-based~~ recycled content product alternatives are available~~. The report shall also include~~, including the cost of the plastic products purchased and the cost of the ~~starch-based~~ recycled content product alternatives.

(2) Information relating to soybean-based inks and ~~starch-based~~ plastic garbage can liners with recycled content regularly purchased by the department~~. The report shall include~~, including the cost of purchasing soybean-based inks and ~~starch-based~~ plastic garbage can liners with recycled content~~, the percentage of inks purchased which are soybean-based and the percentage of liners purchased which are starch-based~~ and the percentages of soybean-based inks and plastic garbage can liners with recycled content that have been purchased.

Approved April 24, 1995

CHAPTER 63

MISCELLANEOUS PROBATE AND INHERITANCE TAX PROVISIONS

S.F. 440

AN ACT relating to probate including the lien period for estates which have not been administered, the amount which may be passed to a minor without appointing a conservator, the distribution of an intestate estate to the parents, and special use trusts.

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

Section 1. Section 450.7, subsection 1, Code 1995, is amended to read as follows:

1. Except for the share of the estate passing to the surviving spouse, the tax is a charge against and a lien upon the estate subject to tax under this chapter, and all property of the estate or owned by the decedent from the death of the decedent until paid, subject to the following ~~limitations~~ limitation:

~~a. Inheritance taxes owing with respect to a passing of property of a deceased person whose estate has not been administered in this state are no longer a lien against the property twenty years from the date of death of the decedent owner, except to the extent taxes are attributable to remainder or deferred interests which have not been finally vested in possession for at least ten years.~~

~~b.~~ Inheritance taxes owing with respect to a passing of property of a deceased person ~~whose estate has been administered in this state~~ are no longer a lien against the property ten years from the date of death of the decedent owner, except to the extent taxes are attributable to remainder or deferred interests and are deferred in accordance with the provisions of this chapter.

Sec. 2. Section 450.12, subsection 1, paragraph a, Code 1995, 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 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~~ and any other administration expenses allowable pursuant to section 2053 of the Internal Revenue Code.

Sec. 3. Section 633.108, Code 1995, is amended to read as follows:

633.108 SMALL LEGACIES TO MINORS - PAYMENT.

Whenever a minor becomes entitled under the terms of a will to a bequest or legacy, to a share of the estate of an intestate, or to a beneficial interest in a trust fund upon the distribution of the trust fund, and the value of the bequest, legacy, share, or interest does not exceed the sum of ~~four~~ ten thousand dollars, and a conservator for the minor has not been appointed, the court having jurisdiction of the distribution of the funds may, in its discretion, upon the application of the fiduciary, enter an order authorizing the fiduciary to pay the bequest, legacy, share, or interest to ~~the parent or other person entitled to the custody of the minor, for the use of the minor~~ a custodian under any uniform transfers to minors Act. ~~The receipt of the person or persons therefor~~ Receipt by the custodian, when presented to the court or filed with the report of distribution of the fiduciary, shall have the same force and effect as though the payment had been made to a duly appointed and qualified conservator for the minor.

Sec. 4. Section 633.219, subsections 3 and 4, Code 1995, are amended to read as follows:

3. If there is no person to take under either subsection 1 or 2 of this section, ~~to the issue of the parents or either of them per stirpes~~ the estate shall be divided and set aside into two equal shares. One share shall be distributed to the issue of the decedent's mother per stirpes and one share shall be distributed to the issue of the decedent's father per stirpes. If there are no surviving issue of one deceased parent, the entire estate passes to the issue of the other deceased parent in accordance with this subsection.

4. If there is no person to take under subsection 1, 2, or 3 of this section, ~~but~~ and the decedent is survived by one or more grandparents or issue of grandparents, half the estate passes to the paternal grandparents, if both survive, or to the surviving paternal grandparent~~, or to the issue of the paternal grandparents if both are deceased, the issue taking per stirpes, and the other half passes to the maternal relatives in the same manner; but if there is no surviving grandparent or issue of grandparent on one side, the entire estate passes to the relatives of the other side in the same manner as the half~~ if only one survives. If neither paternal grandparent survives, this half share shall be further divided into two equal subshares. One subshare shall be distributed to the issue of the decedent's paternal grandmother per stirpes and one subshare shall be distributed to the issue of the decedent's paternal grandfather per stirpes. If there are no surviving issue of one deceased paternal grandparent, the entire half share passes to the issue of the other deceased paternal grandparent and their issue in the same manner. The other half of the decedent's estate passes to the maternal grandparents and their issue in the same manner. If there are no surviving grandparents or issue of grandparents on either the paternal or maternal side, the entire estate passes to the decedent's surviving grandparents or their issue on the other side in accordance with this subsection.

Sec. 5. Section 633.273, subsection 1, Code 1995, is amended to read as follows:

1. If a devisee dies before the testator, leaving issue who survive the testator, the devisee's ~~heirs~~ issue who survive the testator shall inherit the property devised to the devisee per stirpes, unless from the terms of the will, the intent is clear and explicit to the contrary.

Sec. 6. Section 633.574, Code 1995, is amended to read as follows:

633.574 PROCEDURE IN LIEU OF CONSERVATORSHIP.

If a conservator has not been appointed, money due a minor or other property to which a minor is entitled, not exceeding in the aggregate ~~four~~ ten thousand dollars in value, ~~may~~ shall be paid or delivered to ~~the parent or other person entitled to the custody of the minor, for the use of the minor, upon written statement verified by the oath of the parent or other person that all money or property of the minor does not exceed in the aggregate four thousand dollars~~ a custodian under any uniform transfers to minors Act. The written receipt of the ~~parent or other person entitled to the custody of the minor~~ custodian constitutes an acquittance of the person making the payment of money or delivery of property.

Sec. 7. Section 633.704, subsection 3, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. DISCLAIMER BY ATTORNEY-IN-FACT. Whenever a principal designates in writing another as the principal's attorney-in-fact or agent by a power of attorney, and the designation authorizes the attorney-in-fact to disclaim the principal's interest in any property, the attorney-in-fact has the same right to disclaim as the disclaimant and may disclaim on behalf of the attorney-in-fact's principal.

Sec. 8. REPEAL. Chapter 634A, Code 1995, is repealed.

Approved April 24, 1995

CHAPTER 64

QUALIFICATIONS FOR LICENSURE OF REAL ESTATE BROKERS AND SALESPERSONS

H.F. 54

AN ACT relating to the qualifications of an applicant for a license to sell real estate in this state.

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

Section 1. Section 543B.15, Code 1995, is amended to read as follows:

543B.15 QUALIFICATIONS.

1. Except as provided in section 543B.20 an applicant for a real estate broker's or salesperson's license must be a person whose application has not been rejected for licensure in this or any other state within ~~six~~ twelve months prior to the date of application, and whose real estate license has not been revoked in this or any other state within two years prior to date of application.

2. To qualify for a license as a real estate broker or salesperson a person shall be eighteen years of age or over. However, an applicant is not ineligible because of citizenship, sex, race, religion, marital status, or national origin, although the application form may require citizenship information. ~~The real estate commission may consider the past felony record of an applicant only if the felony conviction relates directly to the practice of real estate selling. Character references may be required but shall not be obtained from licensed real estate brokers or salespersons.~~

3. An applicant for a real estate broker's or salesperson's license who has been convicted of forgery, embezzlement, obtaining money under false pretenses, theft, extortion, conspiracy to defraud, or other similar offense, or of any crime involving moral turpitude in a court of competent jurisdiction in this state, or in any other state, territory, or district of the United States, or in any foreign jurisdiction, may be denied a license by the commission, on the grounds of the conviction. For purposes of this section, "conviction" means a conviction for an indictable offense and includes a guilty plea, deferred judgment from the time of entry of the deferred judgment until the time the defendant is discharged by the court without entry of judgment, or other finding of guilt by a court of competent jurisdiction.

4. An applicant for a real estate broker's or salesperson's license who has had a professional license of any kind revoked in this or any other jurisdiction may be denied a license by the commission on the grounds of the revocation.

5. A person who makes a false statement of material fact on an application for a real estate broker's or salesperson's license, or who causes to be submitted, or has been a party to preparing or submitting any false application for such license, may be denied a license by the commission on the grounds of the false statement or submission. A licensee found to have made such a statement or who caused to be submitted, or was a party to preparing or submitting any false application for a real estate broker's or salesperson's license, may have the license suspended or revoked by the commission on the grounds of the false statement or submission.

6. A licensed real estate broker or salesperson shall notify the commission of the licensee's conviction of an offense included in subsection 3 within sixty days of the conviction. The failure of the licensee to notify the commission of the conviction within sixty days of the date of the conviction is sufficient grounds for revocation of the license.

7. The commission, when considering the denial or revocation of a license pursuant to this section, shall consider the nature of the offense; any aggravating or extenuating circumstances which are documented; the time lapsed since the revocation, conduct, or

conviction; the rehabilitation, treatment, or restitution performed by the applicant or licensee; and any other factors the commission deems relevant. Character references may be required but shall not be obtained from licensed real estate brokers or salespersons.

8. To qualify for a license as a real estate broker, a person shall complete at least sixty contact hours of commission approved real estate education within twenty-four months prior to taking the broker examination. This education shall be in addition to the required salesperson prelicense course. The applicant shall have been a licensed real estate salesperson actively engaged in real estate for a period of at least twenty-four months preceding the date of application, or shall have had experience substantially equal to that which a licensed real estate salesperson would ordinarily receive during a period of twenty-four months, whether as a former broker or salesperson, a manager of real estate, or otherwise. However, if the commission finds that an applicant could not acquire employment as a licensed real estate salesperson because of conditions existing in the area where the person resides, the experience requirement of this ~~paragraph~~ subsection may be waived for that person by the commission.

9. A qualified applicant for a license as a real estate salesperson shall complete a commission approved short course in real estate education of at least thirty hours during the twelve months prior to taking the salesperson examination.

Sec. 2. Section 543B.29, subsection 5, Code 1995, is amended to read as follows:

5. Conviction of ~~a felony related to the profession or occupation of the licensee or conviction of a felony that would affect the licensee's ability to practice the profession of real estate broker and salesperson~~ an offense included in section 543B.15, subsection 3. For purposes of this section, "conviction" means a conviction for an indictable offense and includes a guilty plea, deferred judgment from the time of entry of the deferred judgment until the time the defendant is discharged by the court without entry of judgment, or other finding of guilt by a court of competent jurisdiction. A copy of the record of conviction, ~~or plea of~~ guilty plea, deferred judgment, or other finding of guilt is conclusive evidence.

Sec. 3. Section 543B.29, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 11. Revocation of any professional license held by the licensee in this or any other jurisdiction.

Approved April 24, 1995

CHAPTER 65

PROFESSIONAL ENGINEERS AND LAND SURVEYORS

H.F. 256

AN ACT relating to the definition of the practice of engineering and the suspension or revocation of the certificate of registration of a professional engineer or land surveyor.

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

Section 1. Section 542B.1, Code 1995, is amended to read as follows:

542B.1 REGISTERED ENGINEERS AND SURVEYORS.

~~No~~ A person shall not engage in the practice ~~professional~~ of engineering or land surveying in the state unless the person is a registered professional engineer or a registered land surveyor as provided in this chapter, except as permitted by section 542B.26.

Sec. 2. Section 542B.2, unnumbered paragraphs 2, 4, and 8, Code 1995, are amended to read as follows:

The term "engineering documents" as used in this chapter includes all plans, specifications, drawings, and reports, if the preparation ~~thereof~~ of such documents constitutes or requires the practice of ~~professional~~ engineering.

The term "in responsible charge" as used in this chapter means having direct control of and personal supervision over any ~~professional engineering work or~~ land surveying work or work involving the practice of engineering. One or more persons, jointly or severally, may be in responsible charge.

The term "professional engineer" as used in this chapter ~~shall mean~~ means a person, who, by reason of the person's knowledge of mathematics, the physical sciences, and the principles of engineering, acquired by professional education or practical experience, is qualified to engage in the practice of engineering ~~practice as hereinafter defined~~.

Sec. 3. Section 542B.2, unnumbered paragraphs 9 and 10, Code 1995, are amended by striking the paragraphs and inserting in lieu thereof the following:

NEW UNNUMBERED PARAGRAPH. "Practice of engineering" as used in this chapter means any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences, such as consultation, investigation, evaluation, planning, design and design coordination of engineering works and systems, planning the use of land and water, performing engineering surveys and studies, and the review of construction for the purpose of monitoring compliance with drawings and specifications, any of which embraces such services or creative work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, pneumatic, or thermal nature, insofar as they involve safeguarding life, health, or property, and including such other professional services as may be necessary to the planning, progress, and completion of the services identified in this paragraph. "Design coordination" includes the review and coordination of technical submissions prepared by others, including as appropriate and without limitation, consulting engineers, architects, landscape architects, land surveyors, and other professionals working under the direction of the engineer. "Engineering surveys" includes all survey activities required to support the sound conception, planning, design, construction, maintenance, and operation of engineered projects, but excludes the surveying of real property for the establishment of land boundaries, rights-of-way, easements, and the dependent or independent surveys or resurveys of the public land survey system.

A person is construed to be engaged in the practice of engineering if the person does any of the following:

1. Practices any branch of the profession of engineering.
2. Makes a representation by verbal claim, sign, advertisement, letterhead, card, or other manner that the person is a professional engineer.
3. Uses any title which implies that the person is a professional engineer or that the person is certified under this chapter.
4. The person holds themself out as able to perform, or who does perform, any service or work included in the practice of engineering.

Sec. 4. Section 542B.13, Code 1995, is amended to read as follows:

542B.13 APPLICATIONS AND EXAMINATION FEES.

Applications for registration shall be on forms prescribed and furnished by the board, shall contain statements made under oath, showing the applicant's education and a detailed summary of the applicant's technical work, and the board shall not require that a recent photograph of the applicant be attached to the application form. An applicant is not ineligible for registration because of age, citizenship, sex, race, religion, marital status or

national origin, although the application form may require citizenship information. The board may consider the past felony record of an applicant ~~only if the felony conviction relates directly to the practice of engineering or land surveying~~. The board may require that an applicant submit references. Applications for examination in fundamentals in ~~professional~~ the practice of engineering and land surveying shall be accompanied by application fees determined by the board. The board shall determine the annual cost of administering the examinations and shall set the fees accordingly.

Sec. 5. Section 542B.14, subsection 1, paragraph d, Code 1995, is amended to read as follows:

d. Successfully passing a written, oral, or written and oral examination designed to determine the proficiency and qualifications to engage in the practice of ~~professional~~ engineering. No applicant shall be entitled to take this examination until the applicant shows the necessary practical experience in engineering work.

Sec. 6. Section 542B.17, Code 1995, is amended to read as follows:

542B.17 CERTIFICATE.

~~To any applicant who shall have passed the examination as a professional engineer and who shall have paid an additional fee, the~~ The board shall issue a certificate of registration as a professional engineer to an applicant who has passed the examination as a professional engineer and who has paid an additional fee. The certificate shall be signed by the chairperson and secretary of the board under the seal of ~~such~~ the board~~, which~~. The certificate shall authorize the applicant to engage in the practice ~~professional~~ of engineering ~~as defined in this chapter~~. ~~The amount of the fee shall be determined by the board pursuant to sections 542B.30 to 542B.32. Such~~ The certificate shall not carry with it the right to practice land surveying, unless specifically so stated ~~in said~~ on the certificate, which permission shall be granted by the board without additional fee in cases where the applicant duly qualifies as a land surveyor as prescribed by the rules of ~~said~~ the board.

Sec. 7. Section 542B.21, subsection 5, Code 1995, is amended to read as follows:

5. Conviction of a felony ~~related to the profession or occupation of the registrant or the conviction of any felony that would affect the registrant's ability to practice professional engineering or land surveying~~ under the laws of the United States, of any state or possession of the United States, or of any other country. A copy of the record of conviction or plea of guilty is conclusive evidence.

Sec. 8. Section 542B.21, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. Revocation or suspension of registration to engage in the practice of engineering or land surveying, or other disciplinary action by the licensing authority of another state, territory, or country. A certified copy of the record or order of suspension, revocation, or other disciplinary action is prima facie evidence of such fact.

Sec. 9. Section 542B.26, Code 1995, is amended to read as follows:

542B.26 APPLICABILITY OF CHAPTER.

This chapter shall not apply to any full-time employee of any corporation while doing work for that corporation, except in the case of corporations offering their services to the public as professional engineers or land surveyors.

Corporations engaged in designing buildings or works for public or private interests not their own shall be deemed to be engaged in the practice ~~professional~~ of engineering within the meaning of this chapter. With respect to such corporations all principal designing or constructing engineers shall hold certificates of registration ~~hereunder~~ issued under this chapter. This chapter shall not apply to corporations engaged solely in constructing buildings and works.

This chapter shall not apply to any professional engineer or land surveyor working for the United States government, nor to any professional engineer or land surveyor employed

as an assistant to a professional engineer or land surveyor registered under this chapter if such assistant is not placed in responsible charge of any ~~professional~~ work involving the practice of engineering or land surveying work, nor to the operation ~~and/or~~ or maintenance of power and mechanical plants or systems.

Approved April 24, 1995

CHAPTER 66

ELECTRONIC TRANSFER OF FUNDS

H.F. 520

AN ACT relating to electronic transfer of funds and establishing certain requirements for full-function point-of-sale terminals and electronic funds transfer facilities maintained or operated by a national card association, establishing a civil penalty, and providing an effective date.

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

Section 1. Section 527.2, subsection 10, Code 1995, is amended to read as follows:

10. "Limited-function terminal" means an on-line point-of-sale terminal or an off-line point-of-sale terminal which satisfies the requirements of section 527.4, subsection 3, paragraph "d", or a multiple use terminal, which is not operated in a manner to accept an electronic personal identifier~~, and which is not operated to distinguish between transactions which affect a customer asset account and transactions which do not affect a customer asset account~~. Except as otherwise provided, a limited-function terminal shall not be subject to the requirements imposed upon other satellite terminals pursuant to sections 527.4 and 527.5, subsections 1, 2, 3, 7, and 9.

Sec. 2. Section 527.3, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 8. An administrator may issue any order necessary to secure compliance with or prevent a violation of this chapter or the rules adopted pursuant to this chapter, regarding the establishment and operation of a satellite terminal, limited-function terminal, upgraded, altered, modified, or replaced limited-function terminal, and any other device or facility with which such terminal is interconnected. A person who violates a provision of this chapter or any rule or any order issued pursuant to this chapter is subject to a civil penalty not to exceed one thousand dollars for each day the violation continues. A person aggrieved by an order of an administrator may appeal the order by filing a written notice of appeal with the administrator within thirty days of the issuance of the order. The administrator shall schedule a hearing for the purpose of hearing the arguments of the aggrieved person within thirty days of the filing of the notice of appeal. The provisions of chapter 17A shall apply to all matters related to the appeal. The attorney general, on request of the administrator, shall institute any legal proceedings necessary to obtain compliance with an order of the administrator or to prosecute a person for a violation of the provisions of this chapter or rules adopted pursuant to this chapter.

Sec. 3. Section 527.5, subsection 12, Code 1995, is amended to read as follows:

12. a. If at any time, a limited-function terminal at a location as defined in section 527.4, subsection 3, paragraph "d", is replaced by a device constituting either an on-line or an off-line point-of-sale terminal which may be utilized to initiate transactions which affect customer asset accounts through the use of an electronic personal identifier, or is

upgraded, altered, or modified to be operated in a manner ~~to accept~~ which allows the use of an electronic personal identifier ~~or to distinguish between~~ to initiate transactions which affect customer asset accounts ~~and transactions which do not affect customer asset accounts~~, or an on-line or an off-line point-of-sale terminal which may be utilized to initiate transactions which affect customer asset accounts through the use of an electronic personal identifier is newly established at a location defined in section 527.4, subsection 3, paragraph "d", then such upgraded, altered, or modified limited-function terminal or replacement point-of-sale terminal or such newly established point-of-sale terminal is deemed to be a full-function point-of-sale terminal for purposes of this subsection and all requirements of a satellite terminal in this chapter apply to the full-function point-of-sale terminal with regard to all transactions affecting customer asset accounts which are initiated through the use of an electronic personal identifier, except for section 527.4, subsections 1, 2, and 4, section 527.4, subsection 3, paragraphs "a", "b", and "c", and section 527.5, subsections 1, 3, and 7. ~~A financial institution not eligible to establish satellite terminals within this state, which has established a limited function terminal which is subsequently upgraded, altered, or modified as contemplated in this subsection, shall enter into an agreement with a financial institution which is authorized to establish a satellite terminal within this state to comply with the requirements of section 527.4 and this subsection.~~

b. A full-function point-of-sale terminal, as identified in paragraph "a", which is operated in a manner which permits all access devices to be utilized to initiate transactions which affect customer asset accounts, and where all such transactions can be directly routed for authorization purposes as established in this subsection, is also exempt from the provisions of section 527.5, subsection 9. However, if a data processing center directly connected to such full-function point-of-sale terminal does not authorize or reject a transaction affecting a customer asset account initiated at the terminal through the use of an electronic personal identifier, the transaction shall be immediately transmitted by the data processing center to either of the following:

(1) A central routing unit approved pursuant to this chapter.

(2) An electronic funds transfer processing facility maintained or operated by a national card association and utilized for the processing of transactions initiated through the use of electronic funds transfer transaction cards or access devices depicting a service mark, logo, or trademark associated with the national card association. However, if the national card association's processing facility is unable to immediately authorize or reject a transaction affecting a customer asset account initiated at that terminal through the use of an access device which bears a service mark, logo, or trademark associated with a central routing unit approved pursuant to this chapter but does not bear a service mark, logo, or trademark associated with a national card association, or which bears a service mark, logo, or trademark other than that associated with either a central routing unit approved pursuant to this chapter or a national card association, the transaction shall be immediately transmitted to a central routing unit approved pursuant to this chapter, whether the transaction initiated through the use of such access device was transmitted to the national card association's processing facility by a data processing center directly connected to the full-function point-of-sale terminal, or the national card association's processing facility received the transmission of transaction data directly from the full-function point-of-sale terminal.

c. If the national card association's electronic funds transfer processing facility directly or indirectly receives a transaction affecting a customer asset account initiated at a full-function point-of-sale terminal through the use of an electronic personal identifier and an access device bearing a service mark, logo, or trademark associated with a national card association, whether or not the access device also bears the service mark, logo, or trademark of an approved central routing unit, and the national card association's processing facility cannot immediately authorize or reject the transaction, such transaction shall be immediately transmitted to a central routing unit approved pursuant to this chapter, or to

a financial institution, or its data processing center, which is capable of immediately authorizing or rejecting the transaction.

d. For purposes of this subsection, a national card association must be a membership corporation or organization, wherever incorporated and maintaining a principal place of business, which is engaged in the business of administering for the benefit of the association's members a program involving electronic funds transfer transaction cards or access devices depicting a service mark, logo, or trademark associated with the national card association and which may be utilized to perform transactions at point-of-sale terminals. A national card association must have a membership solely comprised of insured depository financial institutions, organizations directly or indirectly owned or controlled solely by insured depository financial institutions, entities wholly owned by one or more insured depository financial institutions, holding companies having at least two-thirds of their assets consisting of the voting stock of insured depository financial institutions, organizations wholly owned by one or more holding companies having at least two-thirds of their assets consisting of the voting stock of insured depository financial institutions and which are solely engaged in activities related to the programs sponsored by the national card association, or such other entities or organizations which are authorized by the national card association's bylaws to participate in the electronic funds transfer transaction card or access device programs or other services and programs sponsored by the national card association. For purposes of this subsection, a national card association shall not include a financial institution, bank holding company as defined in section 524.1801, or in the federal Bank Holding Company Act of 1956, 12 U.S.C. 1842(d), as amended to July 1, 1994, association holding company as defined in section 534.102, or a supervised organization as defined in section 534.102, any other financial institution holding company organized under federal or state law, or a subsidiary or affiliate corporation owned or controlled by a financial institution or financial institution holding company, which has authorized a customer or member to engage in satellite terminal transactions. For purposes of this subsection, a national card association shall also not include a membership corporation or organization which is conducting business as a regional or nationwide network of shared electronic funds transfer terminals which do not constitute point-of-sale terminals, and is engaged in satellite terminal transaction services utilizing a common service mark, logo, or trademark to identify such terminal services.

e. This subsection does not apply to satellite terminals located in this state, other than on-line and off-line full-function point-of-sale terminals as identified in this subsection, or multiple use terminals located in this state which are capable of being operated in a manner to initiate transactions affecting customer asset accounts through the use of an electronic personal identifier.

Sec. 4. Section 527.5, subsection 13, Code 1995, is amended to read as follows:

13. Effective July 1, 1994, any transaction engaged in with a retailer through a satellite terminal ~~located in this state~~ at a location described in section 527.4, subsection 3, paragraph "d", by means of an access device which results in a debit to a customer asset account shall be cleared and paid at par ~~to the retailer~~ during the settlement of such transaction ~~to the retailer~~. ~~Processing~~ Notwithstanding the terms of any contractual agreement between a retailer or financial institution and a national card association as described in subsection 12, an electronic funds transfer processing facility of a national card association, a central routing unit approved pursuant to this chapter, or a data processing center, the processing fees and charges for such transactions to the retailer shall ~~not be based on a percentage of the amount of the transaction~~ be as contractually agreed upon between the retailer and the financial institution which establishes, owns, operates, controls, or processes transactions initiated at the satellite terminal. All accounting documents reflecting such fees and charges imposed on the retailer shall separately identify transactions which have resulted in a debit to a customer asset account and the charges imposed. The provisions

of this subsection shall apply to all satellite terminals, including limited-function terminals, full-function point-of-sale terminals as identified in subsection 12, paragraph "a", and multiple use terminals.

Sec. 5. Sections 527.6 and 527.8, Code 1995, are repealed.

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

Approved April 24, 1995

CHAPTER 67

NONSUBSTANTIVE CODE CORRECTIONS

S.F. 87

AN ACT relating to nonsubstantive Code corrections, and providing effective and applicability date provisions.

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

Section 1. Section 2B.13, subsection 4, Code 1995, is amended to read as follows:

4. The Iowa Code editor shall seek direction from the senate committee on judiciary and the house committee on judiciary ~~and law enforcement~~ when making Iowa Code or Code Supplement changes, and the administrative code editor shall seek direction from the administrative rules review committee and the administrative rules coordinator when making Iowa administrative code changes, which appear to require substantial editing and which might otherwise be interpreted to exceed the scope of the authority granted in this section.

Sec. 2. Section 10A.104, subsection 8, Code 1995, 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. 3. Section 13B.8, subsection 1, unnumbered paragraph 2, Code 1995, is amended to read as follows:

Before establishing or abolishing a local public defender office, the state public defender shall provide a written report detailing the reasons for the action to be taken to the regulation appropriations subcommittee, the chairperson, vice chairperson, and ranking member of the senate committee on judiciary and committee on appropriations, and the chairperson, vice chairperson, and ranking member of the house of representatives committee on judiciary ~~and law enforcement~~ and committee on appropriations. The report shall contain a statement of the estimated fiscal impact of the action taken. Any action taken in establishing or abolishing a local public defender office shall only take effect upon the approval of the general assembly. If the state public defender proposes to abolish a local public defender office prior to the beginning of any regular session of the general assembly

and the general assembly takes no action regarding that proposal during the first ninety days of the first regular session occurring after the proposal is made, the office shall be abolished.

Sec. 4. Section 15.308, subsection 2, paragraph h, Code 1995, is amended to read as follows:

h. ~~Establish a~~ The new jobs and income program.

Sec. 5. Section 15E.120, subsection 5, Code 1995, is amended to read as follows:

5. Loan repayments received by the Iowa department of economic development shall be deposited into a special account to be used at its discretion as matching funds to attract financial assistance from and to participate in programs with national rural development and finance corporations or as provided in subsection 6. Funds in this special account shall not revert to the state general fund at the end of any fiscal year. If the programs for which the funds in the special account are to be used are terminated or expire, the funds in the special account and funds that would be repaid, if any, to the special account shall be transferred or repaid to the community economic betterment account of the ~~Iowa plan fund for economic development as established in section 99E.31~~ strategic investment fund established in section 15.313.

Sec. 6. Section 35A.2, subsection 1, Code 1995, is amended to read as follows:

1. A commission of veterans affairs is created consisting of seven persons who shall be appointed by the governor, subject to confirmation by the senate. Members shall be appointed to staggered terms of four years beginning and ending as provided in section 69.19. The governor shall fill a vacancy for the unexpired portion of the term.

Sec. 7. Section 48A.14, subsection 3, Code 1995, is amended to read as follows:

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~~ an aggravated misdemeanor."

Sec. 8. Section 53.37, subsection 5, Code 1995, is amended to read as follows:

5. Citizens of the United States who do not fall under any of the categories described in subsections 1 to 4, but who are entitled to register and vote pursuant to section ~~47.4, subsection 3~~ 48A.5, subsection 4.

Sec. 9. Section 53.39, Code 1995, is amended to read as follows:

53.39 REQUEST FOR BALLOT - WHEN AVAILABLE.

Section 53.2 does not apply in the case of a ~~registered~~ qualified voter 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 ~~registered~~ qualified voter upon a request as provided in this division.

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 ~~registered~~ qualified voters 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 except as modified by the provisions of this division.

Sec. 10. Section 135.107, subsection 1, unnumbered paragraph 2, Code 1995, is amended to read as follows:

The advisory committee shall regularly meet with the administrative head of the center as well as the director of the center for agricultural health and safety established under

section 262.78. The head of the ~~office~~ center and the director of the center for agricultural health and safety shall consult with the advisory committee and provide the committee with relevant information regarding their agencies.

Sec. 11. Section 135C.2, subsection 5, paragraph g, Code 1995, is amended to read as follows:

g. The facilities licensed under this subsection shall be eligible for funding utilized by other licensed residential care facilities for the mentally retarded, or licensed residential care facilities for the mentally ill, including but not limited to funding under or from the federal social services block grant, the state supplementary assistance program, state mental health and ~~mental retardation~~ developmental disabilities services funds, and county funding provisions.

Sec. 12. Section 144.12A, subsection 5, paragraph c, Code 1995, is amended to read as follows:

c. Revocation ~~shall be deemed a nullity~~ nullifies the registration and the information provided by the registrant shall be expunged.

Sec. 13. Section 163.47, Code 1995, is amended to read as follows:

163.47 EXEMPTIONS.

The provisions of this division shall not apply to 4-H or Future Farmers of America organizations engaged in breeding programs~~, the sale of semen collected before January 1, 1978~~.

Sec. 14. Section 192.124, Code 1995, is amended to read as follows:

192.124 RETENTION OF MARKED CONTAINER.

~~No~~ A person shall not, without the consent of the owner, retain for a longer period than three days a container bearing a registered mark, and any person receiving such a container shall immediately return it to the owner by a common carrier. A receipt from a common carrier ~~shall be prima facie~~ is prima facie evidence that ~~such~~ the container was returned.

~~Notwithstanding section 189.21, a person retaining a container used for the handling of dairy products intended for sale as provided in this section, which bears a mark registered pursuant to section 192.123, shall not be subject to any penalty provided by law, if the person returns the container to its owner on or after April 14, 1992, but before August 1, 1992.~~

Sec. 15. Section 232.44, subsection 7, Code 1995, 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~~ subsection may be held by telephone conference call.

Sec. 16. Section 232.102, subsection 3, Code 1995, is amended to read as follows:

3. After a dispositional hearing and upon written findings of fact based upon evidence in the record that an alternative placement set forth in subsection 1, paragraph "b" has previously been made and is not appropriate the court may enter an order transferring the guardianship of the ~~court~~ child for the purposes of subsection 8, to the director of human services for the purposes of placement in the Iowa juvenile home at Toledo.

Sec. 17. Section 232.148, subsection 5, Code 1995, is amended to read as follows:

5. Fingerprints and photographs of a child shall be removed from the file and destroyed

upon notification by the child's guardian ad litem or legal counsel to the department of public safety that ~~any~~ either 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~~ Fingerprints and photographs of a child shall also be removed from the file and destroyed 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. 18. Section 252A.6A, subsection 2, paragraph a, Code 1995, is amended to read as follows:

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~~ 600B.41A are applicable.

(2) If the court determines that the prior determination of paternity should not be overcome, pursuant to section ~~600B.41~~ 600B.41A, 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.

Sec. 19. Section 252C.4, subsection 7, paragraph a, Code 1995, is amended to read as follows:

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~~ 600B.41A are applicable.

(2) If the court determines that the prior determination of paternity should not be overcome pursuant to section ~~600B.41~~ 600B.41A, 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.

Sec. 20. Section 256.33, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The department shall consort with school districts, area education agencies, community colleges, and colleges and universities to provide assistance to them in the use of educational technology for instruction purposes. The department shall consult with ~~the advisory committee on the operation of the narrowcast system, established in section 256.82,~~ the advisory committee on telecommunications, established in section 256.7, subsection 7, and other users of educational technology on the development and operation of programs under this section.

Sec. 21. Section 261B.6, Code 1995, is amended to read as follows:

261B.6 LIST OF SCHOOLS.

The secretary shall maintain a list of registered schools and the list and the information submitted under sections 261B.3 and 261B.4 are public records under chapter ~~21~~ 22.

Sec. 22. Section 294.10A, subsection 1, Code 1995, is amended to read as follows:

1. Notwithstanding section 294.9 or other provisions of this chapter, beginning January

1, following the submission by ~~the~~ a board of trustees of an application to the federal internal revenue service requesting qualification of a plan 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~~ an 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 commencing the January 1 following an application for qualification. 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.

Sec. 23. Section 298.9, Code 1995, is amended to read as follows:

298.9 SPECIAL LEVIES.

If the voter-approved physical plant and equipment levy, consisting solely of a physical plant and equipment property tax levy, is voted at a special election and certified to the board of supervisors after the regular levy is made, the board shall at its next regular meeting levy the tax and cause it to be entered upon the tax list to be collected as other school taxes. If the certification is filed prior to April 1, the annual levy shall begin with the tax levy of the year of filing. If the certification is filed after April 1 in a year, the levy shall begin with the levy of the fiscal year succeeding the year of the filing of the certification.

Sec. 24. Section 298A.11, Code 1995, is amended to read as follows:

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~~ meal program authorized under chapter 283A.

Sec. 25. Section 321.189, subsection 7, paragraphs a and b, Code 1995, are amended to read as follows:

a. An operator who has been issued a class M license prior to ~~July 1, 1994~~ May 1, 1995.

b. An operator who is renewing the operator's class M license issued prior to ~~July 1, 1994~~ May 1, 1995.

Sec. 26. Section 321.454, Code 1995, is amended to read as follows:

321.454 WIDTH OF VEHICLES.

The total outside width of any vehicle or the load 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. 27. Section 321E.11, unnumbered paragraph 1, Code 1995, 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 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~~ those highways designated ~~highway system~~ by the department. Additional safety lighting and escorts may be required for movement at night.

Sec. 28. Section 331.507, subsection 3, Code 1995, is amended to read as follows:

3. The auditor shall collect or receive the ~~following fees:~~

~~a. The~~ bee entry fee collected from nonresidents importing bees by the state apiarist as provided under section 160.16.

Sec. 29. Section 331.653, subsection 53, Code 1995, is amended to read as follows:

53. Carry out duties relating to the disposition of lost property as provided in chapter ~~644~~ 556F.

Sec. 30. Section 357G.4, Code 1995, is amended to read as follows:

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~~ newspaper of general circulation within the district. The last publication shall be not less than one week before the proposed hearing.

Sec. 31. Section 384.84, subsection 6, paragraph a, subparagraph (5), Code 1995, is amended to read as follows:

(5) Contract for a period not to exceed forty years with persons and other governmental bodies for the ~~purpose~~ purchase or sale of water, gas, or electric power and energy on a wholesale basis.

Sec. 32. Section 427A.1, subsection 1, unnumbered paragraph 1, Code 1995, is amended to read as follows:

~~All tangible property except that which is assessed and taxed as real property is subject to the personal property tax credits provided in this chapter, unless the property is taxed, licensed, or exempt from taxation under other provisions of law.~~ For the purposes of property taxation only, the following shall be assessed and taxed, unless otherwise qualified for exemption, as real property:

Sec. 33. NEW SECTION. 427A.2 PERSONAL PROPERTY NOT SUBJECT TO PROPERTY TAX.

Personal property shall not be listed or assessed for taxation and is not subject to the property tax.

Sec. 34. Section 447.9, unnumbered paragraph 2, Code 1995, is amended to read as follows:

Service of the notice shall also be made by mail on any mortgagee having a lien upon the parcel, a vendor of the parcel under a recorded contract of sale, a lessor who has a recorded lease or recorded memorandum of a ~~recorded~~ lease, and any other person who has an interest of record, at the person's last known address~~, and on the state of Iowa in case of an old age assistance lien by service upon the state department of human services~~. The notice shall also be served on any city where the parcel is situated. Only those persons who are required to be sent the notice of expiration as provided in this section are eligible to redeem a parcel from tax sale.

Sec. 35. Section 502.207A, subsection 5, Code 1995, is amended to read as follows:

5. In connection with an offering registered under this section, a person may be registered as an agent of the issuer under section 502.301 by the filing of an application by the

issuer with the administrator for the registration of the person as an agent of the issuer and the paying of a fee of ten dollars. Notwithstanding any other provision of this chapter, the registration of the agent shall be effective until withdrawn by the issuer or until the securities registered pursuant to the registration statement have all been sold, whichever occurs first. The registration of an agent shall become effective when ordered by the administrator or on the fifth business day after the agent's application has been filed with the administrator, whichever occurs first, and the administrator shall not impose further conditions upon the registration of the agent. However, the administrator may deny, revoke, suspend, or withdraw the registration of the agent at any time as provided in section 502.304. ~~Notwithstanding section 502.302, subsection 5, for~~ For the purposes of registration of agents under this section, the issuer and agent are not required to post bond. An agent registered solely pursuant to this section is entitled to sell only securities registered under this section.

Sec. 36. Section 508.36, subsection 8, paragraph a, Code 1995, is amended to read as follows:

a. A company's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued on or after 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.

Sec. 37. Section 515C.1, Code 1995, is amended to read as follows:

515C.1 DEFINITION.

"Mortgage guaranty insurance" means insurance against financial loss by reason of nonpayment of principal, interest and other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed ~~or~~ of trust or other instrument constituting a lien or charge on real estate or on an owner-occupied mobile home.

Sec. 38. Section 548.101, subsection 9, Code 1995, is amended to read as follows:

9. "Trademark" means a 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~~ those manufactured and sold by others, and to indicate the source of the goods, even if that source is unknown.

Sec. 39. Section 548.101, subsection 11, paragraph a, Code 1995, is amended to read as follows:

a. On goods sold or transported in commerce in this state when the mark is placed in any manner on the goods or containers or associated displays, or on affixed tags or labels, ~~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.

Sec. 40. Section 548.102, subsection 5, unnumbered paragraph 2, Code 1995, is amended to read as follows:

This subsection 5 does not prevent the registration of a mark used by the applicant which has become distinctive of the applicant's goods or services. The secretary may accept as evidence that the mark has become distinctive~~,~~ as used 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 for the five years before the date on which the claim for distinctiveness is made.

Sec. 41. Section 554.3102, subsections 1 and 2, Code 1995, are amended to read as follows:

1. This Article applies to negotiable instruments. It does not apply to money, to payment orders governed by Article ~~8~~ 12, or to securities governed by Article ~~12~~ 8.

2. If there is conflict between this Article and Article 4 or 9 ~~or 12~~, Articles 4 and 9 ~~and 12~~ govern.

Sec. 42. Section 554.4104, subsection 3, Code 1995, is amended to read as follows:

3. The following definitions in other Articles apply to this Article:

"Acceptance"	Section 554.3409
"Alteration"	Section 554.3407
"Cashier's check"	Section 554.3104
"Certificate of deposit"	Section 554.3104
"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 554.3503
"Order"	Section 554.3103
"Ordinary care"	Section 554.3103
"Person entitled to enforce"	Section 554.3301
"Presentment"	Section 554.3501
"Promise"	Section 554.3103
"Prove"	Section 554.3103
"Teller's check"	Section 554.3104
"Unauthorized signature"	Section 554.3403

Sec. 43. Section 554.4212, subsection 2, Code 1995, is amended to read as follows:

2. If presentment is made by notice and payment, acceptance, or request for compliance with a requirement under section 554.3501 is not 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 drawer or endorser by sending it notice of the facts.

Sec. 44. Section 554.4215, subsection 6, Code 1995, is amended to read as follows:

6. Subject to applicable law stating a time for availability of funds and any right of a bank to apply a deposit ~~of money~~ to an obligation of the ~~customer~~ depositor, ~~the~~ a deposit of money becomes available for withdrawal as of right at the opening of the bank's next banking day after receipt of the deposit.

Sec. 45. Section 554.4401, subsection 1, Code 1995, is amended to read as follows:

1. A bank may charge against the ~~customer's~~ account of a customer an item that is 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.

Sec. 46. Section 602.8102, subsection 110, Code 1995, is amended to read as follows:

110. Carry out duties relating to the disposition of lost property as provided in chapter ~~644~~ 556F.

Sec. 47. Section 633.703B, Code 1995, is amended to read as follows:

633.703B AVAILABILITY OF AMENDMENT PROCEDURES.

Amendment procedures in ~~this chapter~~ section 633.703A and this section 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.

Sec. 48. Section 709B.3, subsection 14, Code 1995, 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 ~~fourth~~ third degree of consanguinity.

Sec. 49. 1994 Iowa Acts, chapter 1119, section 36, is amended to read as follows:

SEC. 36. ELIMINATION OF FUNDING SOURCE - DIRECTIONS TO CODE EDITOR.

1. Section 423.24, subsection 1, paragraph b, Code Supplement 1993, as amended by 1994 Iowa Acts, chapter 1119, section 29, 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. 50. 1994 Iowa Acts, chapter 1171, section 52, subsections 5 and 6, are amended to read as follows:

5. Sections 40, 41, 42, and 46 through 48 of this Act, being deemed of immediate importance, take effect upon enactment.

6. Sections 40, 41, 42, 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, 42, and 46 through 48 of this Act.

Sec. 51. 1994 Iowa Acts, chapter 1183, section 89, subsection 1, is amended to read as follows:

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~~ employees' 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 or airport fire fighter 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.

Sec. 52. 1994 Iowa Acts, chapter 1201, section 2, is amended to read as follows:

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~~ all 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. 53. AMENDMENTS CHANGING TERMINOLOGY REGARDING REGISTERED VOTERS - DIRECTIVE TO CODE EDITOR.

1. Sections 28E.17, 28E.22, 28E.25, 28E.28A, 28E.39, 37.2, 39.22, 47.6, 49.3, 49.12, 49.13, 49.51, 49.72, 56.19, 174.10, 176A.6, 257.18, 257.29, 275.22, 279.39, 279.53, 300.2, 303.20, 303.33, 331.203, 331.204, 331.205, 331.208, 331.237, 331.301, 331.306, 331.402, 331.441, 331.442, 331.447, 336.2, 357G.8, 358.2, 358.5, 360.3, 364.4, 368.19, 373.6, 384.24A, 384.26, 384.84A, 422A.2, and 422B.1, Code 1995, are amended by striking from the sections the words "qualified electors" and inserting in lieu thereof the words "registered voters".

2. Section 53.30, Code 1995, is amended by striking from the section the words "qualified elector's" and inserting in lieu thereof the words "registered voter's".

3. Section 346.27, Code 1995, is amended by striking from the section the words "qualified voters" and inserting in lieu thereof the words "registered voters".

4. The Code editor is directed to substitute the words "registered voter" or "registered voters" for the words "qualified elector" or "qualified electors", as appropriate, when there appears to be no doubt as to the intent to refer to persons who are registered to vote.

Sec. 54. EFFECTIVE AND RETROACTIVE APPLICABILITY DATE PROVISIONS.

1. The section of this Act which amends 1994 Iowa Acts, chapter 1171, section 52, subsections 5 and 6, being deemed of immediate importance, takes effect upon enactment and applies retroactively to May 11, 1994.

2. The section of this Act which amends 1994 Iowa Acts, chapter 1201, section 2, being deemed of immediate importance, takes effect upon enactment.

Approved April 25, 1995

CHAPTER 68

MEDICAL ASSISTANCE

S.F. 82

AN ACT relating to medical assistance provisions including those relating to presumptive eligibility for pregnant women and the estates and trusts of recipients of medical assistance and providing an effective date.

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

Section 1. Section 249A.3, subsection 1, paragraph i, Code 1995, is amended to read as follows:

i. Is a pregnant woman who is determined to be presumptively eligible by a health care provider qualified under the federal Omnibus Budget Reconciliation Act of 1986, Pub. L. No. 99-509, § 9407. The woman is eligible for ambulatory prenatal care assistance ~~for a period of fourteen days~~ until the last day of the month following the month of the presumptive eligibility determination. If the department receives the woman's medical assistance application ~~within the fourteen-day period~~ by the last day of the month following the month

of the presumptive eligibility determination, the woman is eligible for ambulatory prenatal care assistance ~~for forty-five days from the date presumptive eligibility was determined or~~ until the department actually determines the woman's eligibility or ineligibility for medical assistance~~, whichever occurs first~~. The costs of services provided during the presumptive eligibility period shall be paid by the medical assistance program for those persons who are determined to be ineligible through the regular eligibility determination process.

Sec. 2. Section 249A.5, subsection 2, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. If a debt is due under this subsection from the estate of a recipient, the administrator of the nursing facility, intermediate care facility for the mentally retarded, or mental health institute in which the recipient resided at the time of the recipient's death, and the personal representative of the recipient, if applicable, shall report the death to the department within ten days of the death of the recipient. For the purposes of this paragraph, "personal representative" means a person who filed a medical assistance application on behalf of the recipient or who manages the financial affairs of the recipient.

Sec. 3. Section 249A.12, subsection 3, Code 1995, is amended to read as follows:

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. The department shall adopt rules to implement this subsection.

Sec. 4. Section 523A.8, subsection 1, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. k. State that after all payments are made in accordance with the conditions and terms of the agreement for funeral merchandise or funeral services, any funds remaining in an irrevocable burial trust fund from which the costs of funeral merchandise and funeral services are paid shall be returned to the estate of the deceased individual for purposes of probate pursuant to chapter 633 or if the estate is not subject to probate and if the deceased was a recipient of medical assistance and a debt is due the department of human services pursuant to section 249A.5, the remaining funds shall be available for payment of the debt.

Sec. 5. Section 523E.8, subsection 1, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. k. State that after all payments are made in accordance with the conditions and terms of the agreement for cemetery merchandise, any funds remaining in an irrevocable burial trust fund from which cemetery merchandise costs are paid shall be returned to the estate of the deceased individual for purposes of probate pursuant to chapter 633 or if the estate is not subject to probate and if the deceased was a recipient of medical assistance and a debt is due the department of human services pursuant to section 249A.5, the remaining funds shall be available for payment of the debt.

Sec. 6. Section 561.19, Code 1995, is amended to read as follows:

561.19 EXEMPTION IN HANDS OF ISSUE.

Where the homestead descends to the issue of either spouse the ~~same~~ issue shall be held ~~by such issue~~ exempt from any antecedent debts of ~~their~~ the issue's parents or ~~their own~~ antecedent debts of the issue, except those of the owner ~~thereof~~ of the homestead contracted prior to ~~its~~ acquisition of the homestead or those created under section 249A.5 relating to the recovery of medical assistance payments.

Sec. 7. Section 633.410, Code 1995, is amended to read as follows:

633.410 LIMITATION ON FILING CLAIMS AGAINST DECEDENT'S ESTATE.

All claims against a decedent's estate, other than charges, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract or otherwise, are forever barred against the estate, the personal representative, and the distributees of the estate, unless filed with the clerk within the later to occur of four months after the date of the second publication of the notice to creditors or, as to each claimant whose identity is reasonably ascertainable, one month after service of notice by ordinary mail to the claimant's last known address. However, notice is not required to be given by mail to any creditor whose claim will be paid or otherwise satisfied during administration and the personal representative may waive the limitation on filing provided under this section. This section does not bar claims for which there is insurance coverage, to the extent of the coverage, claims for debts created under section 249A.5 relating to the recovery of medical assistance payments, or claimants entitled to equitable relief due to peculiar circumstances.

Sec. 8. Section 633.708, Code 1995, is amended to read as follows:

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~~ income received or asset added to the trust during a one-month period shall be expended as provided for medical assistance income trusts under section 633.709, on a monthly basis, during the life of the beneficiary. Any increase in income or principal retained in the trust from a previous month 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. 9. EFFECTIVE DATE. Section 8 of this Act, which amends section 633.708, takes effect October 1, 1995.

Approved April 25, 1995

CHAPTER 69

MEETINGS OF THE COMMISSION ON THE STATUS OF AFRICAN-AMERICANS

S.F. 164

AN ACT relating to the meetings of the commission on the status of African-Americans.

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

Section 1. Section 216A.143, Code 1995, is amended to read as follows:

216A.143 MEETINGS OF THE COMMISSION.

The commission shall meet ~~every other month~~ at least once each quarter and may hold special meetings on the call of the chairperson. The commission may adopt rules pursuant to chapter 17A as it deems necessary for the conduct of its business. The members of the commission shall be reimbursed for actual expenses while engaged in their official duties. Members may also be eligible to receive compensation as provided in section 7E.6.

Approved April 25, 1995

CHAPTER 70

COLLEGE STUDENT AID COMMISSION – MISCELLANEOUS PROVISIONS
S.F. 206

AN ACT striking Code language that conflicts with federal work-study program requirements and language relating to unfunded programs administered by the college student aid commission, and repealing from the Code certain unfunded programs administered by the college student aid commission.

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

Section 1. Section 261.2, subsections 10 and 14, Code 1995, are amended by striking the subsections.

Sec. 2. Section 261.81, Code 1995, is amended to read as follows:
261.81 WORK-STUDY PROGRAM.
The Iowa college work-study program is established to stimulate and promote the part-time employment of students attending Iowa postsecondary educational institutions, and the part-time or full-time summer employment of students registered for classes at Iowa postsecondary institutions during the succeeding school year, who are in need of employment earnings in order to pursue postsecondary education. The program shall be administered by the commission. The commission shall adopt rules under chapter 17A to carry out the program. The employment under the program shall be employment by the postsecondary education institution itself or work in a public agency or private nonprofit organization under a contract between the institution or the commission and the agency or organization. ~~An eligible postsecondary institution that is allocated fifty thousand dollars or more for the work-study program by the commission shall allocate at least ten percent of the funds received for public interest student employment in a public agency or private nonprofit organization that is approved for off-campus employment under the federal college work-study program or is part of the Iowa heritage corps established in section 261.81A.~~ The work shall not result in the displacement of employed workers or impair or affect existing contracts for services. Moneys used by an institution for the work-study program shall supplement and not supplant jobs and existing financial aid programs provided for students through the institution.

Sec. 3. REPEAL. Sections 261.5, 261.26, 261.27, 261.46, 261.47, 261.49, 261.50, 261.86 through 261.91, and 261.98, Code 1995, are repealed.

Approved April 25, 1995

CHAPTER 71

PROCEDURES FOR PUBLIC PURCHASES OF COAL
S.F. 229

AN ACT eliminating certain requirements regarding the purchase of coal by public agencies.

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

Section 1. Section 73.9, Code 1995, is amended to read as follows:
73.9 VIOLATIONS – REMEDY.
Any contract entered into or carried out in whole or in part, in violation of the provisions of ~~sections~~ section 73.6, ~~to 73.8~~ shall be void and ~~such~~ the contract or any claim growing

out of the sale, delivery, or use of the coal specified ~~therein~~ in the contract, shall be unenforceable in any court. In addition to any other proper party or parties, any unsuccessful bidder at a letting provided for in ~~said sections~~ section 73.6 shall have the right to maintain an action in equity to prevent the violation of the terms of ~~said sections~~ section 73.6.

Sec. 2. Section 331.341, subsection 2, Code 1995, is amended to read as follows:

2. The board shall give preference to Iowa products and labor in accordance with chapter 73 and shall comply with bid and contract requirements in ~~sections~~ section 73.2 ~~and 73.7~~.

Sec. 3. REPEALER. Sections 73.7 and 73.8, Code 1995, are repealed.

Approved April 25, 1995

CHAPTER 72

ESTABLISHMENT OF LICENSEE REVIEW COMMITTEES BY LICENSING BOARDS

S.F. 346

AN ACT relating to the establishment of practitioner review committees for the purposes of evaluating and monitoring practitioners who self-report physical or mental impairments.

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

Section 1. Section 272C.3, subsection 1, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. k. Establish a licensee review committee for the purpose of evaluating and monitoring licensees who self-report physical or mental impairments to the board. The board shall adopt rules for the establishment and administration of the committee, including but not limited to establishment of the criteria for eligibility for referral to the committee and the grounds for disciplinary action for noncompliance with committee decisions. Information in the possession of the board or the licensee review committee, under this paragraph, shall be subject to the confidentiality requirements of section 272C.6. Referral of a licensee by the board to a licensee review committee shall not relieve the board of any duties of the board and shall not divest the board of any authority or jurisdiction otherwise provided. A licensee who violates section 272C.10 or the rules of the board while under review by the licensee review committee shall be referred to the board for appropriate action.

Approved April 25, 1995

CHAPTER 73

PREVENTIVE CARE SERVICES AND MENTAL HEALTH AND SUBSTANCE ABUSE TREATMENT STUDY

S.F. 347

AN ACT establishing a study regarding the inclusion of health care coverage costs for preventive care services and mental health and substance abuse treatment services under basic and standard health benefit plans, and providing for conditional effectiveness.

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

Section 1. PREVENTIVE CARE SERVICES AND MENTAL HEALTH AND SUBSTANCE ABUSE TREATMENT STUDY.

1. a. The commissioner, pursuant to section 513B.37, subsection 1, shall conduct a study to determine the following:

(1) Whether expanded preventive care services are cost-effective and whether such services should be included in the basic health benefit plan and the standard health benefit plan as established by the commissioner under section 513B.14.

(2) Whether expanded mental health and substance abuse treatment coverage is cost-effective and whether such coverage should be included in the basic health benefit plan and the standard health benefit plan as established by the commissioner under section 513B.14.

b. In determining whether such services and coverage under paragraph "a", subparagraphs (1) and (2), should be included, the commissioner, in addition to considering the cost-effectiveness and other appropriate factors, shall also consider the increase, if any, in premium necessary to fund the expanded services or coverage, as applicable, and whether any savings may be realized as a result of such inclusion.

2. The commissioner shall file a written report with the general assembly on or before January 15, 1996, concerning the results of the study.

Sec. 2. This Act shall only be effective if the general assembly appropriates $25,000 to the insurance division of the department of commerce for the purpose of completing the study identified in section 1 of this Act.*

Approved April 25, 1995

CHAPTER 74

CITY BOARDS OF REVIEW

S.F. 385

AN ACT authorizing the appointment of a city board of review by certain cities.

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

Section 1. Section 441.31, Code 1995, is amended to read as follows:

441.31 BOARD OF REVIEW.

1. The chairperson of the conference board shall call a meeting by written notice to all of the members of the board for the purpose of appointing a board of review for all assessments made by the assessor. The board of review may consist of either three members or five members. As nearly as possible this board shall include one licensed real estate broker

*See Chapter 204, §14 herein

and one registered architect or person experienced in the building and construction field. In the case of a county, at least one member of the board shall be a farmer. Not more than two members of the board of review shall be of the same profession or occupation and members of the board of review shall be residents of the assessor jurisdiction. The terms of the members of the board of review shall be for six years, beginning with January 1 of the year following their selection. In boards of review having three members the term of one member of the first board to be appointed shall be for two years, one member for four years and one member for six years. In the case of boards of review having five members, the term of one member of the first board to be appointed shall be for one year, one member for two years, one member for three years, one member for four years and one member for six years.

2. However, notwithstanding the board of review appointed by the county conference board pursuant to subsection 1, a city council of a city having a population of seventy-five thousand or more, which is a member of a county conference board may provide, by ordinance, for a city board of review to hear appeals of property assessments by residents of that city. The members of the city board of review shall be appointed by the city council. The city shall pay the expenses incurred by the city board of review. All of the provisions of this chapter relating to the boards of review shall apply to a city board of review appointed pursuant to this subsection.

3. Notwithstanding the ~~previous paragraph~~ requirements of subsection 1, the conference board or a city council which has appointed a board of review may increase the membership of the board of review by an additional two members if it determines that as a result of the large number of protests filed or estimated to be filed the board of review will be unable to timely resolve the protests with the existing number of members. These two additional emergency members shall be appointed for a term set by the conference board or the city council but not for longer than two years. The conference board or the city council may extend the terms of the emergency members if it makes a similar determination as required for the initial appointment.

Approved April 25, 1995

CHAPTER 75

ELIMINATION OF VICTIM RESTITUTION FOR CERTAIN TRAFFIC OFFENSES

S.F. 386

AN ACT relating to restitution in certain traffic offenses which are simple misdemeanors.

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

Section 1. Section 910.2, Code 1995, is amended to read as follows:

910.2 RESTITUTION OR COMMUNITY SERVICE TO BE ORDERED BY SENTENCING COURT.

In all criminal cases ~~including but not limited to~~ except simple misdemeanors under chapter 321, in which there is a plea of guilty, verdict of guilty, or special verdict upon which a judgment of conviction is rendered, the sentencing court shall order that restitution be made by each offender to the victims of the offender's criminal activities, 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 fines, penalties, and surcharges, crime victim compensation program reimbursement, court costs, court-appointed attorney's fees, or the 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 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 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 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.

Approved April 25, 1995

CHAPTER 76

RESIDENT FISHING AND HUNTING LICENSES

H.F. 113

AN ACT relating to the definition of resident for the purpose of obtaining licenses to hunt, fish, trap, or take protected species of animals and providing for other properly related matters.

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

Section 1. Section 483A.1A, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 4. "Resident" means a natural person who:

a. Meets any of the elements specified in section 321.1A, subsections 1 through 6 only.

b. Is a full-time student at an educational institution located in this state and resides in this state while attending the educational institution. A student qualifies as a resident pursuant to this paragraph only for the purpose of purchasing any resident license specified in section 483A.1 or 484A.2.

c. Is a nonresident under eighteen years of age whose parent is a resident of this state.

Sec. 2. Section 483A.26, Code 1995, is amended to read as follows:

483A.26 FALSE CLAIMS.

A nonresident shall not obtain a resident license by falsely claiming residency in the state. ~~The presumptions and provisions of section 321.1A relating to residency apply to licenses under this chapter.~~ The use of a license by a person other than the person to whom the license is issued is unlawful and nullifies the license.

Approved April 25, 1995

CHAPTER 77

RURAL WATER DISTRICTS

H.F. 128

AN ACT relating to administrative procedures and the joint investment of funds of rural water districts.

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

Section 1. Section 331.555, subsection 6, Code 1995, is amended to read as follows:

6. The treasurer shall keep all funds invested to the extent practicable and may invest the funds jointly with one or more counties, judicial district departments of correctional services, cities, ~~or~~ city utilities, or rural water districts created under chapter 357A pursuant to a joint investment agreement. All investments of funds shall be subject to sections 12B.10 and 12B.10A and other applicable law.

Sec. 2. Section 357A.2, unnumbered paragraph 3, Code 1995, is amended to read as follows:

The petition shall be signed by the owners of at least ~~fifty~~ thirty percent of all real property lying within the outside perimeter of the area designated for inclusion in the proposed district, and shall state:

Sec. 3. Section 357A.8, subsection 1, Code 1995, is amended to read as follows:

1. For an annual meeting of participating members between January 1 and ~~March~~ May 1 of each year following the year of incorporation of the district, and for the mailing of written notice of the time and place of each annual meeting to each participating member and publication of ~~such~~ the notice in a newspaper of general circulation in the district not less than ten nor more than thirty days prior to each meeting.

Sec. 4. Section 357A.11, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 12. Place all funds in investments to the extent practicable and may invest the funds jointly with one or more counties, judicial district departments of correctional services, cities, or city utilities pursuant to a joint investment agreement. All investments of funds shall be subject to sections 12B.10 and 12B.10A and other applicable law.

Sec. 5. Section 357A.20, unnumbered paragraph 1, Code 1995, is amended to read as follows:

A nonprofit corporation incorporated under chapter 504A for the specific purpose of operating a rural water system may petition the supervisors for incorporation of a district, in the manner provided by section 357A.2. The signatures of the corporation's officers on the petition and a resolution adopted by the corporation's board of directors approving the petition shall suffice in lieu of signatures of owners of ~~fifty~~ thirty percent of the real property in the proposed district, if the corporation presents evidence satisfactory to the supervisors that a sufficient number of members of the proposed district will subscribe to benefit units to make its operation feasible. The procedure for hearing and determination of disposition of the petition shall be as provided by this chapter.

Sec. 6. Section 384.21, Code 1995, is amended to read as follows:

384.21 JOINT INVESTMENT OF FUNDS.

A city or a city utility board shall keep all funds invested to the extent practicable and may invest the funds jointly with one or more cities, utility boards, judicial district departments of correctional services, ~~or~~ counties, or rural water districts created under chapter 357A pursuant to a joint investment agreement. All investments of funds shall be subject to sections 12B.10 and 12B.10A and other applicable law.

Sec. 7. Section 905.6, subsection 4, Code 1995, is amended to read as follows:

4. Prepare all budgets and fiscal documents, and certify for payment all expenses and payrolls lawfully incurred by the district department. The director may invest funds which are not needed for current expenses, jointly with one or more cities, city utilities, ~~or~~ counties, or rural water districts created under chapter 357A pursuant to a joint investment agreement. All investment of funds shall be subject to sections 12B.10 and 12B.10A and other applicable law.

Approved April 25, 1995

CHAPTER 78

DISCLOSURE OF FEE DETERMINATIONS
FOR DENTAL CARE BENEFIT COVERAGE
H.F. 139

AN ACT relating to the disclosure of the methods used by insurance companies and nonprofit health service corporations to determine the usual and customary fees for dental care benefit coverages.

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

Section 1. NEW SECTION. 514C.3A DENTAL COVERAGE REIMBURSEMENT RATES.

1. An individual or group policy of accident or health insurance or individual or group hospital or health care service contract issued pursuant to chapter 509, 514, or 514A, and delivered, amended, or renewed on or after July 1, 1996, that provides dental care benefits with a base payment for those benefits determined upon a usual and customary fee charged by licensed dentists, shall disclose all of the following:

a. The frequency of the determination of the usual and customary fee.

b. A general description of the methodology used to determine usual and customary fees, including geographic considerations.

c. The percentile that determines the maximum benefit that the insurer or nonprofit health service corporation will pay for any dental procedure, if the usual and customary fee is determined by taking a sample of fees submitted on actual claims from licensed dentists and then determining the benefit by selecting a percentile of those fees.

2. The disclosure shall be provided upon request to all group and individual policyholders and subscribers. All proposals for dental care benefits shall inform the prospective policyholder or subscriber that information regarding usual and customary fee determinations is available from the insurer or nonprofit health service corporation. All employee benefit descriptions or supplemental documents shall notify the employee that information regarding reimbursement rates is available from the employer.

Approved April 25, 1995

CHAPTER 79

EDUCATIONAL REQUIREMENTS FOR NURSES
H.F. 217

AN ACT relating to education requirements for nurses.

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

Section 1. Section 152.5, subsection 1, paragraphs c and d, Code 1995, are amended to read as follows:

c. Requires, for graduation of a registered nurse applicant, the completion of at least a two academic year course of study ~~or its equivalent which is integrated in theory and practice as prescribed by the board~~.

d. Requires, for graduation of a licensed practical nurse applicant, the completion of at least ~~an~~ one academic year course of study ~~or its equivalent in theory and practice~~ as prescribed by the board.

Sec. 2. Section 152.7, subsections 3 and 4, Code 1995, are amended to read as follows:

3. ~~If to practice as a registered nurse, holds a diploma or degree resulting from the completion of a course of study in a program approved pursuant to section 152.5, subsection 1, paragraph "c".~~ Complete a course of study approved by the board pursuant to section 152.5.

Notwithstanding section 152.5, a person enrolled in an academic course of study for registered nurses on June 30, 1995, shall be allowed to apply for a license as a practical nurse which shall be issued after demonstrating completion of the equivalent of one academic year course of study in theory and practice as prescribed by the board. Applicants obtaining licenses under this subsection may be required to complete additional continuing education requirements as prescribed by the board.

4. ~~If to practice as a licensed practical nurse, holds a diploma resulting from the completion of a course of study in a program approved pursuant to section 152.5, subsection 1, paragraph "d" or has successfully completed at least one academic year of a course of study in a program approved pursuant to section 152.5, subsection 1, paragraph "c" and has successfully completed all theoretical and clinical training as is required for a licensed practical nurse.~~

Sec. 3. EVALUATION. The board shall complete a study by January 1, 1997, on the impact of modifications in the licensed practical nurse educational requirements on the availability of nursing personnel in Iowa. If the study demonstrates a significant reduction in the availability of nursing personnel, the board shall report these findings and make recommendations to the general assembly.

Approved April 25, 1995

CHAPTER 80

SOLID WASTE TONNAGE FEES
H.F. 289

AN ACT relating to solid waste tonnage fees.

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

Section 1. Section 455B.310, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

455B.310 TONNAGE FEE IMPOSED – APPROPRIATIONS – EXEMPTIONS.

1. Except as provided in subsection 3, the operator of a sanitary landfill shall pay a tonnage fee to the department for each ton or equivalent volume of solid waste received and disposed of at the sanitary landfill during the preceding reporting period. The department shall determine by rule the volume which is equivalent to a ton of waste.

2. The tonnage fee is four dollars and twenty-five cents per ton of solid waste. Of that amount, ninety-five cents of the tonnage fee shall be retained by a city, county, or public or private agency and used as follows:

a. To meet comprehensive planning requirements of section 455B.306, the development of a closure or postclosure plan, the development of a plan for the control and treatment of leachate including the preparation of facility plans and detailed plans and specifications, and the preparation of a financial plan.

b. Forty-five cents of the retained funds shall be used for implementing waste volume reduction and recycling requirements of comprehensive plans filed under section 455B.306. The funds shall be distributed to a city, county, or public agency served by the sanitary disposal project. Fees collected by a private agency which provides for the final disposal of solid waste shall be remitted to the city, county, or public agency served by the sanitary disposal project. However, if a private agency is designated to develop and implement the comprehensive plan pursuant to section 455B.306, fees under this paragraph shall be retained by the private agency.

c. For other environmental protection and compliance activities.

d. Each sanitary landfill owner or operator shall submit a return to the department identifying the use of all fees retained under this subsection including the manner in which the fees were distributed. The return shall be submitted concurrently with the return required under subsection 5.

3. Solid waste disposal facilities with special provisions which limit the site to disposal of construction and demolition waste, landscape waste, coal combustion waste, foundry sand, and solid waste materials approved by the department for lining or capping, or for construction berms, dikes, or roads in a sanitary disposal project or sanitary landfill are exempt from the tonnage fees imposed under this section. However, solid waste disposal facilities under this subsection are subject to the fees imposed pursuant to section 455B.105, subsection 11, paragraph "a". Notwithstanding the provisions of section 455B.105, subsection 11, paragraph "b", the fees collected pursuant to this subsection shall be used by the department for the regulation of these solid waste disposal facilities.

4. All tonnage fees received by the department under this section shall be deposited in the solid waste account of the groundwater protection fund created under section 455E.11.

5. Fees imposed by this section shall be paid to the department on a quarterly basis with payment due by no more than ninety days following the quarter during which the fees were collected. The payment shall be accompanied by a return which shall identify the amount of fees to be allocated to the landfill alternative financial assistance program, the amount of fees, in terms of cents per ton, retained for meeting waste reduction and recycling goals under section 455D.3, and additional fees imposed for failure to meet the twenty-five percent waste reduction and recycling goal under section 455D.3.

6. A person required to pay fees by this section who fails or refuses to pay the fees imposed by this section shall be assessed a penalty of two percent of the fee due for each month the fee is overdue. The penalty shall be paid in addition to the fee due.

7. Foundry sand used by a sanitary landfill as daily cover, road base, or berm material or for other purposes defined as beneficial uses by rule of the department is exempt from imposition of the tonnage fee under this section. Sanitary landfills shall use foundry sand as a replacement for earthen material, if the foundry sand is generated by a foundry located within the state and if the foundry sand is provided to the sanitary landfill at no cost to the sanitary landfill.

Sec. 2. Section 455D.3, subsections 3 and 4, Code 1995, are amended to read as follows:

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~~ fifty 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~~ funding alternatives to landfills pursuant to section 455E.11, subsection 2, paragraph "a", subparagraph ~~(9)~~ (1).

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" of this subsection. 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.~~ b. 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" of this subsection. 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~~ funding alternatives to landfills pursuant to section 455E.11, subsection 2, paragraph "a", subparagraph ~~(9)~~ (1).

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)~~ for funding alternatives to landfills pursuant to section 455E.11, subsection 2, paragraph "a", subparagraph (1). 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. 3. Section 455E.11, subsection 2, paragraph a, Code 1995, is amended by striking the paragraph and inserting in lieu thereof the following:

a. A solid waste account. Moneys received from the tonnage fee imposed under section 455B.310 and from other sources designated for environmental protection purposes in relation to sanitary disposal projects shall be deposited in the solid waste account. Moneys shall be allocated as follows:

(1) One dollar and seventy-five cents of the tonnage fee shall be used for funding alternatives to landfills and shall be allocated as follows:

(a) Fifty thousand dollars to the department to implement the special waste authorization program.

(b) Sixty-five thousand dollars 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.

(c) The remaining funds shall be used by the department to develop and implement demonstration projects for landfill alternatives to solid waste disposal including recycling programs.

(2) The remaining one dollar and fifty-five cents shall be used as follows:

(a) Forty-eight percent to the department to be used for the following purposes:

(i) Eight thousand dollars shall be transferred to the Iowa department of public health for departmental duties required under section 135.11, subsections 20 and 21, and section 139.35.

(ii) The administration and enforcement of a groundwater monitoring program and other required programs relating to solid waste management.

(iii) The development of guidelines for groundwater monitoring at sanitary disposal projects as defined in section 455B.301.

(iv) The waste management assistance division of the department.

(b) Sixteen percent to the university of northern Iowa to develop and maintain the Iowa waste reduction center for the safe and economic management of solid waste and hazardous substances.

(c) Six and one-half percent for the department to establish a program to provide competitive grants to regional coordinating councils for projects in regional economic development centers related to a by-products and waste exchange system. Grantees under this program shall coordinate activities with other available state or multistate waste exchanges, including but not limited to the by-products and waste search service at the university of northern Iowa. The department shall consult with the Iowa department of economic development and the waste reduction center at the university of northern Iowa in establishing criteria for and the awarding of grants under this program. The department shall expend not more than thirty thousand dollars of the moneys appropriated under this subparagraph subdivision to contract with the by-products and waste search service at the university of northern Iowa to provide training and other technical services to grantees under the program. If regional economic development centers cease to exist, the department shall

transfer existing contracts to one or more community colleges or councils of governments and shall revise the criteria and rules for this program to allow community colleges or councils of governments to be applicants for competitive grants.

(d) Nine and one-half percent to the department to establish permanent household hazardous waste collection sites so that both urban and rural populations are served and so that collection services are available to the public on a regular basis.

(e) Three percent to the department for payment of transportation costs related to household hazardous waste collection programs.

(f) Eight and one-half percent to the department to provide additional toxic cleanup days. Departmental rules adopted for implementation of toxic cleanup days shall provide sufficient flexibility to respond to the household hazardous material collection needs of both small and large communities.

(g) Three percent for the Iowa department of economic development to establish, in cooperation with the department of natural resources, a marketing initiative to assist Iowa businesses producing recycling or reclamation equipment or services, recyclable products, or products from recycled materials to expand into national markets. Efforts shall include the reuse and recycling of sawdust.

(h) Five and one-half percent to the department for the provision of assistance to public and private entities in developing and implementing waste reduction and minimization programs for Iowa industries.

Approved April 25, 1995

CHAPTER 81

UNIFORM CITATION AND COMPLAINT

H.F. 346

AN ACT relating to the verification and defendant's signature required for uniform citations and complaints and to providing false information on a uniform citation and complaint and making an existing penalty applicable.

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

Section 1. Section 805.3, Code 1995, is amended to read as follows:

805.3 PROCEDURE.

Before the cited person is released, the person shall sign the citation, under penalty of providing false information under section 719.3, properly identifying the person cited. The person's signature shall also serve as a written promise to appear in court at the time and place specified. A copy of the citation shall be given to the person.

Sec. 2. Section 805.6, subsection 1, paragraph a, unnumbered paragraph 2, Code 1995, is amended to read as follows:

The uniform citation and complaint shall contain spaces for the parties' names; the address of the alleged offender; the registration number of the offender's vehicle; the information required by section 805.2; ~~a promise to appear as provided in section 805.3 and a place where the cited person may sign the promise to appear;~~ a warning which states "I hereby swear and affirm that the information provided by me on this citation is true under penalty of providing false information"; and a statement that providing false information is a violation of section 719.3; a list of the scheduled fines prescribed by section 805.8, either separately or by group, and a statement of the court costs payable in scheduled violation

cases, whether or not a court appearance is required or is demanded; a brief explanation of sections 805.9 and 805.10; and a space where the defendant may sign an admission of the violation when permitted by section 805.9; and the uniform citation and complaint shall require that the defendant appear before a court at a specified time and place. The uniform citation and complaint also may contain a space for the imprint of a credit card, and may contain any other information which the commissioner of public safety and the director of natural resources may determine.

Sec. 3. Section 805.6, subsection 1, paragraph b, Code 1995, is amended to read as follows:

b. The uniform citation and complaint shall contain the following:

(1) A promise to appear as provided in section 805.3.

(2) The following statement ~~with a space immediately below it for the signature of the person being charged~~:

I hereby give my unsecured appearance bond in the amount of ..... dollars and enter my written appearance. I agree that if I fail to appear in person or by counsel to defend against the offense charged in this citation the court is authorized to enter a conviction and render judgment against me for the amount of my appearance bond in satisfaction of the penalty plus court costs.

(3) A space immediately below the items in subparagraphs (1) and (2) for the signature of the person being charged which shall serve for each of the items in subparagraphs (1) and (2).

Sec. 4. Section 805.6, subsection 4, Code 1995, is amended to read as follows:

4. The uniform citation and complaint shall contain a place for the verification of the officer issuing the complaint. The complaint may be verified ~~before the chief officer of the law enforcement agency, or the chief officer's designee, and the chief officer of each law enforcement agency of the state is authorized to designate specific individuals to administer oaths and certify verifications~~ in accordance with section 622.1.

Sec. 5. Section 805.6, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Supplies of uniform citation and complaint forms existing or on order on July 1, 1995, may be used until exhausted.

Approved April 25, 1995

CHAPTER 82

HUMAN SERVICES ACTIVITIES - MENTAL RETARDATION COMMITMENT PROCEEDINGS

H.F. 483

AN ACT relating to activities of the department of human services, including provisions involving the state hospital-schools and other institutions, commitments of persons with mental retardation, and the department's public housing unit.

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

DIVISION I
PAYMENT OF WAGES TO INSTITUTIONAL RESIDENTS

Section 1. Section 218.42, Code 1995, is amended to read as follows:

218.42 WAGES OF RESIDENTS.

~~When~~ If a resident performs services for the state at an institution listed in section 218.1, the administrator in control of ~~such~~ the institution ~~may, when the administrator deems such course practicable, pay such resident such wage as it deems proper in view of the circumstances, and in view of the cost attending the maintenance of such~~ shall pay the resident a wage in accordance with federal wage and hour requirements. ~~In no case shall such~~ However, the wage amount shall not exceed the amount ~~paid to free labor~~ of the prevailing wage paid in the state for a like service or its equivalent.

DIVISION II
DHS PUBLIC HOUSING UNIT

Sec. 2. Section 225C.4, subsection 2, paragraph e, Code 1995, is amended to read as follows:

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 disabilities~~ in accordance with section 225C.45.

Sec. 3. Section 225C.45, subsection 1, Code 1995, 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 other developmental disability, or brain injury~~.

DIVISION III
SALE OF SERVICES AT DEPARTMENT OF HUMAN SERVICES' INSTITUTIONS

Sec. 4. Section 222.73, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 5. A superintendent of a hospital-school or special unit may enter into a contract with a person for the hospital-school or special unit to provide consultation or treatment services. The contract provisions shall include charges which reflect the actual cost of providing the services. Any income from a contract authorized under this subsection may be retained by the hospital-school or special unit to defray the costs of providing the services. Except for a contract voluntarily entered into by a county under this subsection, the costs or income associated with a contract authorized under this subsection shall not be considered in computing charges and per diem costs in accordance with the provisions of subsections 1 through 4 of this section.

Sec. 5. Section 230.20, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 7. A superintendent of a mental health institute may enter into a contract with a person for the mental health institute to provide consultation or treatment services. The contract provisions shall include charges which reflect the actual cost of providing the services. Any income from a contract authorized under this subsection may be retained by the mental health institute to defray the costs of providing the services. Except for a contract voluntarily entered into by a county under this subsection, the costs or income associated with a contract authorized under this subsection shall not be considered in computing charges and per diem costs in accordance with the provisions of subsections 1 through 6 of this section.

DIVISION IV
STATE HOSPITAL-SCHOOL ADMISSION AND DISCHARGE PROCEDURES

Sec. 6. Section 222.1, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The Glenwood state hospital-school and the Woodward state hospital-school shall be

maintained for the purpose of providing treatment, training, instruction, care, habilitation, and support of ~~mentally retarded~~ persons with mental retardation or other disabilities in this state.

Sec. 7. Section 222.13, Code 1995, is amended to read as follows:

222.13 VOLUNTARY ADMISSIONS.

1. ~~The parent,~~ If an adult person is believed to be a person with mental retardation, the adult person or the adult person's guardian~~, or other person responsible for any person believed to be mentally retarded within the meaning of this chapter~~ may ~~on behalf of such person~~ request the county board of supervisors or their designated agent to apply to the superintendent of any state hospital-school for the voluntary admission of ~~such~~ the adult person either as an inpatient or an outpatient of the hospital-school. After determining the legal settlement of ~~such~~ the adult person as provided by this chapter, the board of supervisors shall, on forms prescribed by the administrator, apply to the superintendent of the hospital-school in the district for the admission of ~~such~~ the adult person to the hospital-school. An application for admission to a special unit of any adult person believed to be in need of any of the services provided by the special unit under section 222.88 may be made in the same manner, upon request of the ~~parent,~~ adult person or the adult person's guardian~~, or other person responsible for the handicapped person~~. The superintendent shall accept the application providing a preadmission diagnostic evaluation confirms or establishes the need for admission, except that ~~no~~ an application may not be accepted if the institution does not have adequate facilities available or if the acceptance will result in an overcrowded condition.

2. If the hospital-school has no appropriate program for the treatment of ~~such persons~~ an adult or minor person with mental retardation applying under this section or section 222.13A, the board of supervisors shall arrange for the placement of the ~~persons~~ person in any public or private facility within or without the state, approved by the director of the department of human services, which offers appropriate services for ~~such persons~~ the person.

3. Upon applying for admission of ~~a~~ an adult or minor person to a hospital-school, or a special unit, the board of supervisors shall make a full investigation into the financial circumstances of that person and those liable for that person's support under section 222.78, to determine whether or not any of them are able to pay the expenses arising out of the admission of the person to a hospital-school or special treatment unit. If the board finds that the person or those legally responsible for the person are presently unable to pay ~~such~~ the expenses, they shall direct that the expenses be paid by the county. The board may review its finding at any subsequent time while the person remains at the hospital-school, or is otherwise receiving care or treatment for which this chapter obligates the county to pay. If the board finds upon review that ~~that~~ the person or those legally responsible for ~~that~~ the person are presently able to pay ~~such~~ the expenses, ~~that~~ the finding shall apply only to the charges ~~so~~ incurred during the period beginning on the date of the review and continuing thereafter, unless and until the board again changes its finding. If the board finds that the person or those legally responsible for the person are able to pay the expenses, they shall direct that the charges be so paid to the extent required by section 222.78, and the county auditor shall be responsible for the collection ~~thereof~~ of the charges.

Sec. 8. NEW SECTION. 222.13A VOLUNTARY ADMISSIONS - MINORS.

1. If a minor is believed to be a person with mental retardation, the minor's parent, guardian, or custodian may request the county board of supervisors to apply for admission of the minor as a voluntary patient in a state hospital-school. If the hospital-school does not have appropriate services for the minor's treatment, the board of supervisors may arrange for the admission of the minor in a public or private facility within or without the state, approved by the director of human services, which offers appropriate services for the minor's treatment.

2. Upon receipt of an application for voluntary admission of a minor, the board of supervisors shall provide for a preadmission diagnostic evaluation of the minor to confirm or establish the need for the admission. The preadmission diagnostic evaluation shall be performed by a person who meets the qualifications of a qualified mental retardation professional.

3. During the preadmission diagnostic evaluation, the minor shall be informed both orally and in writing that the minor has the right to object to the voluntary admission. If the preadmission diagnostic evaluation determines that the voluntary admission is appropriate but the minor objects to the admission, the minor shall not be admitted to the state hospital-school unless the court approves of the admission. A petition for approval of the minor's admission may be submitted to the juvenile court by the minor's parent, guardian, or custodian.

4. As soon as practicable after the filing of a petition for approval of the voluntary admission, the court shall determine whether the minor has an attorney to represent the minor in the proceeding. If the minor does not have an attorney, the court shall assign to the minor an attorney. If the minor is unable to pay for an attorney, the attorney shall be compensated in substantially the same manner as provided in section 815.7.

5. The court shall order the admission of a minor who objects to the admission, only after a hearing in which it is shown by clear and convincing evidence that both of the following circumstances exist:

a. The minor needs and will substantially benefit from treatment or habilitation.

b. A placement which involves less restriction of the minor's liberties for the purposes of treatment or habilitation is not feasible.

Sec. 9. Section 222.15, Code 1995, is amended to read as follows:

222.15 DISCHARGE OF ~~VOLUNTARY~~ PATIENTS ADMITTED VOLUNTARILY.

~~The parent, guardian, or any other person responsible for the voluntary admission of any person to a hospital-school or a special unit may, upon ten days' notice, obtain the discharge of such person by giving to the superintendent of the institution and the county board of supervisors of the county from which such person was admitted written notice of the desire for such discharge.~~ This section applies to any person who was voluntarily admitted to a state hospital-school or other facility in accordance with the provisions of section 222.13 or 222.13A. Except as otherwise provided by this section, if the person or the person's parent, guardian, or custodian submits a written request for the person's release, the person shall be immediately released.

1. If the person is an adult and was admitted pursuant to an application by the person or the person's guardian and the request for release is made by a different person, the release is subject to the agreement of the person voluntarily admitted or the person's guardian, if the guardian submitted the application.

2. If the person is a minor who was admitted pursuant to the provisions of section 222.13A, the person's release prior to becoming eighteen years of age is subject to the consent of the person's parent, guardian, or custodian, or to the approval of the court if the admission was approved by the court.

3. a. If the administrator of the facility in which the patient is admitted certifies that in the administrator's opinion the release of the person would be contrary to the safety of the person or the community, the release may be postponed by a court order. The administrator's certification shall be filed with the clerk of the district court for the county in which the facility is located no later than one day following the submission of the written request for release. The period of postponement shall be the period of time the court determines necessary to permit the commencement of judicial proceedings for the person's involuntary commitment. The period of postponement shall not exceed five days unless the period of postponement is extended by court order for good cause shown.

b. If a petition for the person's involuntary commitment is timely filed, the administrator may detain the person in the facility and provide treatment until disposition of the petition. The treatment shall be limited to that necessary to preserve the person's life or to appropriately control behavior by the person which is likely to result in physical injury to

the person or to others if allowed to continue. The administrator shall not otherwise provide treatment to the person without the person's consent.

Sec. 10. NEW SECTION. 222.16A JUDICIAL PROCEEDINGS.

1. The chief judge of a judicial district may appoint one or more judicial hospitalization referees for each county in the district to discharge the duties imposed on the court by this chapter. The judicial hospitalization qualification provisions of section 229.21 shall apply to referees appointed under this section in performing duties pursuant to this chapter. An order or findings by a referee pursuant to this chapter may be appealed to a judge of the district court by filing notice with the clerk of the district court within seven days after the findings or order is made, and hearing by the district court shall be de novo. The court shall schedule a hearing before a district judge at the earliest practicable time.

2. The juvenile court has exclusive original jurisdiction in any court proceedings concerning a minor pursuant to this chapter.

Sec. 11. Section 222.59, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

222.59 ALTERNATIVE TO STATE HOSPITAL-SCHOOL PLACEMENT.

1. Upon receiving a request from an authorized requester, the superintendent of a state hospital-school shall assist the requester in identifying available community-based services as an alternative to continued placement of a patient in the state hospital-school. For the purposes of this section, "authorized requester" means the parent, guardian, or custodian of a minor patient, the guardian of an adult patient, or an adult patient who does not have a guardian. The assistance shall identify alternatives to continued placement which are appropriate to the patient's needs and shall include but are not limited to any of the following:

a. Providing information on currently available services that are an alternative to residence in the state hospital-school.

b. Referring the patient to an appropriate case management agency or other provider of service.

2. If a patient was admitted pursuant to section 222.13 or section 222.13A and the patient wishes to be placed outside of the state hospital-school, the discharge for the placement shall be made in accordance with the provisions of section 222.15.

3. If a patient was involuntarily committed, a petition for approval of a proposed placement outside the state hospital-school shall be filed, by the authorized requester or the superintendent of the state hospital-school where the patient is placed, with the court which made the commitment with either of the following recommendations for the court's consideration:

a. That the patient's commitment is no longer necessary and should be discontinued.

b. That the patient's commitment is still appropriate but the patient should be transferred to another public or private facility in accordance with the provisions of section 222.31, subsection 1.

Sec. 12. Section 222.60, unnumbered paragraph 1, Code 1995, is amended to read as follows:

All necessary and legal expenses for the cost of admission or commitment or for the treatment, training, instruction, care, habilitation, support and transportation of ~~patients~~ persons with mental retardation in a state hospital-school ~~for the mentally retarded~~, or in a special unit, or any public or private facility within or without the state, approved by the director of the department of human services, shall be paid by either:

Sec. 13. Section 225C.4, subsection 1, paragraph o, Code 1995, is amended by striking the paragraph.

Approved April 25, 1995

CHAPTER 83

MISCELLANEOUS STATE AND LOCAL TAX PROVISIONS

H.F. 554

AN ACT relating to state and local taxes including appeals of department of revenue and finance actions, the prohibition of unconstitutional or illegal tax collections, assessment procedures pertaining to amended returns, corporate income tax rates, sales tax on test laboratory services, collection of sales tax by out-of-state retailers, interest accrual on sales and use tax refunds, sales tax permit denial for delinquent taxes, bonding provisions for sales tax and environmental protection charge contested case decisions, costs associated with contested case hearings, penalty for underpayment of corporation income and franchise taxes, services subject to use tax, penalty for underpayment of use tax, the repeal of obsolete property tax provisions, and imposition of the drug excise tax on unprocessed marijuana plants and providing effective and applicability date provisions.

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

Section 1. Section 421.10, Code 1995, is amended to read as follows:

421.10 APPEAL PERIOD - DENIAL OF TAXPAYER'S CLAIM.

The appeal period for revision of assessment of tax, interest, and penalties set out under section 422.28, 422.54, 452A.64, 453A.29, or 453A.46 applies to appeals to notices from the department denying changes in filing methods, denying refund claims, and denying portions of refund claims for the tax covered by that section, and notices of any department action directed to a specific taxpayer, other than licensing, which involves a calculation.

Sec. 2. Section 421.60, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 10. ILLEGAL TAX. A tax shall not be collected by the department if it is prohibited under the Constitution of the United States or laws of the United States, or under the Constitution of the State of Iowa.

Sec. 3. Section 422.25, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 11. If a taxpayer files an amended return within sixty days prior to the expiration of the applicable period of limitations described in subsection 1, the department has sixty days from the date of receipt of the amended return to issue an assessment for any applicable tax, interest, or penalty.

Sec. 4. Section 422.33, subsection 1, unnumbered paragraph 2, Code 1995, is amended to read as follows:

"Income from sources within this state" means income from real, ~~or~~ tangible, or intangible property located or having a situs in this state.

Sec. 5. Section 422.43, subsection 11, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The following enumerated services are subject to the tax imposed on gross taxable services: alteration and garment repair; armored car; vehicle repair; battery, tire and allied; investment counseling; service charges of all financial institutions; barber and beauty; boat repair; vehicle wash and wax; carpentry; roof, shingle, and glass repair; dance schools and dance studios; dating services; dry cleaning, pressing, dyeing, and laundering; electrical and electronic repair and installation; rental of tangible personal property, except mobile homes which are tangible personal property; excavating and grading; farm implement repair of all kinds; flying service; furniture, rug, upholstery repair and cleaning; fur storage

and repair; golf and country clubs and all commercial recreation; house and building moving; household appliance, television, and radio repair; jewelry and watch repair; limousine service, including driver; machine operator; machine repair of all kinds; motor repair; motorcycle, scooter, and bicycle repair; oilers and lubricators; office and business machine repair; painting, papering, and interior decorating; parking facilities; pipe fitting and plumbing; wood preparation; licensed executive search agencies; private employment agencies, excluding services for placing a person in employment where the principal place of employment of that person is to be located outside of the state; sewage services for nonresidential commercial operations; sewing and stitching; shoe repair and shoeshine; sign construction and installation; storage of household goods, mini-storage, and warehousing of raw agricultural products; swimming pool cleaning and maintenance; taxidermy services; telephone answering service; test laboratories, ~~except~~ including mobile testing laboratories and field testing by testing laboratories, and excluding tests on humans or animals; termite, bug, roach, and pest eradicators; tin and sheet metal repair; turkish baths, massage, and reducing salons; weighing; welding; well drilling; wrapping, packing, and packaging of merchandise other than processed meat, fish, fowl and vegetables; wrecking service; wrecker and towing; pay television; campgrounds; carpet and upholstery cleaning; gun and camera repair; janitorial and building maintenance or cleaning; lawn care, landscaping and tree trimming and removal; pet grooming; reflexology; security and detective services; tanning beds or salons; and water conditioning and softening.

Sec. 6. Section 422.43, subsection 12, Code 1995, is amended by striking the subsection.

Sec. 7. Section 422.45, subsection 7, paragraph b, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Refunds authorized under this subsection shall accrue interest at the rate in effect under section 421.7 from the first day of the second calendar month following the date the refund claim is received by the department.

Sec. 8. Section 422.53, subsection 2, Code 1995, is amended to read as follows:

2. The applicant must have a permit for each place of business. The department may deny a permit to an applicant who is substantially delinquent in paying a tax due, or the interest or penalty on the tax, administered by the department at the time of application. If the applicant is a partnership, a permit may be denied if the partner is substantially delinquent in paying any delinquent tax, penalty or interest. If the applicant is a corporation, a permit may be denied if any officer having a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax, penalty, or interest ~~of the applicant corporation~~.

Sec. 9. Section 422.55, subsection 2, Code 1995, 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. 10. Section 422.70, subsection 2, Code 1995, is amended to read as follows:

2. Where the director finds the taxpayer has made a fraudulent return, the costs of ~~said~~ any hearing, including a contested case hearing, shall be taxed to the taxpayer. In all other cases the costs shall be paid by the state.

Sec. 11. Section 422.88, subsections 2 and 3, Code 1995, are amended to read as follows:

2. The amount of the underpayment shall be the excess of the amount of the installment which would be required to be paid if the estimated tax was equal to ~~eighty~~ ninety percent

of the tax shown on the return of the taxpayer for the taxable year over ~~any~~ the amount of installments paid on or before the date prescribed for payment.

3. If the taxpayer did not file a return during the taxable year, the amount of the underpayment shall be equal to ~~eighty~~ ninety percent of the taxpayer's tax liability for the taxable year over ~~any~~ the amount of installments paid on or before the date prescribed for payment.

Sec. 12. Section 422.89, subsection 3, unnumbered paragraph 1, Code 1995, is amended to read as follows:

An amount equal to ~~eighty~~ ninety percent of the tax for the taxable year computed by placing on an annualized basis the taxable income:

Sec. 13. Section 422B.8, unnumbered paragraph 1, Code 1995, is amended to read as follows:

A local sales and services tax at the rate of not more than one percent may be imposed by a county on the gross receipts taxed by the state under chapter 422, division IV. A local sales and services tax shall be imposed on the same basis as the state sales and services tax and may not be imposed on the sale of any property or on any service not taxed by the state, except the tax shall not be imposed on the gross receipts from the sale of motor fuel or special fuel as defined in chapter 452A, on the gross receipts from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 422A during the period the hotel and motel tax is imposed, on the gross receipts from the sale of natural gas or electric energy in a city or county where the gross receipts are subject to a franchise fee or user fee during the period the franchise or user fee is imposed, ~~on the gross receipts upon which sales tax is imposed only under section 422.43, subsection 12,~~ on the gross receipts from the sale of equipment by the state department of transportation, and on the gross receipts from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 99E. A local sales and services tax is applicable to transactions within those incorporated and unincorporated areas of the county where it is imposed and shall be collected by all persons required to collect state gross receipts taxes. All cities contiguous to each other shall be treated as part of one incorporated area and the tax would be imposed in each of those contiguous cities only if the majority of those voting in the total area covered by the contiguous cities favor its imposition.

Sec. 14. Section 423.1, subsection 7, Code 1995, is amended to read as follows:

7. "Retailer" means and includes every person engaged in the business of selling tangible personal property or services enumerated in section 422.43 for use within the meaning of this chapter~~; provided, however, that~~. However, when in the opinion of the director it is necessary for the efficient administration of this chapter to regard any salespersons, representatives, truckers, peddlers, or canvassers as the agents of the dealers, distributors, supervisors, employers, or persons under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of ~~such~~ those dealers, distributors, supervisors, employers, or persons, the director may ~~so~~ regard them and ~~may regard~~ the dealers, distributors, supervisors, employers, or persons as retailers for purposes of this chapter.

Sec. 15. Section 423.18, subsections 2 and 3, Code 1995, are amended to read as follows:

2. A person who willfully attempts in any manner to evade a tax imposed by this chapter or the payment ~~of ninety percent~~ of the tax, or a person who makes or causes to be made any false or fraudulent monthly deposit form or return with intent to evade the tax imposed by this chapter or the payment ~~of ninety percent~~ of the tax is guilty of a class "D" felony.

3. A person required to pay tax, or to make, sign or file a monthly deposit form or return, who willfully makes a false or fraudulent monthly deposit form or return, or who

willfully fails at the time required by law to pay at least ninety percent of the tax or fails to make, sign or file the monthly deposit form or return, is guilty of a fraudulent practice.

Sec. 16. Section 423.21, Code 1995, is amended to read as follows:

423.21 BOOKS - EXAMINATION.

Every retailer required or authorized to collect taxes imposed by this chapter and every person using in this state tangible personal property, services, or the product of services shall keep ~~such~~ those records, receipts, invoices, and other pertinent papers as the director shall require, in ~~such~~ the form ~~as~~ that the director shall require. The director or any duly authorized agent of the department may examine the books, papers, records, and equipment of any person either selling tangible personal property or services or liable for the tax imposed by this chapter, and investigate the character of the business of any ~~such~~ person in order to verify the accuracy of any return made, or if ~~no~~ a return was not made by ~~such~~ the person, ascertain and determine the amount due under ~~the provisions of~~ this chapter. ~~Any such~~ These books, papers, and records shall be made available within this state for ~~such~~ examination upon reasonable notice when the director shall deem it advisable and shall so order. The preceding requirements shall likewise apply to users and persons rendering, furnishing, or performing service enumerated in section 422.43.

Sec. 17. Section 423.25, Code 1995, 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 or who uses in this state services enumerated in section 422.43 has already paid a tax in another state in respect to the sale or use of the property or the performance of the service, or an occupation tax in respect to the property, in an amount less than the tax imposed by this title, the provisions of this title shall apply, but at a rate measured by the difference only between the rate fixed in this title and the rate by which the previous tax on the sale or use, or the occupation tax, was computed. If the tax imposed and paid in the other state is equal to or more than the tax imposed by this title, then ~~no~~ a tax is not due in this state on the personal property or service.

Sec. 18. Section 424.13, subsection 2, Code 1995, 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. 19. Section 427.1, subsections 5, 14, 18, 19, and 22, Code 1995, are amended by striking the subsections.

Sec. 20. Section 428.1, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Every ~~inhabitant of this state, of full age and sound mind,~~ person shall list for the assessor all property subject to taxation in the state, of which the ~~inhabitant~~ person is the owner, or has the control or management, in the following manner ~~herein directed~~:

Sec. 21. Section 428.23, Code 1995, is amended to read as follows:

428.23 MANUFACTURER TO LIST.

Corporations organized ~~under the laws of this state~~ for pecuniary profit and engaged in manufacturing as defined in section 428.20 shall list their real property in the same manner as is required of individuals.

Sec. 22. Section 428.37, subsection 2, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Notwithstanding ~~sections~~ section 428.25 ~~and 428.27~~, the taxable value of an electric power generating plant placed in commercial service after December 31, 1972, shall be

apportioned by the director of revenue and finance, commencing with the year 1973, as follows:

Sec. 23. Section 433.4, Code 1995, is amended to read as follows:

433.4 ASSESSMENT.

The director of revenue and finance shall on the second Monday in July of each year, proceed to find the actual value of the property of ~~such~~ these companies in this state, taking into consideration the information obtained from the statements ~~above~~ required, and any further information the director can obtain, using the same as a means for determining the actual cash value of the property of ~~such~~ these companies within this state~~;~~. The director shall also ~~taking~~ take into consideration the valuation of all property of ~~such~~ these companies, including franchises and the use of the property in connection with lines outside the state, and making ~~such~~ these deductions as may be necessary on account of extra value of property outside the state as compared with the value of property in the state, in order that the actual cash value of the property of the company within this state may be ascertained. ~~Said~~ The assessment shall include all property of every kind and character whatsoever, real, personal, or mixed, used by ~~said~~ the companies in the transaction of telegraph and telephone business; and the property so included in ~~said~~ the assessment shall not be taxed in any other manner than as provided in this chapter ~~and section 427.1, subsection 19~~.

Sec. 24. Section 433.12, Code 1995, is amended to read as follows:

433.12 "COMPANY" DEFINED.

~~The word "company"~~ "Company" as used in this chapter ~~and section 427.1, subsection 19, shall be deemed and construed to mean and include~~ means any person, copartnership, association, corporation, or syndicate that ~~shall own~~ owns or ~~operate~~ operates, or ~~be~~ is engaged in operating, any telegraph or telephone line, whether formed or organized under the laws of this state or elsewhere.

Sec. 25. Section 437.1, Code 1995, is amended to read as follows:

437.1 "COMPANY" DEFINED.

~~The word "company"~~ "Company" as used in this chapter ~~and section 427.1, subsection 19, shall be deemed and considered to mean and include~~ means any person, copartnership, association, corporation, or syndicate~~,~~ ~~(~~except co-operative corporations or associations which are not organized or operated for profit~~)~~, that ~~shall own~~ owns or ~~operate~~ operates a transmission line or lines for the conducting of electric energy located within the state and wholly or partly outside cities, whether formed or organized under the laws of this state or elsewhere.

Sec. 26. Section 437.12, Code 1995, is amended to read as follows:

437.12 ASSESSMENT EXCLUSIVE.

Every transmission line or part ~~thereof~~ of a transmission line, of which the director of revenue and finance is required by this chapter to find the value, shall be exempt from other assessment or taxation either under sections 428.24 to ~~428.27~~ 428.26, or under any other law of this state except as provided in this chapter.

Sec. 27. Section 437.13, Code 1995, is amended to read as follows:

437.13 LOCAL ASSESSMENT.

All lands, buildings, machinery, poles, towers, wires, station and substation equipment, and other construction owned or operated by any company referred to in section 437.2, and where ~~such~~ this property is located within any city within this state, shall be listed and assessed for taxation in the same manner as provided in sections 428.24, 428.25, and 428.29, for the listing and assessment of that part of the lands, buildings, machinery, tracks, poles, and wires within the limits of any city belonging to individuals or corporations furnishing electric light or power, and where ~~such~~ this property, except the capital stock, is situated

partly within and partly without the limits of a city. All personal property of every company owning or operating any ~~such~~ transmission line referred to in section 437.2, used or purchased by it for the purpose of ~~such~~ the transmission line, shall be listed and assessed in the assessment district where usually kept and housed and under sections 428.26~~, 428.27,~~ and 428.29.

Sec. 28. Section 441.21, subsection 9, paragraph b, Code 1995, is amended to read as follows:

b. Notwithstanding paragraph "a" ~~of this subsection, any construction or installation of gas production systems using waste or manure to produce gas completed on property classified as agricultural, residential, commercial, or industrial property shall not increase the actual, assessed and taxable values of the property for assessment years beginning on January 1, 1979 and ending on or before December 31, 1985. In addition, notwithstanding paragraph "a" of this subsection~~, any construction or installation of a solar energy system on property so classified shall not increase the actual, assessed and taxable values of the property for five full assessment years.

Sec. 29. Section 453B.1, subsection 3, paragraph b, Code 1995, is amended to read as follows:

b. Forty-two and one-half grams or more of processed marijuana or of a substance consisting of or containing marijuana.

Sec. 30. Section 453B.1, subsection 3, Code 1995, is amended by adding the following new paragraph after paragraph b and relettering:

NEW PARAGRAPH. c. One or more unprocessed marijuana plants.

Sec. 31. Section 453B.1, Code 1995, is amended by adding the following new subsections:

NEW SUBSECTION. 7A. "Processed marijuana" means all marijuana except unprocessed marijuana plants.

NEW SUBSECTION. 10. "Unprocessed marijuana plant" means any cannabis plant at any level of growth, whether wet, dry, harvested, or growing.

Sec. 32. Section 453B.7, Code 1995, is amended to read as follows:

453B.7 TAX IMPOSED - RATE OF TAX.

An excise tax is imposed on dealers at the following rates:

1. On each gram of processed marijuana, or each portion of a gram, five dollars.

2. On each gram or portion of a gram of any taxable substance sold by weight other than marijuana, two hundred fifty dollars.

3. On each unprocessed marijuana plant, seven hundred fifty dollars.

~~3.~~ 4. On each ten dosage units of any taxable substance, other than unprocessed marijuana plants, that is not sold by weight, or portion thereof, four hundred dollars.

Sec. 33. Section 428.27, Code 1995, is repealed.

Sec. 34. Section 3 of this Act, being deemed of immediate importance, takes effect upon enactment, and applies or retroactively applies to April 1, 1995, for amended tax returns filed on or after that date.

Sec. 35. Section 4 of this Act applies retroactively to January 1, 1995, for tax years beginning on or after that date.

Sec. 36. Sections 11 and 12 of this Act are effective July 1, 1995, for tax years beginning on or after that date.

Approved April 25, 1995

CHAPTER 84

PROPERTY TAX EXEMPTION FOR SPECULATIVE SHELL BUILDINGS

H.F. 556

AN ACT relating to the definition of entities eligible for property tax exemption for construction of speculative shell buildings.

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

Section 1. Section 427.1, subsection 41, unnumbered paragraph 1, Code 1995, is amended to read as follows:

New construction of shell buildings by community development organizations, not-for-profit cooperative associations under chapter 499, or for-profit entities for speculative purposes or the portion of the value added to buildings being reconstructed or renovated by community development organizations, not-for-profit cooperative associations under chapter 499, or for-profit entities in order to become speculative shell buildings. The exemption or partial exemption shall be allowed only pursuant to ordinance of a city council or board of supervisors, which ordinance shall specify if the exemption will be available for community development organizations, not-for-profit cooperative associations under chapter 499, or for-profit entities~~, or both~~, and shall be effective for the assessment year in which the building is first assessed for property taxation or the assessment year in which the reconstruction or renovation first adds value and all subsequent years until the property is leased or sold or for a specific time period stated in the ordinance or until the exemption is terminated by ordinance of the city council or board of supervisors which approved the exemption. Eligibility for an exemption as a speculative shell building shall be determined as of January 1 of the assessment year. However, an exemption shall not be granted a speculative shell building of a not-for-profit cooperative association under chapter 499 or a for-profit entity if the building is used by the cooperative association or for-profit entity, or a subsidiary ~~of the for-profit entity,~~ or majority owners ~~of the for-profit entity~~ thereof for other than as a speculative shell building. If the shell building or any portion of the shell building is leased or sold, the portion of the shell building which is leased or sold shall not be entitled to an exemption under this subsection for subsequent years. An application shall be filed pursuant to section 427B.4 for each project for which an exemption is claimed. Upon the sale of the shell building, the shell building shall be considered new construction for purposes of section 427B.1 if used for purposes set forth in section 427B.1.

Sec. 2. Section 427.1, subsection 41, paragraph b, Code 1995, is amended to read as follows:

b. "New construction" means new buildings or structures and includes new buildings or structures which are constructed as additions to existing buildings or structures. "New construction" also includes reconstruction or renovation of an existing building or structure which constitutes complete replacement of an existing building or structure or refitting of an existing building or structure, if the reconstruction or renovation of the existing building or structure is required due to economic obsolescence, if the reconstruction or renovation is necessary to implement recognized industry standards for the manufacturing or processing of products, and the reconstruction or renovation is required in order to competitively manufacture or process products or for community development organizations, not-for-profit cooperative associations under chapter 499, or for-profit entities to market a building or structure as a speculative shell building, which determination must receive prior approval from the city council of the city or county board of supervisors of the county.

Sec. 3. Section 427.1, subsection 41, paragraph c, Code 1995, is amended to read as follows:

c. "Speculative shell building" means a building or structure owned and constructed or reconstructed by a community development organization, a not-for-profit cooperative

association under chapter 499, or a for-profit entity without a tenant or buyer for the purpose of attracting an employer or user which will complete the building to the employer's or user's specification for manufacturing, processing, or warehousing the employer's or user's product line.

Approved April 25, 1995

CHAPTER 85

VICTIM COMPENSATION

S.F. 132

AN ACT relating to compensation for victims of crimes, by providing for compensation to secondary victims of crimes and increasing the maximum amount that may be recovered for loss of work income due to injuries received by victims.

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

Section 1. Section 912.1, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. "Secondary victim" means the victim's spouse, children, parents, and siblings, and any person who resides in the victim's household at the time of the crime or at the time of the discovery of the crime. Secondary victim does not include persons who are the survivors of a victim who dies as a result of a crime.

Sec. 2. Section 912.6, subsection 2, Code 1995, is amended to read as follows:

2. Loss of income from work the victim would have performed and for which the victim would have received remuneration if the victim had not been injured not to exceed ~~two~~ six thousand dollars.

Sec. 3. Section 912.6, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 8. Reasonable charges incurred for mental health care for secondary victims which includes the services provided by a psychologist licensed under chapter 154B, a person holding at least a masters in social work, counseling, or a related field, a victim counselor as defined in section 236A.1, or a psychiatrist licensed under chapter 147, 148, or 150A. The allowable charges under this subsection shall not exceed one thousand dollars per secondary victim or a total of six thousand dollars.

Approved April 26, 1995

CHAPTER 86

LIMITATIONS ON POLYGRAPH EXAMINATIONS IN SEXUAL ABUSE CASES
S.F. 371

AN ACT relating to prohibiting a polygraph examination of a victim of sexual abuse as a precondition to an investigation by a law enforcement agency.

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

Section 1. NEW SECTION. 709.17 POLYGRAPH EXAMINATIONS OF VICTIMS – LIMITATIONS.

A criminal or juvenile justice agency shall not require a person claiming to be a victim of sexual abuse or claiming to be a witness regarding the sexual abuse of another person to submit to a polygraph or similar examination as a precondition to the agency conducting an investigation into the matter. An agency wishing to perform a polygraph examination of a person claiming to be a victim or witness shall inform the person of the following:

1. That taking the polygraph examination is voluntary.
2. That the results of the examination are not admissible in court.
3. That the person's decision to submit or refuse a polygraph examination will not be the sole basis for a decision by the agency not to investigate the matter.

An agency which declines to investigate an alleged case of sexual abuse following a decision by a person claiming to be a victim not to submit to a polygraph examination shall provide to that person, in writing, the reasons why the agency did not pursue the investigation at the request of the person.

Approved April 26, 1995

CHAPTER 87

BAIL RESTRICTIONS FOR FELONIOUS CHILD ENDANGERMENT
S.F. 142

†**AN ACT** establishing felonious child endangerment as a nonbailable offense.

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

Section 1. Section 811.1, subsections 1 and 2, Code 1995, are amended to read as follows:

1. A defendant awaiting judgment of conviction and sentencing following either a plea or verdict of guilty of a class "A" felony, murder, felonious assault, felonious child endangerment, sexual abuse in the second degree, sexual abuse in the third degree, kidnapping, robbery in the first degree, arson in the first degree, or burglary in the first degree, or any felony included in section 124.401, subsection 1, paragraph "a".

2. A defendant appealing a conviction of a class "A" felony, murder, felonious assault, felonious child endangerment, sexual abuse in the second degree, sexual abuse in the third degree, kidnapping, robbery in the first degree, arson in the first degree, or burglary in the first degree, or any felony included in section 124.401, subsection 1, paragraph "a".

Approved April 26, 1995

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

CHAPTER 88

RENDITION OF PRISONER WITNESSES

S.F. 428

AN ACT to provide for the reciprocal rendition of prisoners as witnesses in criminal proceedings and providing an effective date.

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

Section 1. NEW SECTION. 819A.1 DEFINITIONS.

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

1. "Criminal proceeding" means a criminal action which is pending or is before a court in a state. For purposes of this subsection, a criminal action includes, but is not limited to, a prosecution of a complaint, indictment, or information, and an investigation by a grand jury.

2. "Penal institution" means a jail, prison, penitentiary, house of correction, or other place of penal detention which is located in a state and includes, but is not limited to, a city or county jail or detention facility, an institution or facility under the control of the department of corrections, the state training school or other facility under the control of the director of the department of human services, and a facility or electronic monitoring program under the control of a judicial district department of correctional services in this state.

3. "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory of the United States.

4. "Witness" means a person, who is confined in a penal institution in a state, whose testimony is requested in another state in a criminal proceeding.

Sec. 2. NEW SECTION. 819A.2 TESTIMONY OF IN-STATE WITNESS IN OUT-OF-STATE PROCEEDING.

1. A judge of a court of record in another state, which has enacted a law that requires persons confined in penal institutions within that state to appear and testify in this state, may certify to the district court in the county in this state in which the witness is confined, as follows:

a. That a criminal proceeding is pending or before a court in the other state.

b. That a person who is confined in a penal institution in this state may be a material witness in the criminal proceeding.

c. That the person's appearance and testimony will be required at a specified time or during a specified time period.

2. Upon the filing of the certification, the district court shall set the matter for hearing and shall direct the person having custody of the witness to produce the witness at the hearing. The clerk of the district court shall send copies of the order for hearing, together with a copy of the certification, to the attorney general, the person having custody of the witness, and the witness.

Sec. 3. NEW SECTION. 819A.3 ORDER FOR TRANSFER.

1. At the hearing on the certification, the district court shall determine all of the following issues:

a. That the testimony of the witness may be material and necessary to the criminal proceeding in the other state.

b. That the appearance of and testimony by the witness are not adverse to the interests of this state or the health or legal rights of the witness.

c. That the laws of the other state in which the witness is requested to testify will protect the witness from arrest and the service of civil and criminal process based on any act committed prior to the witness's arrival in the other state under a transfer order.

d. That the possibility that the witness may be subject to arrest or to service of civil or criminal process in any other state through which the witness will be required to pass is remote.

2. If the district court makes affirmative findings on all of the issues, the district court shall issue an order for transfer, with a copy of the certificate attached, that provides for all of the following orders:

a. An order directing the witness to attend and testify.

b. An order directing the person having custody of the witness to produce the witness in the court in which the criminal proceeding is taking place.

c. An order prescribing such other terms and conditions as the district court may require, including, but not limited to, the terms and conditions provided in section 819A.4.

Sec. 4. NEW SECTION. 819A.4 TERMS AND CONDITIONS.

1. The order directing the witness to attend and testify and the order directing the person having custody of the witness to produce the witness shall provide for either of the following:

a. The return of the witness at the conclusion of the witness's testimony, proper safeguards on the witness's custody, and that the requesting jurisdiction provide proper financial reimbursement or prepayment of all expenses incurred in the production of the witness.

b. That the person having custody of the witness transfer custody of the witness to an officer of the requesting jurisdiction who comes to the penal institution in which the witness is confined to accept custody of the witness.

2. If the requesting jurisdiction sends an officer from the requesting jurisdiction to accept custody of the witness, the district court shall require that the requesting jurisdiction provide proper safeguards for the witness's custody while in transfer, and pay and be liable for all expenses incurred in producing and returning the witness.

3. The order shall not be effective until an order is entered by the court of the other state that submitted the request for transfer that directs compliance with the terms and conditions required by the district court in this state.

Sec. 5. NEW SECTION. 819A.5 EXCEPTIONS.

This chapter shall not apply to persons confined in a penal institution because of insanity or other mental disorder which prevents the person from appreciating the charge, understanding the proceedings, or assisting effectively in the person's defense.

Sec. 6. NEW SECTION. 819A.6 TESTIMONY OF OUT-OF-STATE WITNESS IN IN-STATE PROCEEDING.

1. If a person confined in a penal institution in any other state may be a material witness in a criminal proceeding in a court of this state, a judicial officer of the district court in this state may certify to a court of record in another state having jurisdiction over the witness as follows:

a. That a criminal proceeding is pending and before a court in this state.

b. That a person who is confined in a penal institution in the other state may be a material witness in the criminal proceeding.

c. That the person's appearance and testimony will be required at a specified time or during a specified time period.

2. The certification shall be filed with the court of record in the other state and notice of the certification shall be given to the attorney general in that state.

Sec. 7. NEW SECTION. 819A.7 COMPLIANCE.

A judicial officer of the district court in this state may enter an order directing compliance with any terms and conditions prescribed by a judicial officer of the other state in which the witness is confined.

Sec. 8. NEW SECTION. 819A.8 EXEMPTION FROM ARREST AND SERVICE OF PROCESS.

If a witness from another state comes into or passes through this state under an order directing the witness to attend and testify in this or another state, the witness shall not be subject to arrest or the service of civil or criminal process during the time that the witness is in this state, if the service of process is based on any act committed prior to the witness's arrival in this state pursuant to a transfer order.

Sec. 9. NEW SECTION. 819A.9 UNIFORMITY OF INTERPRETATION.
This chapter shall be construed to effectuate the purpose of making uniform the law of those states which enact a uniform rendition of prisoners as witnesses in criminal proceedings Act.

Sec. 10. NEW SECTION. 819A.10 SHORT TITLE.
This chapter may be cited as the "Uniform Rendition of Prisoners as Witnesses in Criminal Proceedings Act".

Sec. 11. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 26, 1995

CHAPTER 89

FALSE REPORTS OR COMMUNICATIONS WITH PUBLIC SAFETY ENTITIES
S.F. 439

†**AN ACT** relating to making false reports to law enforcement agencies, making spurious calls to emergency 911 communications centers, or providing false information on citations and establishing penalties and providing a conditional effective date.

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

Section 1. Section 718.6, Code 1995, is amended to read as follows:
718.6 FALSE REPORTS TO ~~LAW ENFORCEMENT AUTHORITIES~~ OR COMMUNICATIONS WITH PUBLIC SAFETY ENTITIES.
1. A person who reports or causes to be reported false information to a fire department, ~~or~~ a law enforcement authority, or other public safety entity, knowing that the information is false, or who reports the alleged occurrence of a criminal act knowing the ~~same~~ act did not occur, commits a simple misdemeanor, unless the alleged criminal act reported is a serious or aggravated misdemeanor or felony, in which case the person commits a serious misdemeanor.
2. A person who telephones an emergency 911 communications center knowing that the person is not reporting an emergency or otherwise needing emergency information or assistance commits a simple misdemeanor.
3. A person who knowingly provides false information to a law enforcement officer who enters the information on a citation commits a simple misdemeanor, unless the criminal act for which the citation is issued is a serious or aggravated misdemeanor or felony, in which case the person commits a serious misdemeanor.

Sec. 2. EFFECTIVE DATE. This Act shall not take effect unless an appropriation is enacted or the state's share of the cost is specified in accordance with section 25B.2, subsection 3.

Approved April 26, 1995

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

CHAPTER 90

ASSAULTS UPON AND INTERFERENCE WITH CERTAIN OFFICIALS - OTHER ASSAULT PROVISIONS

S.F. 443

AN ACT to prohibit assaults upon peace officers, basic emergency medical care providers, advanced emergency medical care providers, and fire fighters by providing penalties and enhancing penalties for resisting or obstructing peace officers, basic emergency medical care providers, advanced emergency medical care providers, and fire fighters who are performing their duties.

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

Section 1. Section 708.2A, subsection 2, paragraph b, Code 1995, is amended to read as follows:

b. A serious misdemeanor, if the domestic abuse assault ~~is committed without the intent to inflict a serious injury upon another, and the assault~~ causes bodily injury or ~~disabling~~ mental illness.

Sec. 2. Section 708.2C, subsection 3, Code 1995, is amended to read as follows:

3. A person who commits an assault in violation of individual rights ~~without the intent to inflict a serious injury upon another~~, and who causes bodily injury or ~~disabling~~ mental illness, is guilty of an aggravated misdemeanor.

Sec. 3. NEW SECTION. 708.3A ASSAULTS ON PEACE OFFICERS AND FIRE FIGHTERS.

1. A person who commits an assault, as defined in section 708.1, against a peace officer, basic emergency medical care provider under chapter 147, an advanced emergency medical care provider under chapter 147A, or fire fighter, whether paid or volunteer, with the knowledge that the person against whom the assault is committed is a peace officer, basic emergency medical care provider under chapter 147, an advanced emergency medical care provider under chapter 147A, or fire fighter and the intent to inflict a serious injury upon the peace officer, basic emergency medical care provider under chapter 147, an advanced emergency medical care provider under chapter 147A, or fire fighter, is guilty of a class "D" felony.

2. A person who commits an assault, as defined in section 708.1, against a peace officer, basic emergency medical care provider under chapter 147, an advanced emergency medical care provider under chapter 147A, or fire fighter, whether paid or volunteer, who knows that the person against whom the assault is committed is a peace officer, basic emergency medical care provider under chapter 147, an advanced emergency medical care provider under chapter 147A, or fire fighter and who uses or displays a dangerous weapon in connection with the assault, is guilty of a class "D" felony.

3. A person who commits an assault, as defined in section 708.1, against a peace officer, basic emergency medical care provider under chapter 147, an advanced emergency medical care provider under chapter 147A, or fire fighter, whether paid or volunteer, who knows that the person against whom the assault is committed is a peace officer, basic emergency medical care provider under chapter 147, an advanced emergency medical care provider under chapter 147A, or fire fighter, and who causes bodily injury or disabling mental illness, is guilty of an aggravated misdemeanor.

4. Any other assault, as defined in section 708.1, committed against a peace officer, basic emergency medical care provider under chapter 147, an advanced emergency medical care provider under chapter 147A, or fire fighter, whether paid or volunteer, by a person who knows that the person against whom the assault is committed is a peace officer, basic emergency medical care provider under chapter 147, an advanced emergency medical care provider under chapter 147A, or fire fighter, is a serious misdemeanor.

Sec. 4. Section 719.1, subsection 1, Code 1995, is amended to read as follows:

1. A person who knowingly resists or obstructs anyone known by the person to be a peace officer, basic emergency medical care provider under chapter 147, an advanced emergency medical care provider under chapter 147A, or fire fighter, whether paid or volunteer, in the performance of any act which is within the scope of the lawful duty or authority of that officer, basic emergency medical care provider under chapter 147, an advanced emergency medical care provider under chapter 147A, or fire fighter, whether paid or volunteer, or who knowingly resists or obstructs the service or execution by any authorized person of any civil or criminal process or order of any court, commits a ~~simple~~ serious misdemeanor. However, if a person commits an interference with official acts, as defined in this subsection, and in so doing inflicts bodily injury other than serious injury, that person commits ~~a serious~~ an aggravated misdemeanor. If a person commits an interference with official acts, as defined in this subsection, and in so doing inflicts or attempts to inflict serious injury, or displays a dangerous weapon, as defined in section 702.7, or is armed with a firearm, that person commits ~~an aggravated misdemeanor~~ a class "D" felony.

Approved April 26, 1995

CHAPTER 91

DUTIES OF DISTRICT COURT CLERKS – ADDITIONAL COURT FEES

S.F. 409

AN ACT relating to the activities of clerks of the district court, and providing additional court fees.

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

Section 1. Section 420.239, Code 1995, is amended to read as follows:

420.239 CERTIFICATE OF REDEMPTION.

The treasurer, collector, or person authorized to receive the same, upon application of any party to redeem real property sold as aforesaid, and being satisfied that such person has a right to redeem the same, and on payment of the proper amount, shall issue to such party a certificate of redemption, in substance and form as provided for the redemption of property sold for state and county taxes, ~~and shall make proper entry thereof in the sale book,~~ which redemption shall thereupon be deemed complete without further proceedings.

Sec. 2. Section 582.4, Code 1995, is amended to read as follows:

582.4 LIEN BOOK – FEES.

Every clerk of the district court shall, at the expense of the county, provide a suitable well-bound book to be called the hospital lien docket in which, upon the filing of any lien claim under the provisions of this chapter, the clerk shall enter the name of the injured person, the date of the accident, and the name of the hospital or other institution making the claim. ~~Said~~ The clerk shall make a proper index of the same in the name of the injured person and ~~such~~ the clerk shall collect a fee of ~~two~~ ten dollars for filing each lien claim.

Sec. 3. Section 602.8102, subsection 44, Code 1995, is amended to read as follows:

44. ~~Certify~~ Forward to the superintendent of each correctional institution a copy of the sheriff's certification concerning the number of days that have been credited toward completion of an inmate's sentence as provided in section 903A.5.

Sec. 4. Section 602.8105, subsection 1, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. For a motion to show cause in a civil case, twenty-five dollars.

Sec. 5. Section 626.10, Code 1995, is amended to read as follows:

626.10 DUPLICATE RETURNS AND RECORD.

If real estate is sold under said execution ~~said~~ the officer shall make return thereof in duplicate, one of which shall be appended to the execution and returned to the court from which it is issued, the other with a copy of the execution to the district court of the county in which ~~said~~ the real estate is situated, which shall be filed by the clerk ~~who shall make entries thereof in the sale book~~ and handled in the same manner as if such judgment had been rendered and execution issued from ~~said~~ the court.

Sec. 6. Section 628.13, unnumbered paragraph 2, Code 1995, is amended to read as follows:

Redemption may also be made by the titleholder presenting to the clerk of the district court the sheriff's certificate of sale properly assigned to the titleholder, whereupon the clerk of the district court shall cancel the ~~said~~ certificate ~~and enter full redemption in the sale book~~.

Sec. 7. Section 628.20, Code 1995, is amended to read as follows:

628.20 EXCESS PAYMENT – ~~ENTRY AND~~ CREDIT.

If the amount paid to the clerk is in excess of the prior bid and liens, the clerk shall refund the excess to the party paying the ~~same, and enter each such redemption made by a lienholder upon the sale book, and~~ amount. If the clerk is the clerk of the district court where the judgment giving rise to the lien was entered, the clerk shall credit upon the lien~~, if a judgment in the court of which the clerk is clerk,~~ the full amount thereof, including interest and costs, or such less amount as the lienholder is willing to credit therein, as shown by the affidavit filed.

Sec. 8. Section 903A.5, unnumbered paragraph 1, Code 1995, is amended to read as follows:

An inmate shall not be discharged from the custody of the director of the Iowa department of corrections until the inmate has served the full term for which the inmate was sentenced, less good conduct time earned and not forfeited, unless the inmate is pardoned or otherwise legally released. Good conduct time earned and not forfeited shall apply to reduce a mandatory minimum sentence being served pursuant to section 124.406, 124.413, 902.7, 902.8, or 902.11. An inmate shall be deemed to be serving the sentence from the day on which the inmate is received into the institution. However, if an inmate was confined to a county jail or other correctional or mental facility at any time prior to sentencing, or after sentencing but prior to the case having been decided on appeal, because of failure to furnish bail or because of being charged with a nonbailable offense, the inmate shall be given credit for the days already served upon the term of the sentence. The ~~clerk of the district court~~ sheriff of the county ~~from~~ in which the inmate was ~~sentenced,~~ confined shall certify to the ~~warden~~ clerk of the district court from which the inmate was sentenced the number of days so served. The clerk of the district court shall forward a copy of the certification of the days served to the warden.

Approved April 26, 1995

CHAPTER 92

JUVENILE DELINQUENCY NOTICES - MARRIAGE SOLEMNIZATION BY ASSOCIATE JUVENILE JUDGES

S.F. 438

AN ACT relating to juvenile justice including notice requirements for certain hearings and authorizing associate juvenile judges to perform marriage ceremonies.

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

Section 1. Section 232.37, subsection 4, Code 1995, is amended to read as follows:

4. Service of summons or notice shall be made personally by the delivery of a copy of the summons or notice to the person being served. If the court determines that personal service of a summons or notice is impracticable, the court may order service by certified mail addressed to the last known address ~~or by publication or both~~. Service of summons or notice shall be made not less than five days before the time fixed for hearing. Service of summons, notice, subpoenas or other process, after an initial valid summons or notice, shall be made in accordance with the rules of the court governing such service in civil actions.

Sec. 2. Section 232.54, subsection 6, unnumbered paragraph 2, Code 1995, is amended to read as follows:

Notice requirements of this section shall be satisfied in the same manner as for adjudicatory hearings as provided in section 232.37 except that notice shall be waived regarding a person who was notified of the adjudicatory hearing and who failed to appear. At a hearing under this section all relevant and material evidence shall be admitted.

Sec. 3. Section 595.10, subsection 1, Code 1995, is amended to read as follows:

1. A judge of the supreme court, court of appeals, or district court, including a district associate judge, associate juvenile judge, or a judicial magistrate, and including a senior judge as defined in section 602.9202, subsection 1.

Approved April 26, 1995

CHAPTER 93

ACCESS TO CHILD AND DEPENDENT ADULT ABUSE INFORMATION - REQUIRED RECORDS CHECKS

S.F. 436

AN ACT relating to certification and employment provisions involving state abuse registries by providing access for purposes of certifying sex offender treatment providers, for certain publicly operated facilities or programs, for certain purposes of public employers, and requiring records checks for purposes of employment by certain medical assistance program service providers.

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

Section 1. Section 235A.15, subsection 2, paragraph e, Code 1995, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (13) To the Iowa board for the treatment of sexual abusers for purposes of certifying sex offender treatment providers.

Sec. 2. Section 235A.15, subsection 2, paragraph c, Code 1995, is amended by adding the following new subparagraphs:

NEW SUBPARAGRAPH. (11) To an administrator of a facility or program operated by the state, a city, or a county which provides services or care directly to children, if the information concerns a person employed by or being considered for employment by the facility or program.

NEW SUBPARAGRAPH. (12) To an administrator of an agency certified by the department of human services to provide services under a medical assistance home and community-based services waiver, if the information concerns a person employed by or being considered by the agency for employment.

Sec. 3. Section 235A.15, subsection 4, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Access to founded child abuse information ~~only~~ is authorized to the department of personnel or to the personnel office of a public employer, as defined in section 20.3, as necessary for presentation in grievance or arbitration procedures provided for in sections 19A.14 and 20.18. Child abuse information introduced into a grievance or arbitration proceeding shall not be considered a part of the public record of a case.

Sec. 4. Section 235B.6, subsection 2, paragraph c, Code 1995, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (5) To an administrator of an agency certified by the department of human services to provide services under a medical assistance home and community-based services waiver, if the information concerns a person employed by or being considered by the agency for employment.

Sec. 5. NEW SECTION. 249A.29 HOME AND COMMUNITY-BASED SERVICES WAIVER PROVIDERS - RECORDS CHECKS.

1. For purposes of this section unless the context otherwise requires:

a. "Consumer" means an individual approved by the department to receive services under a waiver.

b. "Provider" means an agency certified by the department to provide services under a waiver.

c. "Waiver" means a home and community-based services waiver approved by the federal government and implemented under the medical assistance program.

2. If a person is being considered by a provider for employment involving direct responsibility for a consumer or with access to a consumer when the consumer is alone, and if the person has been convicted of a crime or has a record of founded child or dependent adult abuse, the department shall perform an evaluation to determine whether the crime or founded abuse warrants prohibition of employment by the provider. The department shall conduct criminal and child and dependent adult abuse record checks of the person in this state and may conduct these checks in other states. The record checks and evaluations required by this section shall be performed in accordance with procedures adopted for this purpose by the department.

3. If the department determines that a person employed by a provider has committed a crime or has a record of founded abuse, the department shall perform an evaluation to determine whether prohibition of the person's employment is warranted.

4. In an evaluation, the department shall consider the nature and seriousness of the crime or founded abuse in relation to the position sought or held, the time elapsed since the commission of the crime or founded abuse, the circumstances under which the crime or founded abuse was committed, the degree of rehabilitation, the likelihood that the person will commit the crime or founded abuse again, and the number of crimes or founded abuses committed by the person involved. The department may permit a person who is

evaluated to be employed or to continue to be employed by the provider if the person complies with the department's conditions relating to the employment, which may include completion of additional training.

5. If the department determines that the person has committed a crime or has a record of founded abuse which warrants prohibition of employment, the person shall not be employed by a provider.

Approved April 26, 1995

CHAPTER 94

BIRTH CERTIFICATES - LICENSURE OF ATHLETIC TRAINERS

S.F. 202

AN ACT relating to public health issues, including certain birth certificates and licensing of athletic trainers.

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

Section 1. Section 144.13, subsection 1, paragraph d, Code 1995, is amended to read as follows:

d. ~~In the case of a child born out of wedlock, the certificate shall be filed directly with the state registrar. On a monthly basis, the~~ The state registrar ~~shall~~ may transmit to the appropriate ~~county~~ local boards of health ~~such~~ information from birth certificates for the sole purpose of identifying those children in need of ~~inoculations~~ immunizations.

Sec. 2. Section 152D.3, subsection 2, Code 1995, is amended to read as follows:

2. An out-of-state applicant for an athletic trainer license must fulfill the requirements of subsection 1, ~~paragraph~~ paragraphs "a" ~~or~~ and "b", and submit proof of active engagement as an athletic trainer in the other state.

Approved April 26, 1995

CHAPTER 95

MEDICAL ADVANCE DIRECTIVES ON DRIVER'S LICENSES

S.F. 311

AN ACT relating to symbols indicating medical directives on a validation document for license renewal by mail and on a driver's license or nonoperator's identification card.

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

Section 1. Section 321.189, subsection 4, Code 1995, is amended to read as follows:

4. SYMBOLS. Upon the request of a licensee, or a person renewing the person's license by mail, the department shall indicate on the license, or the validation document issued to a person renewing by mail, the presence of a medical condition, ~~or~~ that the licensee is a donor under the uniform anatomical gift law, or that the licensee has in effect a medical advance directive. For purposes of this subsection, a medical advance directive

includes, but is not limited to, a valid durable power of attorney for health care as defined in section 144B.1. The license may contain such other information as the department may require by rule.

Approved April 26, 1995

CHAPTER 96

GUIDANCE AND MEDIA SERVICES PROGRAMS - WAIVERS

S.F. 406

AN ACT extending the periods in which a school or school district may apply to the department of education to waive the requirement that the school or school district provide an articulated sequential elementary-secondary guidance program and the requirement that the school or school district provide a media services program.

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

Section 1. Section 256.11A, subsections 1 and 2, Code 1995, are amended to read as follows:

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~~ 1995, for the school year beginning July 1, ~~1993~~ 1995, 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 3 apply to the request. Not later than August 1, ~~1994~~ 1996, for the school year beginning July 1, ~~1994~~ 1996, 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.

2. Not later than August 1, ~~1993~~ 1995, for the school year beginning July 1, ~~1993~~ 1995, 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 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 3 apply to the request. Not later than August 1, ~~1994~~ 1996, for the school year beginning July 1, ~~1994~~ 1996, the board of directors of a school district or the authorities in charge of a nonpublic school may request an additional one-year extension of the waiver.

Approved April 26, 1995

CHAPTER 97

RURAL WATER WELL GRANTS

S.F. 215

AN ACT relating to agricultural management account moneys and county grants for private rural water well testing, sealing, and closure.

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

Section 1. Section 455E.11, subsection 2, paragraph b, subparagraph (3), subparagraph subdivision (b), Code 1995, is amended by striking the subparagraph subdivision and inserting in lieu thereof the following:

(b) Two percent is appropriated annually to the department for the purpose of administering grants to counties and conducting oversight of county-based programs for the testing of private rural water supply wells, private rural water supply well sealing, and the proper closure of private rural abandoned wells and cisterns. Not more than thirty-five percent of the moneys is appropriated annually for grants to counties for the purpose of conducting programs of private rural water supply testing, private rural water supply well sealing, the proper closure of private rural abandoned wells and cisterns, or any combination thereof.

A county applying for grants under this subparagraph subdivision shall submit only one application. To be eligible for a grant, a county must have adopted standards for private water supply and private disposal facilities at least as stringent as the standards adopted by the commission. During each fiscal year, the amount granted each eligible applicant shall be the total funds available divided by the number of eligible counties applying. Upon receipt of the grant, the county may apply the funds to any one or more of the above three programs.

Not more than six percent of the moneys is appropriated annually to the state hygienic laboratory to assist in well testing. For purposes of this subparagraph subdivision, "cistern" means an artificial reservoir constructed underground for the purpose of storing rainwater.

Approved April 26, 1995

CHAPTER 98

STATE SEWAGE TREATMENT LOANS - REPAYMENT WITH PARK REVENUES

S.F. 292

AN ACT relating to the powers and duties of the department of natural resources by authorizing the use of certain revenue to repay loans related to sewage collection and treatment plants in state parks and recreation areas.

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

Section 1. Section 455B.291, subsection 4, Code 1995, is amended to read as follows:

4. "Municipality" means ~~the~~ a city, county, sanitary district, state agency, or other governmental body or corporation empowered to provide sewage collection and treatment services, or any combination of two or more of ~~such~~ the governmental bodies or corporations acting jointly, in connection with a project.

Sec. 2. Section 456A.17, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department may apply for a loan for the construction of facilities for the collection and treatment of waste water under the state sewage treatment works financing program as established in sections 455B.291 through 455B.299. In order to provide for the repayment of a loan granted under the financing program, the commission may impose a lien on not more than ten percent of the annual revenues from user fees and related revenue derived from park and recreation areas under chapter 461A which are deposited in the state conservation fund. If a lien is established as provided in this paragraph, repayment of the loan is the first priority on the revenues received and dedicated for the loan repayment each year.

Approved April 26, 1995

CHAPTER 99

ALKALINE MANGANESE BATTERIES

S.F. 407

AN ACT relating to alkaline manganese batteries.

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

Section 1. Section 455D.10A, subsection 2, Code 1995, is amended to read as follows:

2. MERCURY CONTENT LIMITED.

a. ~~Beginning July 1, 1993, a~~ A person shall not sell, distribute, or offer for retail sale in this state an alkaline manganese battery that contains more than twenty-five one-thousandths of a percent mercury by weight~~, or a button cell battery which contains more than twenty-five milligrams of mercury~~. ~~Effective January 1, 1996, a~~ A person shall not sell, distribute, or offer for sale at retail in this state an alkaline manganese household battery manufactured on or after January 1, 1996, to which mercury has been added. This paragraph does not apply to alkaline manganese button cell batteries.

b. A person shall not sell, distribute, or offer for retail sale in this state an alkaline manganese button cell battery which contains more than twenty-five milligrams of mercury.

Approved April 26, 1995

CHAPTER 100

CONFIDENTIALITY OF FINANCIAL INFORMATION – DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

S.F. 197

AN ACT relating to the confidentiality of financial information provided to the department of agriculture and land stewardship and providing an effective date.

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

Section 1. Section 22.7, subsection 26, Code 1995, is amended to read as follows:

26. Financial information, which if released would give advantage to competitors and

serve no public purpose, relating to commercial operations conducted or intended to be conducted by a person submitting records containing the information to the ~~agricultural diversification bureau of the~~ department of agriculture and land stewardship for the purpose of obtaining assistance in business planning.

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

Approved April 26, 1995

CHAPTER 101

AGREEMENTS BETWEEN BEER BREWERS AND WHOLESALERS

S.F. 207

AN ACT relating to the distribution and sale of beer, providing for the regulation of brewer and wholesaler agreements, prohibiting certain conduct, providing for the transfer of business assets, providing judicial remedies, specifying applicability, and providing for other properly related matters.

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

Section 1. NEW SECTION. 123A.1 PURPOSES AND SCOPE.

This chapter is enacted pursuant to the authority of the state under the provisions of the twenty-first amendment to the Constitution of the United States to promote the public's interest in fair, efficient, and competitive distribution of beer products through regulation and encouragement of brewer and wholesaler vendors to conduct their business relations toward these ends by:

1. Assuring that the beer wholesaler is free to manage its business enterprise.
2. Assuring the brewer and the public of service from wholesalers who will devote reasonable efforts and resources to distribution and sales of all of the brewer's products which the wholesaler has been granted the right to sell and distribute and maintain satisfactory sales levels.
3. Promoting and maintaining a sound, stable, and viable three-tier system of distribution of beer to the public.

Sec. 2. NEW SECTION. 123A.2 DEFINITIONS.

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

1. "Affected party" means a wholesaler, brewer, master distributor, successor brewer, or any person that is a party to an agreement.
2. "Agreement" means a contract or arrangement whether expressed or implied, oral or written, for a definite or indefinite period between a brewer and a wholesaler pursuant to which a wholesaler has been granted the right to purchase, resell, and distribute one or more brands of beer offered by a brewer, or a contract or arrangement in which a brewer grants to a wholesaler a license to use a trade name, trademark, service mark, or related characteristic and in which there is a community of interest in the marketing of the products of the brewer. An agreement exists when one or more of the following occur:

a. A brewer has shipped beer to a wholesaler or accepted an order for beer from a wholesaler.

b. A brewer purchases the right to manufacture a beer product, the right to use the trade name for the product, or the right to distribute a product from another brewer with whom the wholesaler has an agreement.

3. "Beer" means any liquid capable of being used for beverage purposes made by the fermentation of an infusion in potable water of barley, malt, and hops with or without unmalted grains or decorticated and degerminated grains, or made by the fermentation of, or by distillation of the fermented products of fruit, fruit extracts, or other agricultural products, containing more than one-half of one percent of alcohol by volume but not more than five percent of alcohol by weight but not including mixed drinks or cocktails mixed on the premises.

4. "Brand" means a word, name, group of letters, symbol, or a combination of words, names, letters, or symbols adopted and used by a brewer to identify a specific beer product, and to distinguish that beer product from other beer products brewed or marketed by that brewery or other breweries.

5. "Brand extension" means a brand which incorporates all or a substantial part of the unique features of a preexisting brand of the same brewery and which relies to a significant extent on the goodwill associated with the preexisting brand. However, a general corporate logo or symbol or an advertising message, whether appearing on the product packaging or elsewhere, is not a brand, brand extension, or part of a brand or brand extension.

6. "Brewer" means a person who is engaged in the manufacture of beer for the purpose of sale, barter, exchange, or transportation, a master distributor, or a fermenter, processor, bottler, packager, or importer of beer, or a successor brewer.

7. "Designated member" means a deceased wholesaler's spouse, child, grandchild, parent, brother, or sister, who is entitled to inherit the deceased wholesaler's ownership interest under the terms of the deceased wholesaler's will, other testamentary device, or the laws of intestate succession. With respect to an incapacitated individual having an ownership interest in a wholesaler, "designated member" also means a person appointed by the court as the conservator of the individual's property. "Designated member" also includes the appointed and qualified personal representative and the testamentary trustee of a deceased wholesaler.

8. "Good cause" exists if the wholesaler or affected party has failed to comply with reasonable requirements which are imposed upon the wholesaler or affected party through an agreement, which do not discriminate either by their terms or in the methods of their enforcement as compared with requirements imposed on other similarly situated wholesalers by the brewer, and which are not in violation of any law or administrative rule.

9. "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade and defined and interpreted under section 554.2103.

10. "Manager" means an individual named or designated by agreement between the brewer and wholesaler, who is principally responsible for the daily management of the wholesaler.

11. "Master distributor" means a wholesaler who acts in the role of or in a similar capacity as a brewer or outside seller of one or more brands of beer to other wholesalers on a regular basis in the normal course of business.

12. "Reasonable standards and qualifications" means those criteria applied by the brewer to similarly situated wholesalers during a period of twenty-four months before a proposed change in a successor manager of the wholesaler's business.

13. "Similarly situated wholesalers" means wholesalers of a brewer that are of a generally comparable size, and operate in markets with similar demographic characteristics, including population size, density, distribution, and vital statistics, and reasonably similar economic and geographic conditions.

14. "Successor brewer" means a person who succeeds to the role of a brewer or master distributor to manufacture or distribute one or more brands of beer whether by merger, purchase of corporate shares, purchase of assets, or any other arrangement.

15. "Successor manager" means an individual named or designated by agreement between a brewer and wholesaler who succeeds to the role of manager who will be principally responsible for the daily management of the wholesaler.

16. "Territory" means the geographic area of primary sales responsibility designated by an agreement between a wholesaler and brewer for one or more brands of beer of the brewer.

17. "Wholesaler" means a person, other than a vintner, brewer, or bottler of beer, who sells, barters, exchanges, offers for sale, possesses with intent to sell, deals, or traffics in beer.

Sec. 3. NEW SECTION. 123A.3 TERMINATION AND NOTICE OF CANCELLATION.

1. Except as provided in subsection 5, a brewer or wholesaler shall not amend, modify, cancel, fail to renew, or otherwise terminate an agreement unless the brewer or wholesaler furnishes prior notification to the other party in accordance with subsection 3.*

2. The notification required under subsection 1 shall be in writing and sent to the affected party by certified mail not less than ninety days before the date on which the agreement will be amended, modified, canceled, not renewed, or otherwise terminated. The notification shall contain all of the following:

a. A statement of intention to amend, modify, cancel, fail to renew, or otherwise terminate the agreement.

b. A statement enumerating the facts and reasons for the action, including documentation necessary to fully inform the wholesaler of the reasons for the action.

c. The date on which the action will take effect.

3. For each cancellation, nonrenewal, or termination, the brewer shall have the burden of showing that it has acted in good faith, that the notice requirements under this section have been complied with, and that there was good cause for the cancellation, nonrenewal, or termination.

4. Notwithstanding the terms or conditions of any agreement, good cause exists for the purpose of a cancellation, nonrenewal, or termination if all of the following occur:

a. The wholesaler fails to comply with a provision of the agreement which is both reasonable and of material significance to the business relationship between the wholesaler and the brewer.

b. The brewer first acquired knowledge of the failure described in paragraph "a" not more than twenty-four months before the date notification was given pursuant to subsection 3.*

c. The wholesaler was given notice by the brewer of failure to comply with the agreement.

d. The wholesaler has been given thirty days in which to submit a plan of corrective action to comply with the agreement and an additional ninety days to cure the noncompliance in accordance with the plan, and has failed to correct the failure to comply with the provisions of the agreement.

5. A brewer may cancel, fail to renew, or otherwise terminate an agreement without furnishing any prior notification and without good cause as required in subsection 4 for any of the following reasons:

a. The wholesaler's failure to pay any account when due and upon written demand by the brewer for the payment, in accordance with agreed upon payment terms.

b. The wholesaler's assignment for the benefit of creditors, or similar disposition, of substantially all of the assets of the party's business.

c. The insolvency of the wholesaler, or the institution of proceedings in bankruptcy by or against the wholesaler.

d. The dissolution or liquidation of the wholesaler.

e. The wholesaler's conviction of, or plea of guilty or no contest, to a charge of violating a law or rule in this state which materially and adversely affects the ability of either party to continue to sell beer in this state, or the revocation or suspension of a license or permit to sell beer in this state for a period greater than thirty-one days.

f. Any attempted transfer of business assets of the wholesaler, ten percent or more of the voting stock of the wholesaler or the voting stock of any parent corporation of the wholesaler, or any change in the beneficial ownership or control of any wholesaler without obtaining the prior consent or approval as provided for under section 123A.6.

g. The wholesaler's fraudulent conduct relating to a material matter on the part of the wholesaler in dealings with the brewer or its product. However, the brewer shall have the burden of proving fraudulent conduct relating to a material matter on the part of the wholesaler in any legal action challenging the termination.

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*Subsection 2 probably intended

h. The wholesaler distributes, sells, or delivers beer to a retailer whose premises are situated outside the geographic territory agreed upon by the wholesaler and the brewer as the area in which the wholesaler will sell beer purchased from the brewer, without the consent of the brewer and the distributor who has been assigned the territory by the brewer.

Sec. 4. NEW SECTION. 123A.4 CANCELLATION.

A brewer or a wholesaler shall not cancel, fail to renew, or otherwise terminate an agreement unless the party intending that action has good cause for the cancellation, failure to renew, or termination, has made good faith efforts to resolve disagreements, and, in any case in which prior notification is required under section 123A.3, the party intending to act has furnished the prior notification and the other party has not eliminated the reasons specified in the notification for cancellation, failure to renew, or termination, within the periods provided in section 123A.3, subsection 4, paragraph "d".

Sec. 5. NEW SECTION. 123A.5 PROHIBITED CONDUCT.

1. A brewer shall not commit any of the following actions:

a. Induce or coerce, or attempt to induce or coerce, any wholesaler to engage in any illegal act or course of conduct.

b. Require a wholesaler to assent to any unreasonable requirement, condition, understanding, or term of an agreement prohibiting a wholesaler from selling the product of another brewer.

c. Fix, maintain, or establish the price at which a wholesaler may resell beer, or to change, by any means, the price charged to the wholesaler after beer has been ordered by the wholesaler from the brewer.

d. Require any wholesaler to accept delivery of any beer or any other item or commodity which shall not have been ordered by the wholesaler.

e. Require a wholesaler without the wholesaler's approval to participate in an arrangement for the payment or crediting by an electronic fund transfer transaction for any item or commodity other than beer, or to access a wholesaler's account for any item or commodity other than beer.

f. Require or prohibit any change in the manager or successor manager of any wholesaler who has been approved by the brewer as of or subsequent to the effective date of this Act unless the brewer acts in good faith. If a wholesaler changes an approved manager or successor manager, a brewer shall not require or prohibit the change unless the person selected by the wholesaler fails to meet the nondiscriminatory, material, and reasonable standards and qualifications for managers or successor managers consistently applied to similarly situated wholesalers by the brewer. However, the brewer shall have the burden of proving that the person fails to meet the reasonable standards and qualifications.

g. Discriminate among the brewer's wholesalers in any business dealings including, but not limited to, the price of beer sold to the wholesaler or terms of sale offered to wholesalers, unless the difference among its wholesalers is based on reasonable grounds.

h. Fail to provide each wholesaler of the brewer's brand with a written agreement which contains in total the brewer's agreement with each wholesaler, and designates a specific exclusive sales territory. The terms of written agreements executed, amended, or renewed after the effective date of this Act, shall be consistent with this chapter, and this chapter may be incorporated by reference in the agreement.

i. Enter into an additional agreement with any other wholesaler for, or to sell to any other wholesaler, the same brand of beer or brand extension in the same territory or any portion of the territory, or to sell directly to any retailer in this state.

j. Require a wholesaler to purchase one or more brands of beer in order for the wholesaler to purchase another brand of beer for any reason.

k. Require a wholesaler, by any means, directly to participate in or contribute to any local or national advertising fund controlled directly or indirectly by a brewer.

l. Require by a provision of an agreement or other instrument in connection with the agreement that any dispute arising out of or in connection with the agreement be determined through the application of any other state's laws, be determined in federal court

sitting in a state other than Iowa, or be determined in a state court of a state other than this state. A provision contained in any agreement or other instrument in connection with the agreement which contravenes this section shall be null and void.

2. A wholesaler who, pursuant to an agreement, is granted a sales territory for which the wholesaler is primarily responsible or in which the wholesaler is required to concentrate the wholesaler's efforts, shall not make any sale or delivery of beer to any retail licensee whose place of business is not within the territory granted to the wholesaler unless agreed upon by all affected parties.

Sec. 6. NEW SECTION. 123A.6 TRANSFER OF BUSINESS ASSETS OR STOCK.

1. A brewer shall not unreasonably withhold or delay its approval of any assignment, sale, or transfer of the stock or other indicia of ownership of a wholesaler or all or any portion of a wholesaler's assets, wholesaler's voting stock, the voting stock of any parent corporation, or the beneficial ownership or control of any other entity owning or controlling the wholesaler, including the wholesaler's rights and obligations under the terms of an agreement when the person to be substituted meets reasonable standards. Upon the death of one of the partners of a partnership operating the business of a wholesaler, a brewer shall not deny the surviving partner of the partnership the right to become a successor-in-interest to the agreement between the brewer and the partnership, if the survivor has been active in the management of the partnership and is otherwise capable of carrying on the business of the partnership.

2. Notwithstanding subsection 1, upon the death of a wholesaler, a brewer shall not deny approval for any transfer of ownership or management to a designated member, including the rights under the agreement with the brewer. The transfer or assignment shall not be effective until written notice is given to the brewer, but the brewer's consent to the transfer or assignment shall not be required.

Sec. 7. NEW SECTION. 123A.7 REASONABLE COMPENSATION.

1. A brewer who cancels, fails to renew, or terminates any agreement, or unlawfully denies approval of, or unreasonably withholds consent to any assignment, transfer, or sale of a wholesaler's business assets or voting stock or other equity securities, except as provided in this chapter, shall pay the wholesaler with which the brewer has an agreement pursuant to this chapter, reasonable compensation for the fair market value of the wholesaler's business with relation to the affected brand of beer. The fair market value of the wholesaler's business shall include, but not be limited to, its goodwill, if any.

2. If a brewer and a wholesaler are unable to mutually agree on the reasonable compensation to be paid for the value of the wholesaler's business, either party may maintain a civil action as provided in section 123A.9, or the matter may, by mutual agreement of the parties, be submitted to a three-member arbitration panel consisting of one representative selected by the brewer but unassociated with the brewer; one representative selected by the wholesaler but unassociated with the wholesaler; and an impartial arbitrator selected by the other two members from a list provided by the American arbitration association, and the claim settled in accordance with the rules provided by the American arbitration association. Arbitration costs shall be paid one-half by the wholesaler and one-half by the brewer. Arbitration shall be conducted in accordance with the commercial arbitration rules of the American arbitration association and the laws of this state, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. The award of the arbitrator shall be final and binding on the parties.

Sec. 8. NEW SECTION. 123A.8 RIGHT OF FREE ASSOCIATION.

A brewer or wholesaler shall not restrict or inhibit, directly or indirectly, the right of free association among brewers or wholesalers for any lawful purpose.

Sec. 9. NEW SECTION. 123A.9 JUDICIAL REMEDIES.

1. If a brewer or a wholesaler who is a party to an agreement pursuant to this chapter fails to comply with this chapter or otherwise engages in conduct prohibited under this chapter, the aggrieved party may maintain a civil action in district court if the cause of action directly relates to or stems from the relationship of the individual parties under the agreement.

2. A brewer or wholesaler may bring an action for declaratory judgment for determination of any controversy arising under this chapter or out of the brewer and wholesaler agreement.

3. Upon proper petition to the district court, a brewer or wholesaler may obtain injunctive relief against a violation of this chapter.

4. In an action under subsection 1, the district court may grant the relief as the court determines is necessary or appropriate considering the purposes of this chapter. The district court may, if it finds that a brewer has acted in bad faith in invoking the amendment, modification, cancellation, nonrenewal, or termination provision of the agreement between the brewer and wholesaler, or has unreasonably withheld its consent to any assignment, transfer, or sale of the wholesaler's business, award equitable relief, actual damages, court costs, and attorney's fees.

5. The prevailing party in an action under subsection 1 shall be entitled to actual damages, court costs, and attorney's fees at the court's discretion.

6. With respect to a dispute arising under this chapter or out of the agreement between a brewer and wholesaler, the wholesaler and brewer each has the absolute right, before the wholesaler or brewer has agreed to arbitrate a particular dispute, to refuse to arbitrate that particular dispute. A brewer shall not, as a condition of entering into or renewing an agreement, require the wholesaler to agree to arbitration in lieu of judicial remedies.

7. A brewer shall not take retaliatory action against a wholesaler who files or manifests an intention to file a complaint of alleged violation of state or federal law or regulation by the brewer with the appropriate state or federal regulatory authority. Retaliatory action shall include, but shall not be limited to, refusal without good cause to continue the agreement, or a material reduction in the quality of service or quantity of products available to the wholesaler under the agreement, or impede the normal business operations of the wholesaler.

Sec. 10. NEW SECTION. 123A.10 WAIVER - PROHIBITED.

A brewer shall not require a wholesaler to waive compliance with any provision of this chapter. This chapter shall not be construed to limit or prohibit a good faith settlement of a dispute voluntarily entered into between the parties.

Sec. 11. NEW SECTION. 123A.11 INDEMNIFICATION.

A brewer shall fully indemnify and hold harmless the brewer's wholesaler against any losses, including, but not limited to, court costs and reasonable attorney's fees or damages arising out of complaints, claims, or lawsuits, including, but not limited to, strict liability, negligence, misrepresentation, or express or implied warranty where the complaint, claim, or lawsuit relates to the manufacture or packaging of beer or other functions by the brewer which are beyond the control of the wholesaler.

Sec. 12. NEW SECTION. 123A.12 APPLICATION TO EXISTING AGREEMENTS.

1. The provisions of this chapter apply to a valid agreement in effect immediately before the effective date of this Act when the first of the following dates occurs:

a. On the effective date of the next amendment, modification, or renewal of the existing valid agreement.

b. On the next anniversary date of the execution of the original agreement between the wholesaler and the brewer.

2. If no written agreement exists, the provisions of the chapter apply to the implied or oral unwritten agreement of a brewer and a wholesaler of that brewery on the effective date of this Act.

Approved April 26, 1995

CHAPTER 102

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

S.F. 437

AN ACT relating to the entitlement to benefits and dividends under the Iowa public employees' retirement system, and providing effective and retroactive applicability date provisions.

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

Section 1. Section 97B.41, subsection 8, paragraph b, subparagraph (1), Code 1995, 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 ~~termination from covered employment~~ term of office. A county attorney is an employee for purposes of this chapter whether that county attorney is employed on a full-time or part-time basis.

Sec. 2. Section 97B.41, subsection 8, paragraph b, subparagraph (4), unnumbered paragraph 1, Code 1995, 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 ~~termination from covered employment~~ intent to terminate membership.

Sec. 3. Section 97B.41, subsection 14, Code 1995, is amended to read as follows:

14. "Retired member" means a member who has applied for ~~and commenced receiving~~ the member's retirement allowance and has survived into at least the first day of the member's first month of entitlement.

Sec. 4. Section 97B.41, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 9A. "First month of entitlement" means the first month for which a member is qualified to receive retirement benefits under this chapter. Effective January 1, 1995, a member who meets all of the following requirements is qualified to receive retirement benefits under this chapter:

a. Has attained the minimum age for retirement.

b. If the member has not attained seventy years of age, has terminated all employment covered under the chapter or formerly covered under the chapter pursuant to section 97B.42.

c. Has filed a completed application for benefits.

d. Has survived into the month for which the member's first retirement allowance is payable by the system.

Sec. 5. Section 97B.49, subsection 5, paragraph b, unnumbered paragraph 5, Code 1995, is amended to read as follows:

By November 15, ~~1993~~ 1995, the department shall set aside from other moneys in the retirement fund ~~two~~ three million eight hundred ~~fifty~~ sixty thousand dollars. The moneys set aside shall be from the funds generated by the employer and employee contributions in effect under section 97B.11 that exceed the amount necessary to fund the system's existing liabilities, as determined in the annual actuarial valuation of the system as of June 30,

~~1993~~ 1995. If the annual actuarial valuation indicates that the amount of the employer and employee contributions in excess of the amount necessary to fund existing liabilities is less than ~~two~~ three million eight hundred ~~fifty~~ sixty thousand dollars, the department shall set aside all funds that are available. The funds set aside shall not be used in ~~determining the percentage multiplier pursuant to this section on July 1, 1994, or in~~ determining the covered wage limitation pursuant to section 97B.41, subsection 20, paragraph "b", subparagraph (11), on January 1, ~~1994~~ 1996. However, any funds set aside which are not specifically dedicated to a purpose by the ~~Seventy-fifth~~ Seventy-sixth General Assembly shall be used in determining the ~~percentage multiplier and the~~ covered wage limitation thereafter.

Sec. 6. Section 97B.49, subsection 13, paragraph c, Code 1995, is amended to read as follows:

c. Notwithstanding the determination of the amount of a retirement dividend under paragraph "a", "b", ~~or~~ "d", or "f", a retirement dividend shall not be less than twenty-five dollars.

Sec. 7. Section 97B.49, subsection 13, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. A member who retired from the system between July 1, 1986, and June 30, 1990, or a contingent annuitant or beneficiary of such a member, shall receive with the November 1996 and the November 1997 monthly benefit payments a retirement dividend in an amount determined by the general assembly. The retirement dividend does not affect the amount of a monthly benefit payment.

Sec. 8. Section 97B.51, subsection 2, Code 1995, is amended to read as follows:

2. The election by a member ~~or the contingent annuitant~~ of the option stated under subsection 1 of this section shall be null and void if the member dies prior to the ~~department issuing payment of the member's first retirement allowance~~ member's first month of entitlement.

Sec. 9. Section 97B.52, subsections 1 and 2, Code 1995, are amended to read as follows:

1. If a member dies prior to the ~~date the~~ member's ~~first retirement allowance is issued by the system~~ first month of entitlement, the accumulated contributions of the member at the date of death plus the product of an amount equal to the highest year of covered wages of the deceased member and the number of years of membership service divided by thirty shall be paid to the member's beneficiary in a lump sum payment. However, a lump sum payment made to a beneficiary under this subsection due to the death of a member shall not be less than the amount that would have been payable on the death of the member on June 30, 1984, under this subsection as it appeared in the 1983 Code.

Effective July 1, 1978, a method of payment under this subsection filed with the department by a member does not apply.

2. If a member dies on or after the ~~date the member's first retirement allowance is issued by the retirement system~~ first day of the member's first month of entitlement, the excess, if any, of the accumulated contributions by the member as of said date, over the total monthly retirement allowances received by the member under the retirement system will be paid to the member's beneficiary unless the retirement allowance is then being paid in accordance with section 97B.48A or with section 97B.51, subsection 1, 4, 5, or 6 ~~of section 97B.51~~.

Sec. 10. Section 97B.52A, Code 1995, is amended to read as follows:

97B.52A ELIGIBILITY FOR BENEFITS – BONA FIDE RETIREMENT.

1. ~~A~~ Effective January 1, 1995, a member has a bona fide retirement when the member terminates all employment ~~and remains out of employment for at least one hundred twenty consecutive days~~ covered under the chapter or formerly covered under the chapter pursuant to section 97B.42, files ~~an~~ a completed application for benefits form with the department,

survives into the month for which benefits are first payable, and does not return to employment as defined in this chapter until the member has qualified for no fewer than four calendar ~~month's~~ months of retirement benefits.

2. A member may commence receiving retirement benefits under this chapter upon satisfying eligibility requirements ~~and remaining out of covered employment for one calendar month~~. However, a retired member who commences receiving a retirement allowance but returns to employment before ~~the expiration of the one hundred twenty consecutive day period~~ qualifying for no fewer than four calendar months of retirement benefits, does not have a bona fide retirement and any retirement allowance received by such a member must be returned to the system together with interest earned on the retirement allowance calculated at a rate determined by the department. Until the member has repaid the retirement allowance and interest, the department may withhold any future retirement allowance for which the member may qualify.

Sec. 11. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES. This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 1995.

Approved April 26, 1995

CHAPTER 103

PRINTING OF ELECTION BALLOTS - ELIMINATION OF COMPETITIVE BIDDING
S.F. 225

AN ACT eliminating requirements for competitive bids regarding the printing of election ballots.

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

Section 1. Section 47.5, subsection 1, paragraph b, Code 1995, is amended by striking the paragraph.

Sec. 2. Section 47.5, subsection 1, paragraph d, Code 1995, is amended to read as follows:

d. ~~No bids~~ Bids shall not be required for legal services or the printing of ballots.

Approved April 26, 1995

CHAPTER 104

REMOVAL OF VALUELESS MOBILE, MODULAR, AND MANUFACTURED HOMES
S.F. 226

AN ACT relating to the disposition of valueless mobile homes, modular homes, and manufactured homes.

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

Section 1. NEW SECTION. 555C.1 DEFINITIONS.
As used in this chapter, unless the context otherwise requires:

1. "Home" means a mobile home, modular home, or a manufactured home as defined in section 435.1.

2. "Mobile home park" means a mobile home park as defined in section 435.1.

3. "Personal property" includes personal property of the owner or other occupant of the home, which is located in the home, on the lot where the home is located, in the immediate vicinity of the home or lot, or in any storage area provided by the real property owner for use of the home owner or occupant.

4. "Valueless home" means a home located in a mobile home park including all other personal property, where all of the following conditions exist:

a. The home has been abandoned as defined in section 562B.27, subsection 1, and the home has not been removed after the right to possession of the underlying real estate has been terminated pursuant to chapter 648.

b. A lien of record, other than a tax lien as provided in chapter 435, does not exist against the home. A lien exists only if the real property owner receives notice of a lien on the standardized registration form completed by an owner or occupant pursuant to chapter 562B, or a lien has been filed in the state or county records on a date before the home is considered to be valueless.

c. The value of the home and other personal property is equal to or less than the reasonable cost of disposal plus all sums owing to the real property owner pertaining to the home.

Sec. 2. NEW SECTION. 555C.2 REMOVAL OF VALUELESS HOME - PRESUMPTION OF VALUE.

1. An owner of a mobile home park may remove, or cause to be removed, from the mobile home park a valueless home and personal property associated with the home at any time following a determination of abandonment in accordance with section 562B.27, subsection 1, and an order of removal pursuant to chapter 648 without further notice to the owner or occupant of the valueless home. Within ten days of the removal, the mobile home park owner shall give written notice to the county treasurer for the county in which the mobile home park is located by affidavit which shall include a description of the valueless home, its owner or occupant, if known, the date of removal, and if applicable, the name and address of any third party to whom a new title shall be issued.

2. A valueless home and any personal property associated with the valueless home shall be conclusively deemed in value to be equal to or less than the reasonable cost of disposal plus all sums owing to the mobile home park owner pertaining to the valueless home, if the mobile home park owner or an agent of the owner removes the home and personal property to a demolisher, sanitary landfill, or other lawful disposal site or if the mobile home park owner allows a disinterested third party to remove the valueless home and personal property in a transaction in which the mobile home park owner receives no consideration.

Sec. 3. NEW SECTION. 555C.3 NEW TITLE - THIRD PARTY.

If a new title is to be issued to a third party who is removing a valueless home, the county treasurer shall issue, upon receipt of the affidavit required in section 555C.2, a new title upon payment of a fee equal to the fee specified in section 321.42 for replacement certificates of title for vehicles. Any tax lien levied pursuant to chapter 435 is canceled and the ownership interest of the previous owner or occupant of the valueless home is terminated as of the date of issuance of the new title. The new title owner shall take the title free of all rights and interests even though the mobile home park owner fails to comply with the requirements of this chapter or any judicial proceedings, if the new title owner acts in good faith.

Sec. 4. NEW SECTION. 555C.4 REMOVAL BY MOBILE HOME PARK OWNER.

Unless the valueless home is to be titled in the name of a third party, the mobile home park owner may dispose of a valueless home and any personal property to a demolisher, sanitary landfill, or other lawful disposal site under the terms and conditions as the mobile home park owner shall determine.

Sec. 5. NEW SECTION. 555C.5 LIABILITY LIMITED.
A person who removes or allows the removal of a valueless home as provided in this chapter is not liable to the previous owner of the valueless home due to the removal of the valueless home.

Sec. 6. NEW SECTION. 555C.6 RIGHTS OF REAL PROPERTY OWNER.
The rights provided in this chapter to a real property owner are not exclusive of other rights of the real property owner.

Approved April 26, 1995

CHAPTER 105

VALIDITY OF NOTARIAL ACTS
S.F. 272

AN ACT relating to the validity of a notarial act by an officer, director, or shareholder of a corporation and providing for retroactive application.

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

Section 1. NEW SECTION. 9E.10A NOTARIAL ACTS - VALIDITY.
The validity of a notarial act shall not be affected or impaired by the fact that the notarial officer performing the notarial act is an officer, director, or shareholder of a corporation that may have a beneficial interest or other interest in the subject matter of the notarial act.

Sec. 2. RETROACTIVE APPLICABILITY. This Act applies retroactively to January 1, 1985, to notarial acts performed on or after that date.

Approved April 26, 1995

CHAPTER 106

COOPERATIVE ASSOCIATIONS - PATRONAGE DIVIDENDS
S.F. 377

AN ACT relating to the payment of patronage dividends by cooperative associations which are public utilities.

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

Section 1. Section 499.30, subsection 5, Code 1995, is amended to read as follows:
5. Notwithstanding an association's articles of incorporation, for each taxable year of the association, the association shall allocate all remaining net earnings 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~~ to be currently ~~shall be~~ paid in cash.

However, ~~so long as there are unpaid local deferred patronage dividends of deceased members for prior years~~ for a cooperative association other than a public utility as defined in section 476.1, the amount to be currently payable in cash shall not exceed twenty percent of the allocation during any period when unpaid local deferred patronage dividends of deceased members for prior years are outstanding. Notwithstanding the twenty percent allocation limitation, the directors of a cooperative association or the articles of incorporation or bylaws of the association may specify any percentage or amount to be currently paid in cash to the estates of deceased natural persons who were members. All the remaining allocation not paid in cash shall be transferred to a revolving fund as provided in section 499.33 and credited to the members and subscribers. The credits in the revolving fund are referred to in this chapter as deferred patronage dividends.

Sec. 2. Section 499.33, Code 1995, is amended to read as follows:

499.33 USE OF REVOLVING FUND.

1. The directors may use ~~the~~ a revolving fund to pay the obligations or add to the capital of the association or retire its preferred stock. In that event the deferred patronage dividends credited to members constitute a charge on the revolving fund, on future additions to the revolving fund, and on the corporate assets, subordinate to existing or future creditors and preferred stockholders. ~~Deferred~~ Except as otherwise provided in subsection 2, deferred patronage dividends for any year have priority over those for subsequent years. ~~However, prior~~

2. a. Prior to other payments of deferred patronage dividends or redemption of preferred stock held by members, the directors of ~~cooperative associations~~ a cooperative association, other than ~~those cooperative associations~~ a cooperative association which ~~are~~ is a public ~~utilities~~ utility as defined in section 476.1, shall pay local deferred patronage dividends and redeem local deferred patronage preferred stock of deceased natural persons who were members, and may pay deferred patronage dividends or may redeem preferred stock of deceased natural persons who were members or of members who become ineligible, without reference to the order of priority. ~~Directors~~

b. The directors of ~~cooperative associations~~ a cooperative association which ~~are~~ is a public ~~utilities~~ utility as defined in section 476.1 may pay deferred patronage dividends and redeem preferred stock of deceased natural persons who were members, and may pay all other deferred patronage dividends or redeem preferred stock of members ~~who become ineligible~~ without reference to priority.

3. Payment of deferred patronage dividends or the redemption of preferred stock ~~of ineligible members~~ shall be carried out to the extent and in the manner specified in the bylaws of the association.

Approved April 26, 1995

CHAPTER 107

CRUELTY TO POLICE SERVICE DOGS

S.F. 66

AN ACT relating to cruelty to police service dogs and providing for enhanced penalties.

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

Section 1. Section 717B.9, subsections 1, 2, and 3, Code 1995, are amended to read as follows:

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~~ serious misdemeanor.

2. A person who knowingly, and willfully or maliciously does any of the following commits a class "D" felony:

a. ~~tortures,~~ Tortures a police service dog.

b. ~~injures~~ Injures, so as to disfigure or disable, a police service dog.

c. Sets a booby trap device for purposes of injuring, so as to disfigure or disable, or killing a police service dog.

d. Pays or agrees to pay a bounty for purposes of injury, so as to disfigure or disable, or killing a police service dog.

e. ~~kills, or~~ Kills a police service dog.

f. ~~administers~~ 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 or correctional officer in the performance of the officer's duties, whether or not the dog is on duty.

Approved April 27, 1995

CHAPTER 108

PRACTICE OF PODIATRY

S.F. 152

AN ACT relating to the name of those persons who engage in the practice of podiatry.

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

Section 1. Section 124.101, subsections 1 and 23, Code 1995, are amended to read as follows:

1. "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

a. A practitioner, or in the practitioner's presence, by the practitioner's authorized agent; or

b. The patient or research subject at the direction and in the presence of the practitioner.

Nothing contained in this chapter shall be construed to prevent a physician, dentist, ~~podiatrist~~ podiatric physician, or veterinarian from delegating the administration of controlled substances under this chapter to a nurse, intern, or other qualified individual or, as to veterinarians, to an orderly or assistant, under the veterinarian's direction and supervision; all pursuant to rules adopted by the board.

23. "Practitioner" means either:

a. A physician, dentist, ~~podiatrist~~ podiatric physician, veterinarian, scientific investigator or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.

b. A pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled

substance in the course of professional practice or research in this state.

Sec. 2. Section 135.1, subsection 4, Code 1995, is amended to read as follows:

4. "Physician" means a person licensed to practice medicine and surgery, osteopathic medicine and surgery, osteopathy, chiropractic, or podiatry under the laws of this state; but a person licensed as a physician and surgeon shall be designated as a "physician" or "surgeon", a person licensed as an osteopathic physician and surgeon shall be designated as an "osteopathic physician" or "osteopathic surgeon", a person licensed as an osteopath shall be designated as an "osteopathic physician", a person licensed as a chiropractor shall be designated as a "chiropractor", and a person licensed as a podiatrist shall be designated as a "~~podiatrist~~ podiatric physician".

Sec. 3. Section 147.1, subsection 7, Code 1995, is amended to read as follows:

7. "Licensed" or "certified" when applied to a physician and surgeon, ~~podiatrist~~ podiatric physician, 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, 152C, and 152D.

Sec. 4. Section 147.74, subsection 6, Code 1995, is amended to read as follows:

6. A ~~podiatrist~~ podiatric physician may use the prefix "Dr." but shall add after the person's name the word "~~podiatrist~~ podiatric physician".

Sec. 5. Section 147.107, subsections 1 and 2, Code 1995, are amended to read as follows:

1. A person, other than a pharmacist, physician, dentist, ~~podiatrist~~ podiatric physician, or veterinarian who dispenses as an incident to the practice of the practitioner's profession, shall not dispense prescription drugs or controlled substances.

2. A pharmacist, physician, dentist, or ~~podiatrist~~ podiatric physician who dispenses prescription drugs, including but not limited to controlled substances, for human use, may delegate nonjudgmental dispensing functions to staff assistants only when verification of the accuracy and completeness of the prescription is determined by the pharmacist or practitioner in the pharmacist's or practitioner's physical presence.

A dentist or ~~podiatrist~~ podiatric physician who dispenses prescription drugs, other than drug samples, pursuant to this subsection, shall annually register the fact that they dispense prescription drugs with the practitioner's respective examining board. A physician doing so shall register biennially.

A physician, dentist, or ~~podiatrist~~ podiatric physician who dispenses prescription drugs, other than drug samples, pursuant to this subsection, shall offer to provide the patient with a written prescription that may be dispensed from a pharmacy of the patient's choice or offer to transmit the prescription to a pharmacy of the patient's choice.

Sec. 6. Section 147.136, Code 1995, is amended to read as follows:

147.136 SCOPE OF RECOVERY.

In an action for damages for personal injury against a physician and surgeon, osteopath, osteopathic physician and surgeon, dentist, ~~podiatrist~~ podiatric physician, optometrist, pharmacist, chiropractor, or nurse licensed to practice that profession in this state, or against a hospital licensed for operation in this state, based on the alleged negligence of the practitioner in the practice of the profession or occupation, or upon the alleged negligence of the hospital in patient care, in which liability is admitted or established, the damages awarded shall not include actual economic losses incurred or to be incurred in the future by the claimant by reason of the personal injury, including but not limited to, the cost of reasonable and necessary medical care, rehabilitation services, and custodial care,

and the loss of services and loss of earned income, to the extent that those losses are replaced or are indemnified by insurance, or by governmental, employment, or service benefit programs or from any other source except the assets of the claimant or of the members of the claimant's immediate family.

Sec. 7. Section 147.138, Code 1995, is amended to read as follows:

147.138 CONTINGENT FEE OF ATTORNEY REVIEWED BY COURT.

In any action for personal injury or wrongful death against any physician and surgeon, osteopath, osteopathic physician and surgeon, dentist, ~~podiatrist~~ podiatric physician, optometrist, pharmacist, chiropractor or nurse licensed under this chapter or against any hospital licensed under chapter 135B, based upon the alleged negligence of the licensee in the practice of that profession or occupation, or upon the alleged negligence of the hospital in patient care, the court shall determine the reasonableness of any contingent fee arrangement between the plaintiff and the plaintiff's attorney.

Sec. 8. Section 148A.1, Code 1995, is amended to read as follows:

148A.1 DEFINITION – REFERRAL – AUTHORIZATION.

As used in this chapter, physical therapy is that branch of science that deals with the evaluation and treatment of human capabilities and impairments. Physical therapy uses the effective properties of physical agents including, but not limited to, mechanical devices, heat, cold, air, light, water, electricity, and sound, and therapeutic exercises, and rehabilitative procedures to prevent, correct, minimize, or alleviate a physical impairment. Physical therapy includes the interpretation of performances, tests, and measurements, the establishment and modification of physical therapy programs, treatment planning, consultative services, instructions to the patients, and the administration and supervision attendant to physical therapy facilities. Physical therapy evaluation and treatment may be rendered by a physical therapist with or without a referral from a physician, ~~podiatrist~~ podiatric physician, dentist, or chiropractor, except that a hospital may require that physical therapy evaluation and treatment provided in the hospital shall be done only upon prior review by and authorization of a member of the hospital's medical staff.

Sec. 9. Section 149.1, Code 1995, is amended to read as follows:

149.1 PERSONS ENGAGED IN PRACTICE – DEFINITION.

1. For the purpose of this subtitle the following classes of persons shall be deemed to be engaged in the practice of podiatry:

a. Persons who publicly profess to be ~~podiatrists~~ podiatric physicians or who publicly profess to assume the duties incident to the practice of podiatry.

b. Persons who diagnose, prescribe, or prescribe and furnish medicine for ailments of the human foot, or treat such ailments by medical, mechanical, or surgical treatments.

1A. Podiatric physician means a physician or surgeon licensed under this chapter to engage in the practice of podiatric medicine and surgery.

2. As used in this chapter, "human foot" means the ankle and soft tissue which insert into the foot as well as the foot.

Sec. 10. Section 149.5, unnumbered paragraph 2, Code 1995, is amended to read as follows:

A licensed ~~podiatrist~~ podiatric physician may prescribe and administer drugs for the treatment of human foot ailments as provided in section 149.1.

Sec. 11. Section 149.6, Code 1995, is amended to read as follows:

149.6 TITLE OR ABBREVIATION.

Every licensee shall be designated as a licensed ~~podiatrist~~ podiatric physician and shall not use any title or abbreviation without the designation "practice limited to the foot," nor mislead the public in any way as to the limited field or practice.

Sec. 12. Section 152.1, subsection 5, paragraph c, Code 1995, is amended to read as follows:

c. The performance of services by employed workers in offices, hospitals, or health care facilities, as defined in section 135C.1, under the supervision of a physician or a nurse licensed under this chapter, or employed in the office of a psychologist, ~~podiatrist~~ podiatric physician, optometrist, chiropractor, speech pathologist, audiologist, or physical therapist licensed to practice in this state, and when acting while within the scope of the employer's license.

Sec. 13. Section 155A.3, subsection 27, Code 1995, is amended to read as follows:

27. "Practitioner" means a physician, dentist, ~~podiatrist~~ podiatric physician, veterinarian, or other person licensed or registered to distribute or dispense a prescription drug or device in the course of professional practice in this state or a person licensed by another state in a health field in which, under Iowa law, licensees in this state may legally prescribe drugs.

Sec. 14. Section 155A.21, subsection 2, Code 1995, is amended to read as follows:

2. Subsection 1 does not apply to a licensed pharmacy, licensed wholesaler, physician, veterinarian, dentist, ~~podiatrist~~ podiatric physician, therapeutically certified optometrist, a nurse acting under the direction of a physician, or the board of pharmacy examiners, its officers, agents, inspectors, and representatives, nor to a common carrier, manufacturer's representative, or messenger when transporting the drug in the same unbroken package in which the drug was delivered to that person for transportation.

Sec. 15. Section 155A.23, subsection 3, Code 1995, is amended to read as follows:

3. For the purpose of obtaining a prescription drug, falsely assume the title of or claim to be a manufacturer, wholesaler, pharmacist, pharmacy owner, physician, dentist, ~~podiatrist~~ podiatric physician, veterinarian, or other authorized person.

Sec. 16. Section 232.2, subsection 23, Code 1995, is amended to read as follows:

23. "Health practitioner" means a licensed physician or surgeon, osteopath, osteopathic physician or surgeon, dentist, optometrist, ~~podiatrist~~ podiatric physician, or chiropractor, a resident or intern of any such profession, and any registered nurse or licensed practical nurse.

Sec. 17. Section 232.68, subsection 5, Code 1995, is amended to read as follows:

5. "Health practitioner" includes a licensed physician and surgeon, osteopath, osteopathic physician and surgeon, dentist, optometrist, ~~podiatrist~~ podiatric physician, or chiropractor; a resident or intern in any of such professions; a licensed dental hygienist, a registered nurse or licensed practical nurse; and a basic emergency medical care provider certified under section 147.161 or an advanced emergency medical care provider certified under section 147A.6.

Sec. 18. Section 514.18, Code 1995, is amended to read as follows:

514.18 ~~PODIATRISTS~~ PODIATRIC PHYSICIANS.

Medical or surgical services or procedures constituting the practice of podiatry, also known as chiropody, as defined by chapter 149, and covered by the terms of any individual, group, blanket, or franchise policy providing accident or health benefits hereafter delivered or hereafter issued for delivery in Iowa and covering an Iowa risk may be performed by any practitioner, selected by the insured, licensed under chapter 149 to perform such medical or surgical services or procedures. Any provision of such policy or exclusion or limitation denying an insured the free choice of such licensed ~~podiatrist~~ podiatric physician, also known as chiropodist, shall to the extent of the denial, be void, but such voidance shall not affect the validity of the other provisions of the policy.

Sec. 19. Section 519.1, Code 1995, is amended to read as follows:

519.1 AUTHORIZATION.

Any number of physicians and surgeons, osteopaths, osteopathic physicians and surgeons, ~~podiatrist~~ podiatric physicians, chiropractors, pharmacists, dentists, and graduate

nurses, licensed to practice their profession in this state, and hospitals licensed under chapter 135B, may, by complying with the provisions of this chapter and without regard to other statutory provisions, enter into contracts with each other for the purpose of protecting themselves by insurance against loss by reason of actions at law on account of their alleged error, mistake, negligence, or carelessness in the treatment and care of patients, including the performance of surgical operations, or in the prescribing and dispensing of drugs and medicines, or for loss by reason of damages in other respects, and to reimburse any member in case of such loss.

Sec. 20. Section 519A.2, subsection 3, Code 1995, is amended to read as follows:

3. "Licensed health care provider" means and includes a physician and surgeon, osteopath, osteopathic physician and surgeon, dentist, ~~podiatrist~~ podiatric physician, optometrist, pharmacist, chiropractor or nurse licensed pursuant to chapter 147, and a hospital licensed pursuant to chapter 135B.

Sec. 21. Section 614.1, subsection 9, Code 1995, is amended to read as follows:

9. MALPRACTICE. Those founded on injuries to the person or wrongful death against any physician and surgeon, osteopath, osteopathic physician and surgeon, dentist, ~~podiatrist~~ podiatric physician, optometrist, pharmacist, chiropractor, or nurse, licensed under chapter 147, or a hospital licensed under chapter 135B, arising out of patient care, within two years after the date on which the claimant knew, or through the use of reasonable diligence should have known, or received notice in writing of the existence of, the injury or death for which damages are sought in the action, whichever of the dates occurs first, but in no event shall any action be brought more than six years after the date on which occurred the act or omission or occurrence alleged in the action to have been the cause of the injury or death unless a foreign object unintentionally left in the body caused the injury or death.

Approved April 27, 1995

CHAPTER 109

UNEMPLOYMENT COMPENSATION – OVERPAYMENT AND WAGE CREDIT LIABILITY TRANSFER PROVISIONS

S.F. 155

AN ACT relating to employment services by eliminating wage credit liability transfers and allowing all employers relief from charges when an unemployment compensation overpayment is made and providing an applicability date.

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

Section 1. Section 96.3, subsection 7, unnumbered paragraph 2, Code 1995, is amended to read as follows:

If the division determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Sec. 2. Section 96.5, subsection 1, paragraph a, Code 1995, is amended to read as follows:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, ~~and that the individual remained continuously in said new employment for not less than six weeks~~ and the individual performed services in the new employment. ~~Wages earned with the employer that the individual has left shall, for the purpose of computing and charging benefits, be deemed wages earned from the employer with whom the individual accepted other employment and benefits shall be charged to the employer with whom the individual accepted other employment. The division shall advise the chargeable employer of the name and address of the former employer, the period covered, and the extent of benefits which may be charged to the account of the chargeable employer. In those cases where the new employment is in another state, no employer's account shall be charged with benefits so paid except that employers who are required by law or by their election to reimburse the fund for benefits paid shall be charged with benefits under this paragraph. In those cases where the individual left employment in good faith for the sole purpose of accepting better employment, which the individual did accept and such employment is terminated by the employer, or the individual is laid off after one week but prior to the expiration of six weeks, the individual, provided the individual is otherwise eligible under this chapter, shall be eligible for benefits and such benefits shall not be charged to any employer's account.~~ Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Sec. 3. Section 96.6, subsection 2, Code 1995, is amended to read as follows:

2. INITIAL DETERMINATION. A representative designated by the commissioner shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5. However, the claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h", and subsection 10. Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with ~~it~~ the decision. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Sec. 4. Section 96.7, subsection 2, paragraph a, subparagraph (2), unnumbered paragraph 3, Code 1995, is amended to read as follows:

An employer's account shall not be charged with benefits paid to an individual who left the work of the employer voluntarily without good cause attributable to the employer or to an individual who was discharged for misconduct in connection with the individual's employment, or to an individual who failed without good cause, either to apply for available, suitable work or to accept suitable work with that employer, but shall be charged to the

~~account of the next succeeding employer with whom the individual requalified for benefits as determined respectively under section 96.5, subsection 1, paragraph "g" and section 96.5, subsection 2, paragraph "a"~~ unemployment compensation fund. ~~However, the succeeding employer's account shall first be charged with benefits paid to the individual due to wage credits earned by the individual while employed by the succeeding employer. After exhausting those wage credits, the succeeding employer's account shall not be charged with ten weeks of benefits paid to the individual due to wage credits earned by the individual from a previous employer, but rather the unemployment compensation fund shall be charged. After exhausting the ten weeks of noncharging, the succeeding employer's account shall again be charged with the benefits paid.~~ This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Sec. 5. Section 96.7, subsection 2, paragraph a, subparagraph (2), unnumbered paragraph 4, Code 1995, is amended by striking the unnumbered paragraph.

Sec. 6. APPLICABILITY DATE. This Act applies to all decisions concerning claims for benefits issued on or after July 2, 1995.

Approved April 27, 1995

CHAPTER 110

RECORDING OF INTERGOVERNMENTAL AGREEMENTS

S.F. 176

AN ACT relating to the filing of intergovernmental agreements for the joint exercise of governmental powers in certain counties.

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

Section 1. Section 28E.8, Code 1995, is amended to read as follows:

28E.8 FILING AND RECORDING.

Before entry into force, an agreement made pursuant to this chapter shall be filed with the secretary of state and recorded with the county recorder. In counties in which the office of county recorder is abolished, the agreement shall be recorded with the county auditor.

Approved April 27, 1995

CHAPTER 111

SUPPLEMENTARY WEIGHTING PLANS - JOINTLY EMPLOYED SUPERINTENDENTS

S.F. 205

AN ACT relating to shared superintendents for purposes of the supplementary weighting plan for public school districts and providing effective and retroactive applicability dates.

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

Section 1. Section 257.11, subsection 5, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For purposes of this section, "superintendent" includes a person jointly employed under section 273.7A or section 280.15 to serve in the capacity of a school superintendent and who holds a superintendent's endorsement issued under chapter 272 by the board of educational examiners.

Sec. 2. EFFECTIVE DATE - RETROACTIVITY. This Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to July 1, 1994.

Approved April 27, 1995

CHAPTER 112

STATEWIDE NOTIFICATION CENTER - MISCELLANEOUS PROVISIONS

S.F. 228

AN ACT relating to the statewide notification center by providing that the center is subject to the open meetings and public records law, requiring certain financial information to be reported, establishing an audit requirement, and providing a penalty.

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

Section 1. Section 480.3, Code 1995, is amended to read as follows:

480.3 NOTIFICATION CENTER ESTABLISHED - PARTICIPATION.

1. a. A statewide notification center is established and shall be organized as a nonprofit corporation pursuant to chapter 504A. The center shall be governed by a board of directors which shall represent and be elected by operators, excavators, and other persons who participate in the center. The board shall, with input from all interested parties, determine the operating procedures and technology needed for a single statewide notification center, and establish a notification process and competitive bidding procedure to select a vendor to provide the notification service. The terms of the agreement for the notification service may be modified from time to time by the board, and the agreement shall be reviewed, with an opportunity to receive new bids, no less frequently than every three years.

b. Upon the selection of a vendor pursuant to paragraph "a", the board shall notify the chairperson of the utilities board in writing of the selection. The board shall submit an annual report to the chairperson of the utilities board including ~~a~~ an annual audit and review of the services provided by the notification center and the vendor.

c. The board is subject to chapters 21 and 22.

2. The board shall implement the latest and most cost-effective technological improvements for the center in order to provide operators and excavators with the most accurate

data available and in a timely manner to allow operators and excavators to perform their responsibilities with the minimum amount of interruptions.

3. Every operator shall participate in and share in the costs of the notification center. The financial condition and the transactions of the notification center shall be audited at least once each year by a certified public accountant. The notification center shall not provide any form of aid or make a contribution to a political party or to the campaign of a candidate for political or public office. In addition to any applicable civil penalty, as provided in section 480.6, a violation of this section constitutes a simple misdemeanor.

Approved April 27, 1995

CHAPTER 113

CREDIT CARD DELINQUENCY CHARGES

S.F. 341

AN ACT relating to delinquency charges on credit cards used to purchase or lease goods or services from less than one hundred persons not related to the card issuer.

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

Section 1. Section 537.2502, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 8. With respect to open-end credit obtained pursuant to a credit card issued by the creditor which entitles the cardholder to purchase or lease goods or services from less than one hundred persons not related to the card issuer, the parties may contract for a delinquency charge on any payment not paid in full within thirty days after its due date, as originally scheduled or as deferred, in an amount not to exceed ten dollars. A delinquency charge shall not be collected more than once on any one payment, regardless of the length of time the payment remains delinquent.

Approved April 27, 1995

CHAPTER 114

MEMBERSHIP OF CERTAIN CITY COMMISSIONS AND BOARDS

S.F. 351

AN ACT authorizing certain cities to appoint additional members to certain city commissions.

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

Section 1. Section 37.9, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. In cities having a population of more than one hundred thousand, the city council may establish, by ordinance, the number of commission members at not less than five.

Sec. 2. Section 37.15, Code 1995, is amended to read as follows:

37.15 EX OFFICIO MEMBER.

~~In case any such~~ If a memorial hall or building ~~shall be~~ is a city hall, coliseum, or auditorium, the mayor of ~~such~~ the city may be an ex officio voting member of the commission ~~heretofore provided for, in which case there shall be selected but four commissioners as otherwise provided, and such four, together with the mayor, shall constitute a commission of five~~ created in section 37.9.

Sec. 3. Section 400.1, unnumbered paragraph 1, Code 1995, is amended to read as follows:

In cities having a population of eight thousand or over, having a paid fire department or a paid police department, the mayor, one year after each regular municipal election, with the approval of the council, shall appoint three civil service commissioners who shall hold office, one until the first Monday in April of the second year, one until the first Monday in April of the fourth year, and one until the first Monday in April of the sixth year after such appointment, whose successors shall be appointed for a term of six years. In cities having a population of more than one hundred thousand, the city council may establish, by ordinance, the number of civil service commissioners at not less than three.

Sec. 4. Section 403.15, subsection 2, Code 1995, is amended to read as follows:

2. If the urban renewal agency is authorized to transact business and exercise powers pursuant to ~~the~~ this chapter, the mayor or chairperson of the board, as applicable, by and with the advice and consent of the local governing body, shall appoint a board of commissioners of the urban renewal agency, which board shall consist of five commissioners. In cities having a population of more than one hundred thousand, the city council may establish, by ordinance, the number of commissioners at not less than five. The term of office of each such commissioner shall be one year.

Sec. 5. Section 403A.5, unnumbered paragraph 2, Code 1995, is amended to read as follows:

If the municipal housing agency is authorized to transact business and exercise powers hereunder, the mayor, by and with the advice and consent of the local governing body, shall appoint a board of commissioners of the municipal housing agency which board shall consist of five commissioners. The term of office for three of the commissioners originally appointed shall be two years and the term of office for two of the commissioners originally appointed shall be one year. Thereafter the term of office for each commissioner shall be two years. In cities having a population of more than one hundred thousand, the city council may establish, by ordinance, the number of commissioners at not less than five.

Approved April 27, 1995

CHAPTER 115

CHILD SUPPORT COLLECTION - LICENSING SANCTIONS AND OTHER MISCELLANEOUS PROVISIONS

S.F. 431

AN ACT relating to child support collection, including alternative measures for payment of costs for nonpublic assistance services, the establishment of the amount of child support required by certain parents who are nineteen years of age or younger, payment of a child support obligation under a modified order, provisions relating to the suspension, revocation, nonissuance, and nonrenewal of certain licenses for failure to pay support, and implementation provisions.

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

Section 1. NEW SECTION. 252J.1 DEFINITIONS.

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

1. "Certificate of noncompliance" means a document provided by the child support recovery unit certifying that the named obligor is not in compliance with a support order or with a written agreement for payment of support entered into by the unit and the obligor.

2. "License" means a license, certification, registration, permit, approval, renewal, or other similar authorization issued to an obligor by a licensing authority which evidences the admission to, or granting of authority to engage in, a profession, occupation, business, or industry, or to operate or register a motor vehicle. "License" does not mean or include licenses for hunting, fishing, boating, or other recreational activity.

3. "Licensee" means an obligor to whom a license has been issued, or who is seeking the issuance of a license.

4. "Licensing authority" means a county treasurer, the supreme court, or an instrumentality, agency, board, commission, department, officer, organization, or any other entity of the state, which has authority within this state to suspend or revoke a license or to deny the renewal or issuance of a license authorizing an obligor to register or operate a motor vehicle or to engage in a business, occupation, profession, or industry.

5. "Obligor" means a natural person as defined in section 252G.1 who has been ordered by a court or administrative authority to pay support.

6. "Support" means support or support payments as defined in section 252D.1, whether established through court or administrative order.

7. "Support order" means an order for support issued pursuant to chapter 232, 234, 252A, 252C, 252D, 252E, 252F, 252H, 598, 600B, or any other applicable chapter, or under a comparable statute of a foreign jurisdiction as registered with the clerk of the district court or certified to the child support recovery unit.

8. "Unit" means the child support recovery unit created in section 252B.2.

9. "Withdrawal of a certificate of noncompliance" means a document provided by the unit certifying that the certificate of noncompliance is withdrawn and that the licensing authority may proceed with issuance, reinstatement, or renewal of an obligor's license.

Sec. 2. NEW SECTION. 252J.2 PURPOSE AND USE.

1. Notwithstanding other statutory provisions to the contrary, and if an obligor has not been cited for contempt and enjoined from engaging in the activity governed by a license pursuant to section 598.23A, the unit may utilize the process established in this chapter to collect support.

2. An obligor is subject to the provisions of this chapter if the obligor's support obligation is being enforced by the unit, if the support payments required by a support order to be paid to the clerk of the district court or the collection services center pursuant to section 598.22 are not paid and become delinquent in an amount equal to the support payment for

ninety days, and if the obligor's situation meets other criteria specified under rules adopted by the department pursuant to chapter 17A. The criteria specified by rule shall include consideration of the length of time since the obligor's last support payment and the total amount of support owed by the obligor.

3. Actions initiated by the unit under this chapter shall not be subject to contested case proceedings or further review pursuant to chapter 17A and any resulting court hearing shall be an original hearing before the district court.

4. Notwithstanding the confidentiality provisions of chapter 252B or 422, or any other statutory provision pertaining to the confidentiality of records, a licensing authority shall exchange information with the unit through manual or automated means. Information exchanged under this chapter for the purposes of this chapter or chapter 598 shall be used solely for the purpose of identifying licensees subject to enforcement pursuant to this chapter or chapter 598.

Sec. 3. NEW SECTION. 252J.3 NOTICE TO OBLIGOR OF POTENTIAL SANCTION OF LICENSE.

The unit shall proceed in accordance with this chapter only if notice is served on the obligor in accordance with R.C.P. 56.1 or notice is sent by certified mail addressed to the obligor's last known address and served upon any person who may accept service under R.C.P. 56.1. Return acknowledgment is required to prove service by certified mail. The notice shall include all of the following:

1. The address and telephone number of the unit and the unit case number.

2. A statement that the obligor is not in compliance with a support order.

3. A statement that the obligor may request a conference with the unit to contest the action.

4. A statement that if, within twenty days of service of notice on the obligor, the obligor fails to contact the unit to schedule a conference, the unit shall issue a certificate of noncompliance, bearing the obligor's name, social security number, unit case number, and the docket number of a support order requiring the obligor to pay support, to any appropriate licensing authority, certifying that the obligor is not in compliance with a support order.

5. A statement that in order to stay the issuance of a certificate of noncompliance the request for a conference shall be in writing and shall be received by the unit within twenty days of service of notice on the obligor.

6. The names of the licensing authorities to which the unit intends to issue a certificate of noncompliance.

7. A statement that if the unit issues a certificate of noncompliance to an appropriate licensing authority, the licensing authority shall initiate proceedings to refuse to issue or renew, or to suspend or revoke the obligor's license, unless the unit provides the licensing authority with a withdrawal of a certificate of noncompliance.

Sec. 4. NEW SECTION. 252J.4 CONFERENCE.

1. The obligor may schedule a conference with the unit following service of notice pursuant to section 252J.3, or at any time after service of notice of suspension, revocation, denial of issuance, or nonrenewal of a license from a licensing authority, to challenge the unit's actions under this chapter.

2. The request for a conference shall be made to the unit, in writing, and, if requested after service of a notice pursuant to section 252J.3, shall be received by the unit within twenty days following service of notice.

3. The unit shall notify the obligor of the date, time, and location of the conference by regular mail, with the date of the conference to be no earlier than ten days following issuance of notice of the conference by the unit. If the obligor fails to appear at the conference, the unit shall issue a certificate of noncompliance.

4. Following the conference, the unit shall issue a certificate of noncompliance unless any of the following applies:

a. The unit finds a mistake in the identity of the obligor.

b. The unit finds a mistake in determining that the amount of delinquent support is equal to or greater than one month.

c. The obligor enters a written agreement with the unit to comply with a support order, the obligor complies with an existing written agreement to comply with a support order, or the obligor pays the total amount of delinquent support due.

d. Issuance of a certificate of noncompliance is not appropriate under other criteria established in accordance with rules adopted by the department pursuant to chapter 17A.

5. The unit shall grant the obligor a stay of the issuance of a certificate of noncompliance upon receiving a timely written request for a conference, and if a certificate of noncompliance has previously been issued, shall issue a withdrawal of a certificate of noncompliance if the obligor enters into a written agreement with the unit to comply with a support order.

6. If the obligor does not timely request a conference or pay the total amount of delinquent support owed within twenty days of service of the notice pursuant to section 252J.3, the unit shall issue a certificate of noncompliance.

Sec. 5. NEW SECTION. 252J.5 WRITTEN AGREEMENT.

1. If an obligor is subject to this chapter as established in section 252J.2, the obligor and the unit may enter into a written agreement for payment of support and compliance which takes into consideration the obligor's ability to pay and other criteria established by rule of the department. The written agreement shall include all of the following:

a. The method, amount, and dates of support payments by the obligor.

b. A statement that upon breach of the written agreement by the obligor, the unit shall issue a certificate of noncompliance to any appropriate licensing authority.

2. A written agreement entered into pursuant to this section does not preclude any other remedy provided by law and shall not modify or affect an existing support order.

3. Following issuance of a certificate of noncompliance, if the obligor enters into a written agreement with the unit, the unit shall issue a withdrawal of the certificate of noncompliance and shall forward a copy of the withdrawal by regular mail to the obligor and any appropriate licensing authority.

Sec. 6. NEW SECTION. 252J.6 DECISION OF THE UNIT.

1. If an obligor is not in compliance with a support order pursuant to section 252J.2, the unit notifies the obligor pursuant to section 252J.3, and the obligor requests a conference pursuant to section 252J.4, the unit shall issue a written decision if any of the following conditions exists:

a. The obligor fails to appear at a scheduled conference under section 252J.4.

b. A conference is held under section 252J.4.

c. The obligor fails to comply with a written agreement entered into by the obligor and the unit under section 252J.5.

2. The unit shall send a copy of the written decision to the obligor by regular mail at the obligor's most recent address of record. If the decision is made to issue a certificate of noncompliance or to withdraw the certificate of noncompliance, a copy of the certificate of noncompliance or of the withdrawal of the certificate of noncompliance shall be attached to the written decision. The written decision shall state all of the following:

a. That a copy of the certificate of noncompliance or withdrawal of the certificate of noncompliance has been provided to the licensing authorities named in the notice provided pursuant to section 252J.3.

b. That upon receipt of a certificate of noncompliance, the licensing authority shall initiate proceedings to suspend, revoke, deny issuance, or deny renewal of a license, unless the licensing authority is provided with a withdrawal of a certificate of noncompliance from the unit.

c. That in order to obtain a withdrawal of a certificate of noncompliance from the unit, the obligor shall enter into a written agreement with the unit, comply with an existing

written agreement with the unit, or pay the total amount of delinquent support owed.

d. That if the unit issues a written decision, which includes a certificate of noncompliance that all of the following apply:

(1) The obligor may request a hearing as provided in section 252J.9, before the district court in the county in which the underlying support order is filed, by filing a written application to the court challenging the issuance of the certificate of noncompliance by the unit and sending a copy of the application to the unit within the time period specified in section 252J.9.

(2) The obligor may retain an attorney at the obligor's own expense to represent the obligor at the hearing.

(3) The scope of review of the district court shall be limited to demonstration of a mistake of fact related to the delinquency of the obligor.

3. If the unit issues a certificate of noncompliance, the unit shall only issue a withdrawal of the certificate of noncompliance if any of the following applies:

a. The unit or the court finds a mistake in the identity of the obligor.

b. The unit or the court finds a mistake in determining that the amount of delinquent support due is equal to or greater than one month.

c. The obligor enters a written agreement with the unit to comply with a support order, the obligor complies with an existing written agreement to comply with a support order, or the obligor pays the total amount of delinquent support owed.

d. Issuance of a withdrawal of the certificate of noncompliance is appropriate under other criteria in accordance with rules adopted by the department pursuant to chapter 17A.

Sec. 7. NEW SECTION. 252J.7 CERTIFICATE OF NONCOMPLIANCE - CERTIFICATION TO LICENSING AUTHORITY.

1. If the obligor fails to respond to the notice of potential license sanction provided pursuant to section 252J.3 or the unit issues a written decision under section 252J.6 which states that the obligor is not in compliance, the unit shall certify, in writing, to any appropriate licensing authority that the support obligor is not in compliance with a support order and shall include a copy of the certificate of noncompliance.

2. The certificate of noncompliance shall contain the obligor's name, social security number, and the docket number of the applicable support order.

3. The certificate of noncompliance shall require all of the following:

a. That the licensing authority initiate procedures for the revocation or suspension of the obligor's license, or for the denial of the issuance or renewal of a license using the licensing authority's procedures.

b. That the licensing authority provide notice to the obligor, as provided in section 252J.8, of the intent to suspend, revoke, deny issuance, or deny renewal of a license including the effective date of the action. The suspension, revocation, or denial shall be effective no sooner than thirty days following provision of notice to the obligor.

Sec. 8. NEW SECTION. 252J.8 REQUIREMENTS AND PROCEDURES OF LICENSING AUTHORITY.

1. A licensing authority shall maintain records of licensees by name, current known address, and social security number.

2. In addition to other grounds for suspension, revocation or denial of issuance or renewal of a license, a licensing authority shall include in rules adopted by the licensing authority as grounds for suspension, revocation, or denial of issuance or renewal of a license, the receipt of a certificate of noncompliance from the unit.

3. The supreme court shall prescribe rules for admission of persons to practice as attorneys and counselors pursuant to chapter 602, article 10, which include provisions, as specified in this chapter, for the denial, suspension, or revocation of the admission for failure to comply with a child support order.

4. A licensing authority that is issued a certificate of noncompliance shall initiate procedures for the suspension, revocation, or denial of issuance or renewal of licensure to an obligor. The licensing authority shall utilize existing rules and procedures for suspension, revocation, or denial of the issuance or renewal of a license.

In addition, the licensing authority shall provide notice to the obligor of the licensing authority's intent to suspend, revoke, or deny issuance or renewal of a license under this chapter. The suspension, revocation, or denial shall be effective no sooner than thirty days following provision of notice to the obligor. The notice shall state all of the following:

a. The licensing authority intends to suspend, revoke, or deny issuance or renewal of an obligor's license due to the receipt of a certificate of noncompliance from the unit.

b. The obligor must contact the unit to schedule a conference or to otherwise obtain a withdrawal of a certificate of noncompliance.

c. Unless the unit furnishes a withdrawal of a certificate of noncompliance to the licensing authority within thirty days of the issuance of the notice under this section, the obligor's license will be revoked, suspended, or denied.

d. If the licensing authority's rules and procedures conflict with the additional requirements of this section, the requirements of this section shall apply. Notwithstanding section 17A.18, the obligor does not have a right to a hearing before the licensing authority to contest the authority's actions under this chapter but may request a court hearing pursuant to section 252J.9 within thirty days of the provision of notice under this section.

5. If the licensing authority receives a withdrawal of a certificate of noncompliance from the unit, the licensing authority shall immediately reinstate, renew, or issue a license if the obligor is otherwise in compliance with licensing requirements established by the licensing authority.

Sec. 9. NEW SECTION. 252J.9 DISTRICT COURT HEARING.

1. Following the issuance of a written decision by the unit under section 252J.6 which includes the issuance of a certificate of noncompliance, or following provision of notice to the obligor by a licensing authority pursuant to section 252J.8, an obligor may seek review of the decision and request a hearing before the district court in the county in which the underlying support order is filed, by filing an application with the district court, and sending a copy of the application to the unit by regular mail. An application shall be filed to seek review of the decision by the unit or following issuance of notice by the licensing authority no later than within thirty days after the issuance of the notice pursuant to section 252J.8. The clerk of the district court shall schedule a hearing and mail a copy of the order scheduling the hearing to the obligor and the unit and shall also mail a copy of the order to the licensing authority, if applicable. The unit shall certify a copy of its written decision and certificate of noncompliance, indicating the date of issuance, and the licensing authority shall certify a copy of a notice issued pursuant to section 252J.8, to the court prior to the hearing.

2. The filing of an application pursuant to this section shall automatically stay the actions of a licensing authority pursuant to section 252J.8. The hearing on the application shall be scheduled and held within thirty days of the filing of the application. However, if the obligor fails to appear at the scheduled hearing, the stay shall be lifted and the licensing authority shall continue procedures pursuant to section 252J.8.

3. The scope of review by the district court shall be limited to demonstration of a mistake of fact relating to the delinquency of the obligor. Issues related to visitation, custody, or other provisions not related to the support provisions of a support order are not grounds for a hearing under this chapter.

4. Support orders shall not be modified by the court in a hearing under this chapter.

5. If the court finds that the unit was in error in issuing a certificate of noncompliance, or in failing to issue a withdrawal of a certificate of noncompliance, the unit shall issue a withdrawal of a certificate of noncompliance to the appropriate licensing authority.

Sec. 10. Section 252H.10, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The periodic due date established under a prior order for payment of child support shall not be changed in any order modified as a result of an action initiated under this chapter, unless the child support recovery unit or the court determines that good cause exists to change the periodic due date. If the unit or the court determines that good cause exists, the unit or the court shall include the rationale for the change in the modified order and shall address the issue of reconciliation of any payments due or made under a prior order which would result in payment of the child support obligation under both the prior and the modified orders.

Sec. 11. Section 598.21, subsection 4, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. Unless the special circumstances of the case justify a deviation, the court or the child support recovery unit shall establish a monthly child support payment of twenty-five dollars for a parent who is nineteen years of age or younger, who has not received a high school or high school equivalency diploma, and to whom each of the following apply:

(1) The parent is attending a school or program described as follows or has been identified as one of the following:

(a) The parent is in full-time attendance at an accredited school and is pursuing a course of study leading to a high school diploma.

(b) The parent is attending an instructional program leading to a high school equivalency diploma.

(c) The parent is attending a vocational education program approved pursuant to chapter 258.

(d) The parent has been identified by the director of special education of the area education agency as a child requiring special education as defined in section 256B.2.

(2) The parent provides proof of compliance with the requirements of subparagraph (1) to the child support recovery unit, if the unit is providing services under chapter 252B, or if the unit is not providing services pursuant to chapter 252B, to the court as the court may direct.

Failure to provide proof of compliance under this subparagraph is grounds for modification of the support order using the uniform child support guidelines and imputing an income to the parent equal to a forty-hour work week at the state minimum wage, unless the parent's education, experience, or actual earnings justify a higher income.

Sec. 12. Section 598.21, subsection 8, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The periodic due date established under a prior order for payment of child support shall not be changed in any modified order under this section, unless the court determines that good cause exists to change the periodic due date. If the court determines that good cause exists, the court shall include the rationale for the change in the modified order and shall address the issue of reconciliation of any payments due or made under a prior order which would result in payment of the child support obligation under both the prior and the modified orders.

Sec. 13. NONPUBLIC ASSISTANCE RECIPIENTS CHILD SUPPORT RECOVERY COSTS - EVALUATION AND RECOMMENDATIONS. The child support recovery unit shall evaluate the costs of services provided by the unit to nonpublic assistance recipients of services and shall submit a report to the general assembly on or before January 1, 1996, which includes recommendations and budget requests for coverage of these costs which are alternatives to payment of any fees by nonpublic assistance recipients of child support. An alternative to payment of fees by nonpublic assistance recipients of child support shall be implemented on or before July 1, 1996.

Sec. 14. IMPLEMENTATION. Sections 1 through 9 of this Act may be implemented by the child support recovery unit and any applicable licensing authority prior to adoption of rules by the licensing authority as required pursuant to section 252J.8. However, a licensing authority shall adopt rules as required by section 252J.8 on or before January 1, 1996.

Approved April 27, 1995

CHAPTER 116

FAMILY INVESTMENT AND RELATED HUMAN SERVICES PROGRAMS - LIMITED BENEFIT PLANS

S.F. 433

AN ACT relating to the family investment program and related human services programs by requiring the department of human services to apply for a federal waiver regarding limited benefit plans and providing applicability provisions.

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

Section 1. WELFARE REFORM. The purpose of this section is to place greater emphasis under the family investment program on participant responsibility by enumerating the consequences of noncompliance and by making the consequences easier to understand. To achieve this purpose the department shall amend the limited benefit plan process for participants as provided in this Act.

1. The department of human services shall submit a waiver request to the United States department of health and human services as necessary to implement the changes in the family investment program under chapter 239 and the job opportunities and basic skills program under chapter 249C, as provided by this section. In addition, the department may submit additional waiver requests to the United States department of agriculture to make changes in the federal food stamp program and to the United States department of health and human services to make changes to the medical assistance program under chapter 249A, as necessary to revise these programs in accordance with any waiver provision implemented pursuant to this section. However, implementation of the additional waiver requests to change the food stamp and medical assistance programs is subject to enactment of legislative approval of the changes.

2. For the purposes of this section unless the context otherwise requires:

a. "Eligible group" means a group of individuals receiving a family investment program grant under chapter 239 and includes individuals whose income is considered by the department under the family investment program.

b. "Jobs opportunities and basic skills program" or "JOBS program" means the job opportunities and basic skills program under chapter 249C.

c. "Limited benefit plan" means a period of time specified in this section in which a participant or members of a participant's eligible group are either eligible for reduced benefits or ineligible for any benefits under the family investment program.

d. "Participant" means a participant in the family investment program under chapter 239 and includes individuals whose income is considered by the department under the family investment program.

3. If a participant responsible for signing and meeting the terms of a family investment agreement, as defined by the director of human services, chooses not to sign or fulfill the

terms of the agreement, the family investment program eligible group, or the individual participant shall enter into a limited benefit plan. A limited benefit plan shall apply for the period of time specified in this section. The first month of the limited benefit plan is the first month after the month in which timely and adequate notice is given to the participant as defined by the director of human services. A participant who is exempt from the JOBS program but who volunteers for the program is not subject to the limited benefit plan. The elements of a limited benefit plan shall be specified in the department's administrative rules.

4. The department shall apply the limited benefit plan to the participants responsible for the family investment agreement and other members of the participant's family as follows:

a. If the participant responsible for the family investment agreement is a parent or needy caretaker relative, for a first limited benefit plan, the family investment program eligible group is eligible for up to three months of benefits based on the needs of the children only. At the end of the three-month period of reduced benefits, the family investment program eligible group becomes ineligible for family investment program benefits for a six-month period. For a second or subsequent limited benefit plan chosen by the same participant a subsequent six-month period of ineligibility applies. If the eligible group reapplies for assistance after the six-month ineligibility period, eligibility shall be established in the same manner as for any other new applicant. A limited benefit plan imposed in error shall not be considered a first limited benefit plan.

b. If the participant choosing a limited benefit plan is a needy relative who acts as payee when the parent is in the home but is unable to act as payee, or is a dependent child's stepparent who is in the family investment program eligible group because of incapacity or caregiving, the limited benefit plan shall apply only to the individual participant choosing the plan. The individual participant choosing the limited benefit plan is ineligible for nine months from the effective date of the limited benefit plan. For a second or subsequent limited benefit plan chosen by the same individual participant, a subsequent six-month period of ineligibility applies.

c. If the family investment program eligible group includes a minor parent living with the minor parent's adult parent who receives family investment program benefits and both the minor parent and the adult parent are responsible for developing a family investment agreement, each parent is responsible for a separate family investment agreement, and the limited benefit plan shall be applied as follows:

(1) If the adult parent chooses the limited benefit plan, the requirements of the limited benefit plan shall apply to the entire eligible group, even though the minor parent has not chosen the limited benefit plan. However, the minor parent may reapply for family investment program benefits as a minor parent living with self-supporting parents and continue in the family investment agreement process.

(2) If the minor parent chooses the limited benefit plan, the requirements of the limited benefit plan shall apply to the minor parent and any child of the minor parent.

d. If the minor parent is the only child in the adult parent's home and the minor parent chooses the limited benefit plan, the adult parent shall remain eligible as long as the adult parent fulfills family investment agreement responsibilities and other family investment program eligibility factors are met. However, the department may adopt administrative rules to prohibit family investment program benefits from being paid to the adult parent in this instance.

e. If the family investment program eligible group includes children who are mandatory JOBS program participants, the children shall not have a separate family investment agreement but shall be asked to sign the eligible group's family investment agreement and to carry out the responsibilities of that family investment agreement. A limited benefit plan shall be applied as follows:

(1) If the parent responsible for a family investment agreement meets those responsibilities but a child who is a mandatory JOBS program participant chooses an individual

limited benefit plan, the family investment program eligible group is eligible for reduced benefits during the child's limited benefit plan. However, the child as part of the eligible group is ineligible for nine months for a first limited benefit plan and six months for a second or subsequent limited benefit plan.

(2) If the child who chooses a limited benefit plan under subparagraph (1) is the only child in the eligible group, the parent or parents shall remain eligible as long as the parent or parents fulfill their family investment agreement responsibilities and other family investment program eligibility requirements are met. However, the department may adopt administrative rules to prohibit family investment program benefits from being paid to the adult parent or parents in this instance.

f. If the family investment program eligible group includes a parent or parents who are exempt from JOBS program participation and children who are mandatory JOBS program participants, the children are responsible for completing a family investment agreement. If a child who is a mandatory JOBS program participant chooses the limited benefit plan, the limited benefit plan shall be applied in the manner provided in paragraph "e".

g. If the family investment program eligible group includes two parents, a limited benefit plan shall be applied as follows:

(1) If only one parent of a child in the eligible group is responsible for a family investment agreement and that parent chooses the limited benefit plan, the limited benefit plan cannot be ended by the voluntary participation in a family investment agreement by the exempt parent. However, the exempt parent may continue to be included in the eligible group's grant during the three-month reduced benefit period by volunteering to participate in the JOBS family investment program-unemployed parent work program. If a second or subsequent limited benefit plan is chosen by either parent, the family investment program eligible group becomes ineligible for a six-month period beginning with the effective date of the limited benefit plan.

(2) If both parents of a child in the eligible group are responsible for a family investment agreement, both are expected to sign the agreement. If either parent chooses the limited benefit plan, the limited benefit plan cannot be ended by the participation of the other parent in a family investment agreement. However, the other parent may continue to be included in the eligible group's grant during the three-month reduced benefit period by participating in the JOBS family investment program-unemployed parent work program. If a second or subsequent limited benefit plan is chosen by either parent, the family investment program eligible group becomes ineligible for a six-month period beginning with the effective date of the limited benefit plan.

(3) If the parents from a two-parent eligible group in a limited benefit plan separate, the limited benefit plan shall follow only the parent who chose the limited benefit plan and any children in the home of that parent.

5. A participant shall be considered to have chosen a limited benefit plan under any of the following circumstances:

a. A participant who does not establish an orientation appointment with the JOBS program or who fails to keep or reschedule an orientation appointment shall receive a reminder letter which informs the participant that those who do not attend orientation have elected to choose the limited benefit plan. A participant who chooses not to respond to the reminder letter within ten calendar days from the mailing date shall receive notice establishing the effective date of the limited benefit plan, the beginning date of the period of reduced benefits, and the beginning and ending dates of the six-month period of ineligibility. Timely and adequate notice provisions, as determined by the director of human services, apply.

b. A participant who chooses not to sign the family investment agreement after attending a JOBS program orientation shall enter into the limited benefit plan as described in paragraph "a".

c. A participant who has signed a family investment agreement but then chooses the limited benefit plan under circumstances defined by the director of human services.

6. A participant who chooses a limited benefit plan may reconsider that choice as follows:

a. A participant who chooses a first limited benefit plan rather than sign a family investment agreement shall have the entire three-month period of reduced benefits following the effective date of the limited benefit plan to reconsider and begin development of the family investment agreement. The participant may contact the department or the appropriate JOBS program office anytime during the first three months of the limited benefit plan to begin the reconsideration process. Although family investment program benefits shall not begin until the participant signs a family investment agreement during the JOBS program orientation and assessment process, retroactive benefits shall be issued as defined by the director of human services. A limited benefit plan imposed in error shall not be considered a first limited benefit plan.

b. A participant who signs a family investment agreement but does not carry out the family investment agreement responsibilities shall be deemed to have chosen a limited benefit plan and shall not be allowed to reconsider that choice.

c. A participant who chooses a second or subsequent limited benefit plan shall not be allowed to reconsider that choice.

7. If a participant has chosen a limited benefit plan, a qualified social services professional shall attempt to visit with the participant to inquire into the eligible group's well-being. The visit shall be performed as an extension of the family investment program and the family investment agreement philosophy of supporting families as they move toward self-sufficiency. The department may contract for these services. The visit shall be made in accordance with the following:

a. For a participant in a first limited benefit plan who has the reconsideration option, a qualified social services professional, as defined by the director of human services, shall inquire into the well-being of the eligible group during month two of the reduced benefit period. If the participant who is responsible for a family investment agreement indicates a desire to develop a family investment agreement, the qualified social services professional shall assist the participant in establishing an appointment with the appropriate JOBS program office.

b. For a participant in a first limited benefit plan who does not enter into the family investment agreement process during the three-month reconsideration period, a qualified social services professional shall make another inquiry as to the well-being of the eligible group during month four of the limited benefit plan.

c. A participant who signs the family investment agreement but does not carry out family investment agreement responsibilities and, consequently, has chosen a first limited benefit plan, shall not be allowed to reconsider that choice. However, a social services professional shall inquire as to the well-being of the eligible group during month four of the limited benefit plan.

d. A participant who has chosen a second or subsequent limited benefit plan shall not be allowed to reconsider that choice. However, a qualified social services professional shall make inquiry into the well-being of the eligible group during month two of the limited benefit plan.

8. A participant only has the right to appeal the establishment of the limited benefit plan once, but for a first limited benefit plan there shall be two opportunities to do so. A participant in a first limited benefit plan has the right to appeal the limited benefit plan at the time the department issues timely and adequate notice establishing the limited benefit plan, or at the time the department issues the subsequent notice that establishes the six-month period of ineligibility. A participant who has chosen a second or subsequent limited benefit plan has the right to appeal only at the time the department issues the timely and adequate notice that establishes the six-month period of ineligibility. However, if the reason for the appeal is based on an incorrect grant computation, an error in determining the eligible group, or another worker error, a hearing shall be granted, regardless of the person's limited benefit plan status.

9. For a participant who is in a limited benefit plan when the rules adopted pursuant to this Act take effect, the terms of the participant's existing limited benefit plan shall continue until that limited benefit plan either ends or is lifted in accordance with previous limited benefit plan policies. A participant who chose a limited benefit plan under the previous policy and who then chooses a limited benefit plan after the rules adopted pursuant to this Act take effect shall be subject to the provisions of a second limited benefit plan unless the prior limited benefit plan was imposed in error.

10. The department shall assess the ramifications of the limited benefit plan on the food stamp program and may adopt changes in administrative rules for that program, if appropriate.

Sec. 2. CONTINGENCY PROVISION - TRANSFER. The waiver request submitted by the department of human services pursuant to section 1 of this Act to the United States department of health and human services shall be to apply the provisions of section 1 statewide. If federal waiver approval of a provision of section 1 of this Act is granted, the department of human services shall implement the provision in accordance with the federal approval. If implementing a provision of this Act is in conflict with a provision of chapter 239 or 249C, notwithstanding that provision in chapter 239 or 249C, the provision of this Act shall be implemented. The department shall propose an amendment in accordance with the provisions of section 2.16 to chapter 239 or 249C to resolve the conflict and to place the provisions of this Act before the public in a statute. The department may transfer moneys appropriated for a waiver provision to another appropriation as deemed necessary by the department if the waiver provision is denied by the federal government.

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. If necessary to conform with federal waiver terms or to efficiently administer the provisions, the rules may apply additional policies and procedures which are consistent with the provisions of section 1 of this Act. 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. APPLICABILITY. The effective date of the waiver provisions in section 1 of this Act granted by the federal government shall be October 1, 1995, or at the beginning of the second month following the month in which the federal government approves the waiver, whichever is later. If federal law is amended to permit the state to initiate any of the provisions of section 1 of this Act without a federal waiver, the department of human services shall proceed to implement the provisions within the time period required by this section.

Approved April 27, 1995

CHAPTER 117

FRANCHISE AGREEMENTS

H.F. 126

AN ACT relating to certain franchise agreements by amending provisions relating to transfer, termination, and nonrenewal of franchise agreements, and to a civil cause of action for appropriate relief, and repealing certain franchise provisions.

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

Section 1. Section 523H.2, Code 1995, is amended to read as follows:

523H.2 APPLICABILITY.

This chapter applies to a new or existing franchise that is operated in the state of Iowa. For purposes of this chapter, the franchise is operated in this state only if the premises from which the franchise is operated is physically located in this state. For purposes of this chapter, a franchise including marketing rights in or to this state, is deemed to be operated in this state only if the franchisee's principal business office is physically located in this state. This chapter does not apply to a franchise solely because an agreement relating to the franchise provides that the agreement is subject to or governed by the laws of this state. The provisions of this chapter do not apply to any existing or future contracts between Iowa franchisors and ~~out-of-state~~ franchisees who operate franchises located out-of-state.

Sec. 2. Section 523H.5, Code 1995, is amended to read as follows:

523H.5 TRANSFER OF FRANCHISE.

1. A franchisee may transfer the franchised business and franchise to a transferee, provided that the transferee satisfies the reasonable current qualifications of the franchisor for new franchisees. For the purposes of this section, a reasonable current qualification for a new franchisee is a qualification based upon a legitimate business reason. If the proposed transferee does not meet the reasonable current qualifications of the franchisor, the franchisor may refuse to permit the transfer, provided that the refusal of the franchisor to consent to the transfer is not arbitrary or capricious ~~when compared to the actions of the franchisor in other similar circumstances~~.

2. Except as otherwise provided in this section, a franchisor may exercise a right of first refusal contained in a franchise agreement after receipt of a proposal from the franchisee to transfer the franchise.

3. A franchisor may require as a condition of a transfer any of the following:

a. That the transferee successfully complete a reasonable training program.

b. That a reasonable transfer fee be paid to reimburse the franchisor for the franchisor's reasonable and actual expenses directly attributable to the transfer.

c. That the franchisee pay or make provision reasonably acceptable to the franchisor to pay any amount due the franchisor or the franchisor's affiliate.

d. That the financial terms of the transfer comply at the time of the transfer with the franchisor's current financial requirements for franchisees.

~~4. A franchisor shall not withhold consent to a franchisee making a public offering of the franchisee's securities without good cause, provided the franchisee or the owners of the franchise retain control of more than fifty percent of the voting power in the franchise.~~

~~5.~~ 4. A franchisee may transfer the franchisee's interest in the franchise, for the unexpired term of the franchise agreement, and a franchisor shall not require the franchisee or the transferee to enter into a new or different franchise agreement as a condition of the transfer.

~~6.~~ 5. A franchisee shall give the franchisor no less than sixty days' written notice of a transfer which is subject to the provisions of this section, and on request from the franchisor shall provide in writing the ownership interests of all persons holding or claiming an equitable or beneficial interest in the franchise subsequent to the transfer or the franchisee, as

appropriate. A franchisee shall not circumvent the intended effect of a contractual provision governing the transfer of the franchise or an interest in the franchise by means of a management agreement, lease, profit-sharing agreement, conditional assignment, or other similar device.

~~7.~~ 6. A franchisor shall not transfer its interest in a franchise unless the franchisor makes reasonable provision for the performance of the franchisor's obligations under the franchise agreement by the transferee. ~~A franchisor shall provide the franchisee notice of a proposed transfer of the franchisor's interest in the franchise at the time the disclosure is required of the franchisor under applicable securities laws, if interests in the franchisor are publicly traded, or if not publicly traded, at the time such disclosure would be required if the interests in the franchisor were publicly traded.~~ For purposes of this subsection, "reasonable provision" means that upon the transfer, the entity assuming the franchisor's obligations has the financial means to perform the franchisor's obligations in the ordinary course of business, but does not mean that the franchisor transferring the franchise is required to guarantee obligations of the underlying franchise agreement.

~~8.~~ 7. A transfer by a franchisee is deemed to be approved sixty days after the franchisee submits the request for consent to the transfer unless the franchisor withholds consent to the transfer as evidenced in writing, specifying the reason or reasons for withholding the consent. The written notice must be delivered to the franchisee prior to the expiration of the sixty-day period. Any such notice is privileged and is not actionable based upon a claim of defamation.

~~9.~~ 8. A franchisor shall not discriminate against a proposed transferee of a franchise on the basis of race, color, national origin, religion, sex, or ~~physical handicap~~ disability.

~~10.~~ 9. A franchisor, as a condition to a transfer of a franchise, shall not obligate a franchisee to undertake obligations or relinquish any rights unrelated to the franchise proposed to be transferred, or to enter into a release of claims broader than a similar release of claims by the franchisor against the franchisee which is entered into by the franchisor.

~~11.~~ 10. A franchisor, after a transfer of a franchise, shall not seek to enforce any covenant of the transferred franchise against the transferor which prohibits the transferor from engaging in any lawful occupation or enterprise. However, this subsection does not prohibit the franchisor from enforcing a contractual covenant against the transferor not to exploit the franchisor's trade secrets or intellectual property rights, unless otherwise agreed to by the parties.

~~12.~~ 11. For purposes of this section, "transfer" means any change in ownership or control of a franchise, franchised business, or a franchisee.

~~13.~~ 12. The following occurrences shall not be considered transfers requiring the consent of the franchisor under a franchise agreement, and shall not result in the imposition of any penalties or make applicable any right of first refusal by the franchisor:

a. The succession of ownership of a franchise upon the death or disability of a franchisee, or of an owner of a franchise, to the ~~franchisee's~~ surviving spouse, ~~child or children~~ heir, or a partner active in the management of the franchisee unless the successor fails to meet within one year the then current reasonable qualifications of the franchisor for franchisees and the enforcement of the reasonable current qualifications is not arbitrary or capricious ~~when compared to actions of the franchisor in other similar circumstances~~.

~~b. The succession of a spouse, child, partner, or other owner as operating manager upon the death or disability of the operating manager, unless the successor fails to meet the then current reasonable qualifications of the franchisor for an operating manager, and enforcement of the reasonable current qualifications is not arbitrary or capricious when compared to actions of the franchisor in other similar circumstances.~~

~~c.~~ b. Incorporation of a proprietorship franchisee, provided that such incorporation does not prohibit a franchisor from requiring a personal guaranty by the franchisee of obligations related to the franchise.

~~d.~~ c. A transfer within an existing ownership group of a franchise provided that more than fifty percent of the franchise is held by persons who meet the franchisor's reasonable current qualifications for franchisees. If less than fifty percent of the franchise would be owned by persons who meet the franchisor's reasonable current qualifications, the franchisor may refuse to authorize the transfer, provided that enforcement of the reasonable current qualifications is not arbitrary or capricious ~~when compared to actions of the franchisor in other similar circumstances~~.

~~e.~~ d. A transfer of less than a controlling interest in the franchise to the franchisee's spouse or child or children, provided that more than fifty percent of the entire franchise is held by those who meet the franchisor's reasonable current qualifications. If less than fifty percent of the franchise would be owned by persons who meet the franchisor's reasonable current qualifications, the franchisor may refuse to authorize the transfer, provided that enforcement of the reasonable current qualifications is not arbitrary or capricious ~~when compared to actions of the franchisor in other similar circumstances~~.

~~f.~~ e. A transfer of less than a controlling interest in the franchise of an employee stock ownership plan, or employee incentive plan, provided that more than fifty percent of the entire franchise is held by those who meet the franchisor's reasonable current qualifications for franchisees. If less than fifty percent would be owned by persons who meet the franchisor's reasonable current qualifications, the franchisor may refuse to authorize the transfer, provided that enforcement of the reasonable current qualifications is not arbitrary or capricious ~~when compared to actions of the franchisor in other similar circumstances~~.

~~g.~~ f. A grant or retention of a security interest in the franchised business or its assets, or an ownership interest in the franchisee, provided the security agreement establishes an obligation on the part of the secured party enforceable by the franchisor to give the franchisor notice of the secured party's intent to foreclose on the collateral simultaneously with notice to the franchisee, and a reasonable opportunity to redeem the interests of the secured party and recover the secured party's interest in the franchise or franchised business by paying the secured obligation.

~~14.~~ 13. A franchisor shall not interfere or attempt to interfere with any disposition of an interest in a franchise or franchised business as described in subsection ~~13~~ 12, paragraphs "a" through ~~"g"~~ "f".

Sec. 3. Section 523H.6, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

523H.6 ENCROACHMENT.

1. If a franchisor develops, or grants to a franchisee the right to develop, a new outlet or location which sells essentially the same goods or services under the same trademark, service mark, trade name, logotype, or other commercial symbol as an existing franchisee and the new outlet or location has an adverse effect on the gross sales of the existing franchisee's outlet or location, the existing adversely affected franchisee has a cause of action for monetary damages in an amount calculated pursuant to subsection 3, unless any of the following apply:

a. The franchisor has first offered the new outlet or location to the existing franchisee on the same basic terms and conditions available to the other potential franchisee, or, if the new outlet or location is to be owned by the franchisor, on the terms and conditions that would ordinarily be offered to a franchisee for a similarly situated outlet or location.

b. The adverse impact on the existing franchisee's annual gross sales, based on a comparison to the annual gross sales from the existing outlet or location during the twelve-month period immediately preceding the opening of the new outlet or location, is determined to have been less than five percent during the first twelve months of operation of the new outlet or location.

c. The existing franchisee, at the time the franchisor develops, or grants to a franchisee the right to develop, a new outlet or location is not in compliance with the franchisor's

then current reasonable criteria for eligibility for a new franchise. A franchisee determined to be ineligible pursuant to this paragraph shall be afforded the opportunity to seek compensation pursuant to the formal procedure established under paragraph "d", subparagraph (2). Such procedure shall be the franchisee's exclusive remedy.

d. The franchisor has established both of the following:

(1) A formal procedure for hearing and acting upon claims by an existing franchisee with regard to a decision by the franchisor to develop, or grant to a franchisee the right to develop, a new outlet or location, prior to the opening of the new outlet or location.

(2) A reasonable formal procedure for awarding compensation or other form of consideration to a franchisee to offset all or a portion of the franchisee's lost profits caused by the establishment of the new outlet or location. The procedure shall involve, at the option of the franchisee, one of the following:

(a) A panel, comprised of an equal number of members selected by the franchisee and the franchisor, and one additional member to be selected unanimously by the members selected by the franchisee and the franchisor.

(b) A neutral third-party mediator or an arbitrator with the authority to make a decision or award in accordance with the formal procedure. The procedure shall be deemed reasonable if approved by a majority of the franchisor's franchisees in the United States, either individually or by an elected representative body.

(c) Arbitration of any dispute before neutral arbitrators pursuant to the rules of the American arbitration association. The award of an arbitrator pursuant to this subparagraph subdivision is subject to judicial review pursuant to chapter 679A.

2. A franchisor shall establish and make available to its franchisees a written policy setting forth its reasonable criteria to be used by the franchisor to determine whether an existing franchisee is eligible for a franchise for an additional outlet or location.

3. a. In establishing damages under a cause of action brought pursuant to this section, the franchisee has the burden of proving the amount of lost profits attributable to the compensable sales. In any action brought under this section, the damages payable shall be limited to no more than three years of the proven lost profits. For purposes of this subsection, "compensable sales" means the annual gross sales from the existing outlet or location during the twelve-month period immediately preceding the opening of the new outlet or location less both of the following:

(1) Five percent.

(2) The actual gross sales from the operation of the existing outlet or location for the twelve-month period immediately following the opening of the new outlet or location.

b. Compensable sales shall exclude any amount attributable to factors other than the opening and operation of the new outlet or location.

4. Any cause of action brought under this section must be filed within eighteen months of the opening of the new outlet or location or within three months after the completion of the procedure under subsection 1, paragraph "d", subparagraph (2), whichever is later.

5. Upon petition by the franchisor or the franchisee, the district court may grant a permanent or preliminary injunction to prevent injury or threatened injury for a violation of this section or to preserve the status quo pending the outcome of the formal procedure under subsection 1, paragraph "d", subparagraph (2).

Sec. 4. Section 523H.7, Code 1995, is amended to read as follows:

523H.7 TERMINATION.

1. Except as otherwise provided by this chapter, a franchisor shall not terminate a franchise prior to the expiration of its term except for good cause. For purposes of this section, "good cause" is cause based upon a legitimate business reason. "Good cause" includes the failure of the franchisee to comply with any material lawful requirement of the franchise agreement, provided that the termination by the franchisor is not arbitrary or capricious when compared to the actions of the franchisor in other similar circumstances. <u>The burden of proof of showing that action of the franchisor is arbitrary or capricious shall rest with the franchisee.</u>

2. Prior to termination of a franchise for good cause, a franchisor shall provide a franchisee with written notice stating the basis for the proposed termination. After service of written notice, the franchisee shall have a reasonable period of time to cure the default, which in no event shall be less than thirty days or more than ninety days. In the event of nonpayment of moneys due under the franchise agreement, the period to cure need not exceed thirty days.

3. Notwithstanding subsection 2, a franchisor may terminate a franchisee upon written notice and without an opportunity to cure if any of the following apply:

a. The franchisee or the business to which the franchise relates is declared bankrupt or judicially determined to be insolvent.

b. All or a substantial part of the assets of the franchise or the business to which the franchisee relates are assigned to or for the benefit of any creditor which is subject to chapter 681. An assignment for the benefit of any creditor pursuant to this paragraph does not include the granting of a security interest in the normal course of business.

~~b.~~ c. The franchisee voluntarily abandons the franchise by failing to operate the business for five consecutive business days during which the franchisee is required to operate the business under the terms of the franchise, or any shorter period after which it is not unreasonable under the facts and circumstances for the franchisor to conclude that the franchisee does not intend to continue to operate the franchise, unless the failure to operate is due to circumstances beyond the control of the franchisee.

~~c.~~ d. The franchisor and franchisee agree in writing to terminate the franchise.

~~d.~~ e. The franchisee knowingly makes any material misrepresentations or knowingly omits to state any material facts relating to the acquisition or ownership or operation of the franchise business.

~~e.~~ f. ~~The franchisee repeatedly fails to comply with the same material provision of a franchise agreement, when the enforcement of the material provision by the franchisor is not arbitrary or capricious when compared to the franchisor in other similar circumstances.~~ After three material breaches of a franchise agreement occurring within a twelve-month period, for which the franchisee has been given notice and an opportunity to cure, the franchisor may terminate upon any subsequent material breach within the twelve-month period without providing an opportunity to cure, provided that the action is not arbitrary and capricious.

~~f.~~ g. The franchised business or business premises of the franchisee are lawfully seized, taken over, or foreclosed by a government authority or official.

~~g.~~ h. The franchisee is convicted of a felony or any other criminal misconduct which materially and adversely affects the operation, maintenance, or goodwill of the franchise in the relevant market.

~~h.~~ i. The franchisee operates the franchised business in a manner that imminently endangers the public health and safety.

Sec. 5. Section 523H.8, Code 1995, is amended to read as follows:

523H.8 NONRENEWAL OF A FRANCHISE.

1. A franchisor shall not refuse to renew a franchise unless both of the following apply:

~~1.~~ a. The franchisee has been notified of the franchisor's intent not to renew at least six months prior to the expiration date or any extension of the franchise agreement.

~~2.~~ b. Any of the following circumstances exist:

~~a.~~ (1) Good cause exists ~~as defined in section 523H.7~~, provided that the refusal of the franchisor to renew is not arbitrary or capricious ~~when compared to the actions of the franchisor in other similar circumstances~~. For purposes of this section, "good cause" means cause based on a legitimate business reason.

~~b.~~ (2) The franchisor and franchisee agree not to renew the franchise~~, provided that upon the expiration of the franchise, the franchisor agrees not to seek to enforce any covenant of the nonrenewed franchise not to compete with the franchisor or franchisees of the franchisor~~.

~~e.~~ (3) The franchisor completely withdraws from directly or indirectly distributing its products or services in the geographic market served by the franchisee, provided that upon expiration of the franchise, the franchisor agrees not to seek to enforce any covenant of the nonrenewed franchisee not to compete with the franchisor or franchisees of the franchisor.

2. As a condition of renewal of the franchise, a franchise agreement may require that the franchisee meet the then current requirements for franchises and that the franchisee execute a new agreement incorporating the then current terms and fees for new franchises.

Sec. 6. Section 523H.11, Code 1995, is amended to read as follows:

523H.11 REPURCHASE OF ASSETS.

A franchisor shall not prohibit a franchisee from, or enforce a prohibition against a franchisee, engaging in any lawful business at any location after a termination or refusal to renew by a franchisor, unless it is one which relies on a substantially similar marketing program as the terminated or nonrenewed franchise or unless the franchisor offers in writing no later than ten business days before expiration of the franchise to purchase the assets of the franchised business for its fair market value as a going concern. The value of the assets shall not include the goodwill of the business attributable to the trademark licensed to the franchisee in the franchise agreement. The offer may be conditioned upon the ascertainment of a fair market value by an impartial appraiser. This section does not apply to assets of the franchised business which the franchisee did not purchase from the franchisor, or the agent of the franchisor.

Approved April 29, 1995

CHAPTER 118

MOTOR VEHICLE AND HIGHWAY REGULATION

S.F. 290

AN ACT relating to motor vehicle and highway regulation by the state department of transportation concerning retention of records and documents, registration plates and stickers, dissolution decree transfers of motor vehicle titles, junking certificates for abandoned vehicles, flashing blue lights, flashing warning lamps on a school bus, motorcycle license requirements, leased motor vehicles, proof of financial responsibility, charges for handicapped identification devices, single state registration for motor carriers, commodity base state registration, other technical changes, and providing effective and applicability dates.

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

Section 1. Section 321.1, subsection 11, paragraph d, subparagraph (1), Code 1995, is amended to read as follows:

(1) The combination of vehicles has a gross combination weight rating of twenty-six thousand one or more pounds provided the towed vehicle ~~has a gross vehicle~~ or vehicles have a gross weight rating or gross combination weight rating of ten thousand one or more pounds.

Sec. 2. Section 321.1, subsection 76, Code 1995, is amended to read as follows:

76. ~~A "special~~ "Special truck" means a motor truck or truck tractor not used for hire

with a gross weight registration of six through thirty-two tons used by a person engaged in farming to transport commodities produced only by the owner, or to transport commodities purchased by the owner for use in the owner's own farming operation or occasional use for charitable purposes. "Special truck" also means a motor truck or truck tractor not used for hire with a gross weight registration of six through thirty-two tons used by a person engaged in farming who assists another person engaged in farming through an exchange of services. A "special truck" does not include a truck tractor operated more than seventy-five hundred miles annually.

Sec. 3. Section 321.13, Code 1995, is amended to read as follows:

321.13 AUTHORITY TO GRANT OR REFUSE APPLICATIONS.

The department shall examine and determine the genuineness, regularity, and legality of every application ~~lawfully~~ made to the department, and may ~~in all cases make investigation as may be deemed necessary~~ investigate or require additional information~~, and shall~~. The department may reject any ~~such~~ application if not satisfied of the genuineness, regularity, or legality ~~thereof~~ of the application or the truth of any statement ~~contained therein~~ made within the application, or for any other reason, when authorized by law. The department may retain possession of any record or document until the investigation of the application is completed if it appears that the record or document is fictitious or unlawfully or erroneously issued and shall not return the record or document if it is determined to be fictitious or unlawfully or erroneously issued.

Sec. 4. Section 321.18, subsection 7, Code 1995, is amended to read as follows:

7. Any school bus in this state used exclusively for the transportation of pupils to and from school or a school function or for the purposes provided in section 285.1, subsection 1, and section 285.10, subsection 9, or used exclusively for the transportation of children enrolled in a federal head start program. Upon application the department shall, without charge, issue a registration certificate and shall also issue registration plates which shall have imprinted thereon the words "Private School Bus" and a distinguishing number assigned to the applicant. Such plates shall be attached to the front and rear of each bus exempt from registration under this subsection.

Sec. 5. Section 321.19, subsection 1, unnumbered paragraph 2, Code 1995, is amended to read as follows:

The department shall furnish, on application, free of charge, distinguishing plates for vehicles thus exempted, which plates except plates on Iowa highway safety patrol vehicles shall bear the word "official" and the department shall keep a separate record. Registration plates issued for Iowa highway safety patrol vehicles, except unmarked patrol vehicles, shall bear two red stars on a yellow background, one before and one following the registration number on the plate, which registration number shall be the officer's badge number. Registration plates issued for a county sheriff's patrol vehicles shall display one seven-pointed gold star ~~on a green background~~ followed by the letter "S" and the call number of the vehicle. However, the director of general services or the director of transportation may order the issuance of regular registration plates for any exempted vehicle used by peace officers in the enforcement of the law, persons enforcing chapter 124 and other laws relating to controlled substances, persons in the department of justice and the department of inspections and appeals who are regularly assigned to conduct investigations which cannot reasonably be conducted with a vehicle displaying "official" state registration plates, and persons in the lottery division of the department of revenue and finance whose regularly assigned duties relating to security or the carrying of lottery tickets cannot reasonably be conducted with a vehicle displaying "official" registration plates. For purposes of sale of exempted vehicles, the exempted governmental body, upon the sale of the exempted vehicle, may issue for in-transit purposes a pasteboard card bearing the words "Vehicle in Transit", the name of the official body from which the vehicle was

purchased, together with the date of the purchase plainly marked in at least one-inch letters, and other information required by the department. The in-transit card is valid for use only within forty-eight hours after the purchase date as indicated on the bill of sale which shall be carried by the driver.

Sec. 6. NEW SECTION. 321.20A CERTIFICATE OF TITLE - COMMERCIAL MOTOR VEHICLES.

1. Notwithstanding other provisions of this chapter, the owner of a commercial motor vehicle with a gross vehicle weight rating of twenty-six thousand one pounds or more, subject to the proportional registration provisions of chapter 326, may make application to the department for a certificate of title. The application for certificate of title shall be made within fifteen days of purchase or transfer and accompanied by a ten dollar title fee and appropriate use tax.

2. A commercial motor vehicle issued a certificate of title under this section shall not be subject to registration fees until the commercial motor vehicle is driven upon the highways. The registration fee due shall be prorated for the remaining unexpired months of the registration year. Ownership of a commercial motor vehicle issued a certificate of title under this section shall not be transferred until registration fees have been paid to the department.

3. The certificate of title provision for commercial motor vehicles with a gross vehicle weight rating of twenty-six thousand one pounds or more shall apply to owners with fleets of more than fifty commercial motor vehicles based in Iowa under the proportional registration provisions of chapter 326. The original certificate of title shall be delivered to the owner if no security interest or encumbrance appear on the certificate, otherwise the certificate of title shall be delivered by the department to the person holding the first security interest or encumbrance as shown on the certificate of title.

Sec. 7. Section 321.34, subsection 2, Code 1995, is amended to read as follows:

2. VALIDATION STICKERS. In lieu of issuing new registration plates each registration year for a vehicle renewing registration, the department may reassign the registration plates previously issued to the vehicle and may adopt and prescribe an annual validation ~~stickers~~ sticker indicating payment of registration fees. The department shall issue ~~two~~ one validation ~~stickers~~ sticker for each set of registration plates. ~~One~~ The sticker shall specify the month and year of expiration of the registration ~~period~~ plates. ~~The second sticker shall specify the month of expiration of the registration period and need not be reissued annually. The month of registration shall not be required on registration plates or validation stickers issued for vehicles registered under chapter 326.~~ The ~~stickers~~ sticker shall be displayed only on the rear registration plate, except that the ~~stickers~~ sticker shall be displayed on the front registration plate of a truck-tractor.

The state department of transportation shall ~~promulgate~~ adopt rules to provide for the placement of the motor vehicle registration validation ~~stickers on all registration plates issued for the motor vehicle when such validation stickers are issued in lieu of issuing new registration plates under the provisions of this section~~ sticker.

Sec. 8. Section 321.34, subsection 4, Code 1995, is amended to read as follows:

4. MULTIYEAR PLATES. In lieu of issuing annual registration plates for trailers and semitrailers, the department may issue a multiyear registration ~~plates~~ plate for a three-year period or a ~~six-year period~~ permanent registration plate for trailers and semitrailers licensed under chapter 326 upon payment of the appropriate registration fee. Payment of fees to the department for a permanent registration plate shall, at the option of the registrant, be made at five-year intervals or on an annual basis. Fees from three-year and ~~six-year~~ five-year payments shall not be reduced or prorated.

Sec. 9. Section 321.34, subsection 7, Code 1995, is amended to read as follows:

7. HANDICAPPED PLATES. The owner of a motor vehicle subject to registration

pursuant to section 321.109, subsection 1, light delivery truck, panel delivery truck, or pickup, who is a handicapped person, or who is the parent or guardian of a child who resides with the parent or guardian owner and who is a handicapped person, as defined in section 321L.1, may, upon written application to the department, order handicapped registration plates designed by the department bearing the international symbol of accessibility. The handicapped registration plates shall only be issued if the application is accompanied with a statement from a physician licensed under chapter 148, 149, 150, or 150A, or a chiropractor licensed under chapter 151, written on the physician's or chiropractor's stationery, stating the nature of the applicant's or the applicant's child's handicap and such additional information as required by rules adopted by the department, including proof of residency of a child who is a handicapped person. If the application is approved by the department the handicapped registration plates shall be issued to the applicant in exchange for the previous registration plates issued to the person. ~~The fee for the handicapped plates is five dollars which is in addition to the regular annual registration fee.~~ The department shall validate the handicapped plates in the same manner as regular registration plates are validated under this section at the regular annual registration fee. However, the handicapped plates shall not be renewed without the applicant furnishing evidence to the department that the owner of the motor vehicle or the owner's child is still a handicapped person as defined in section 321L.1, unless the applicant has previously provided satisfactory evidence to the department that the owner of the vehicle or the owner's child is permanently handicapped in which case the furnishing of additional evidence shall not be required for renewal. However, an owner who has a child who is a handicapped person shall provide satisfactory evidence to the department that the handicapped child continues to reside with the owner. The handicapped registration plates shall be surrendered in exchange for regular registration plates when the owner of the motor vehicle or the owner's child no longer qualifies as a handicapped person as defined in section 321L.1 or when the owner's child who is a handicapped person no longer resides with the owner.

Sec. 10. Section 321.35, Code 1995, is amended to read as follows:

321.35 PLATES - REFLECTIVE MATERIAL - BID PROCEDURES.

All motor vehicle registration plates shall be treated with a reflective material according to specifications ~~prescribed~~ proposed by the director and approved by the commission.

The department shall not enter into any contract requiring an expenditure of at least five hundred thousand dollars for the manufacture of motor vehicle registration plates to be reissued to owners under this chapter unless competitive bidding procedures as provided in chapter 18 are followed.

Sec. 11. Section 321.47, unnumbered paragraph 1, Code 1995, is amended to read as follows:

~~In the event of the transfer of~~ If ownership of a vehicle is transferred by operation of law ~~as~~ upon inheritance, devise or bequest, dissolution decree, order in bankruptcy, insolvency, replevin, foreclosure or execution sale, abandoned vehicle sale, or when the engine of a motor vehicle is replaced by another engine, or a vehicle is sold or transferred to satisfy an artisan's lien as provided in chapter 577, a landlord's lien as provided in chapter 570, a storage lien as provided in chapter 579, a judgment in an action for abandonment of a mobile home as provided in chapter 555B, or repossession is had upon default in performance of the terms of a security agreement, the county treasurer in the transferee's county of residence, upon the surrender of the prior certificate of title or the manufacturer's or importer's certificate, or when that is not possible, upon presentation of satisfactory proof to the county treasurer of ownership and right of possession to the vehicle and upon payment of a fee of ten dollars and the presentation of an application for registration and certificate of title, may issue to the applicant a registration card for the vehicle and a certificate of title to ~~it~~ the vehicle. A person entitled to ownership of a vehicle under a decree of dissolution shall surrender a certified copy of the dissolution and upon fulfilling

the other requirements of this chapter is entitled to a certificate of title and registration receipt issued in the person's name.

PARAGRAPH DIVIDED. The persons entitled under the laws of descent and distribution of an intestate's property to the possession and ownership of a vehicle owned in whole or in part by a decedent, upon filing an affidavit stating the name and date of death of the decedent, the right to possession and ownership of the persons filing the affidavit, and that there has been no administration of the decedent's estate, which instrument shall also contain an agreement to indemnify creditors of the decedent who would be entitled to levy execution upon the motor vehicle to the extent of the value of the motor vehicle, are entitled upon fulfilling the other requirements of this chapter, to the issuance of a registration card for the interest of the decedent in the vehicle and a certificate of title to it. If a decedent dies testate, and either the will is not probated or is admitted to probate without administration, the persons entitled to the possession and ownership of a vehicle owned in whole or in part by the decedent may file an affidavit, and upon fulfilling the other requirements of this chapter, are entitled to the issuance of a registration card for the interest of the decedent in the vehicle and a certificate of title to the vehicle. The affidavit shall contain the same information and indemnity agreement as is required in cases of intestacy pursuant to this section. No requirement of chapter 450 or 451 shall be considered satisfied by the filing of the affidavit provided for in this section. If, from the records in the office of the county treasurer, there appear to be any liens on the vehicle, the certificate of title shall contain a statement of the liens unless the application is accompanied by proper evidence of their satisfaction or extinction. Evidence of extinction may consist of, but is not limited to, an affidavit of the applicant stating that a security interest was foreclosed as provided in ~~Uniform Commercial Code,~~ chapter 554, article 9, part 5.

Sec. 12. Section 321.52A, Code 1995, is amended to read as follows:

321.52A CERTIFICATE OF TITLE SURCHARGE.

In addition to the fee required for the issuance of a certificate of title under section 321.20, 321.20A, 321.23, 321.42, 321.46, 321.47, 321.48, 321.50, or 321.52, a surcharge of five dollars shall be required. Of each surcharge collected under those sections, the county treasurer shall remit five dollars to the office of treasurer of state for deposit in the general fund of the state.

Sec. 13. Section 321.89, subsection 4, unnumbered paragraph 1, Code 1995, is amended to read as follows:

If an abandoned vehicle has not been reclaimed as provided for in subsection 3, the police authority shall make a determination as to whether or not the vehicle shall be sold for use upon the highways. If the vehicle is not sold for use upon the highways, it shall be sold for junk, or demolished and sold as scrap. The police authority shall sell the vehicle at public auction. Notwithstanding any other provision of this section, any police authority, which has taken into possession any abandoned vehicle which lacks an engine or two or more wheels or another part which renders the vehicle totally inoperable may dispose of the vehicle to a demolisher for junk after complying with the notification procedures enumerated in subsection 3 and without public auction. The purchaser of the vehicle takes title free and clear of all liens and claims of ownership, shall receive a sales receipt from the police authority, and is entitled to register the vehicle and receive a certificate of title if sold for use upon the highways. ~~However, if~~ If the vehicle is sold or disposed of to a demolisher for junk, the ~~sales receipt by itself is sufficient title only for purposes of transferring the vehicle to the demolisher for demolition, wrecking, or dismantling and, when so transferred, no further titling of the vehicle is permitted~~ demolisher shall make application for a junking certificate to the county treasurer within fifteen days of purchase and shall surrender the sales receipt in lieu of the certificate of title.

PARAGRAPH DIVIDED. From the proceeds of the sale of an abandoned vehicle the police authority shall reimburse itself for the expenses of the auction, the costs of towing,

preserving, and storing which resulted from placing the abandoned vehicle in custody, all notice and publication costs incurred pursuant to subsection 3, the cost of inspection, and any other costs incurred except costs of bookkeeping and other administrative costs. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lienholder for ninety days, and shall then be deposited in the road use tax fund. The costs to police authorities of auction, towing, preserving, storage, and all notice and publication costs, and all other costs which result from placing abandoned vehicles in custody, whenever the proceeds from a sale of the abandoned vehicles are insufficient to meet these expenses and costs, shall be paid from the road use tax fund.

Sec. 14. Section 321.90, subsection 2, paragraphs d, e, and f, Code 1995, are amended to read as follows:

d. If the abandoned motor vehicle is not reclaimed in accordance with section 321.89, subsection 3, or no lienholder objects to the disposal in the case of an owner-applicant, the police authority shall give the applicant a certificate of authority ~~to dispose of~~ allowing the applicant to obtain a junking certificate for the motor vehicle ~~to any demolisher for demolition, wrecking, or dismantling~~. The ~~demolisher~~ applicant shall make application for a junking certificate to the county treasurer within fifteen days of purchase and surrender the certificate of authority in lieu of the certificate of title. The demolisher shall accept ~~such~~ the junking certificate in lieu of the certificate of title to the motor vehicle.

e. Notwithstanding any other provisions of this section and sections 321.89 and 321.91, any person, firm, corporation, or unit of government upon whose property or in whose possession is found any abandoned motor vehicle, or any person being the owner of a motor vehicle whose title certificate is faulty, lost, or destroyed, may dispose of such motor vehicle to a demolisher for junk without a title and without the notification procedures of section 321.89, subsection 3, if the motor vehicle lacks an engine or two or more wheels or other structural part which renders the vehicle totally inoperable. The police authority shall give the applicant a certificate of authority. The owner shall apply to the county treasurer for a junking certificate within fifteen days of purchase and shall surrender the certificate of authority in lieu of the certificate of title.

f. The owner of an abandoned motor vehicle and all lienholders shall no longer have any right, title, claim, or interest in or to ~~such~~ the motor vehicle; and no court in any case in law or equity shall recognize any right, title, claim, or interest of any ~~such~~ owner ~~and~~ or lienholders after the disposal of ~~such~~ the motor vehicle to a demolisher.

Sec. 15. Section 321.90, subsection 3, Code 1995, is amended to read as follows:

3. DUTIES OF DEMOLISHERS.

a. Any demolisher who purchases or otherwise acquires an abandoned motor vehicle for junk under the provisions of this section shall junk, scrap, wreck, dismantle, or demolish such motor vehicle. ~~However, if the vehicle is acquired under the provisions of subsection 2, paragraph "e", the demolisher shall apply to the police authority of the jurisdiction from which the vehicle was acquired for a certificate of authority to demolish the vehicle. In making the application the demolisher shall describe the motor vehicle as required by subsection 2, paragraph "b". The police authority shall issue the certificate of authority upon complying with subsection 2, paragraph "e", but shall be excused from following the notification procedures as required therein. No further titling of the motor vehicle shall be permitted. After the motor vehicle has been demolished, processed, or changed so that it physically is no longer a motor vehicle, the demolisher shall surrender the auction sales receipt or certificate of authority to dispose of or demolish a motor vehicle to the department for cancellation. The department shall issue such forms and rules governing the surrender of auction sales receipts, certificates of title, and certificates of authority to dispose of or demolish motor vehicles, and the cancellation and surrender of the registrations and certificates of title for such motor vehicles as are appropriate.~~ A demolisher shall not junk, scrap, wreck, dismantle, or demolish a vehicle until the demolisher has obtained the junking certificate issued for the vehicle.

b. A demolisher shall keep an accurate and complete record of all motor vehicles purchased or received by the demolisher in the course of the demolisher's business. These records shall contain the name and address of the person from whom each ~~such~~ motor vehicle was purchased or received and the date when ~~such~~ the purchases or receipts occurred. ~~Such~~ The records shall be open for inspection by any police authority at any time during normal business hours. Any record required by this section shall be kept by the demolisher for at least one year after the transaction to which it applies.

Sec. 16. Section 321.105, unnumbered paragraph 4, Code 1995, is amended to read as follows:

In addition to the payment of an annual registration fee for each trailer and semitrailer to be issued an ~~Iowa~~ annual registration plate, an additional registration fee may be paid for a period of two or ~~five~~ four subsequent registration years.

Sec. 17. Section 321.122, subsection 2, Code 1995, is amended to read as follows:

2. a. For semitrailers the annual registration fee is ten dollars which shall not be reduced or prorated under chapter 326. ~~However, if the registration fee is paid for a six-year period, the total fee is fifty dollars which shall not be reduced or prorated under chapter 326.~~

b. For trailers and semitrailers licensed under chapter 326, the annual registration fee for the permanent registration plate shall be ten dollars which shall not be reduced or prorated under chapter 326. The registration fees for a permanent registration plate shall, at the option of the registrant, be remitted to the department at five-year intervals or on an annual basis.

Sec. 18. Section 321.123, subsection 1, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Travel trailers and fifth-wheel travel trailers, except those in manufacturer's or dealer's stock, an annual fee of twenty cents per square foot of floor space computed on the exterior overall measurements, but excluding three feet occupied by any trailer hitch as provided by and certified to by the owner, to the nearest whole dollar, which amount shall not be prorated or refunded; except the annual fee for travel trailers of any type, when registered in Iowa for the first time or when removed from a manufacturer's or dealer's stock, shall be prorated on a monthly basis. ~~The registrant of a travel trailer of any type shall be issued a "travel trailer" plate.~~ It is further provided the annual fee thus computed shall be limited to seventy-five percent of the full fee after the vehicle is more than six model years old.

Sec. 19. Section 321.126, subsection 6, unnumbered paragraph 1, Code 1995, is amended to read as follows:

If a vehicle is sold or junked, the owner in whose name the vehicle was registered may make claim to the county treasurer or department for a refund of the sold or junked vehicle's registration fee. Also if the owner of a vehicle receives a vehicle registration fee credit under section 321.46, subsection 3, and the credit allowed exceeds the amount of the registration fee for the vehicle acquired, the owner may claim a refund for the balance of the credit. The refund is subject to the following limitations:

Sec. 20. Section 321.166, subsection 7, Code 1995, is amended to read as follows:

7. The year and month of expiration of registration, which may be abbreviated, shall be displayed on vehicle registration plates issued by the county treasurer. A distinctive emblem or validation sticker may be prescribed by the department to designate the year and month of expiration ~~which shall be attached to the embossed area on the plate located at the lower corners of the registration plate~~. The year and month of expiration shall not be required to be displayed on plates issued under section 321.19.

Sec. 21. Section 321.182, subsection 2, Code 1995, is amended to read as follows:

2. Surrender all other motor vehicle licenses and nonoperator's identification cards.

Sec. 22. Section 321.189, subsection 7, paragraphs a and b, Code 1995, are amended to read as follows:

a. An operator who has been issued a class M license prior to ~~July 1, 1994~~ May 1, 1997.

b. An operator who is renewing the operator's class M license issued prior to ~~July 1, 1994~~ May 1, 1997.

Sec. 23. NEW SECTION. 321.253B METRIC SIGNS RESTRICTED.

The department shall not place a sign relating to a speed limit, distance, or measurement on a highway if the sign establishes the speed limit, distance, or measurement solely by using the metric system, unless specifically required by federal law.

Sec. 24. Section 321.372, subsection 1, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The driver of a school bus used to transport children to and from a public or private school shall, when stopping to receive or discharge pupils, turn on flashing warning lamps at a distance of not less than three hundred feet nor more than five hundred feet from the point where the pupils are to be received or discharged from the bus if the speed limit at that point is forty-five miles per hour or greater and shall turn on flashing warning lamps at a distance of not less than one hundred fifty feet from the point where the pupils are to be received or discharged from the bus if the speed limit at that point is less than forty-five miles per hour. At the point of receiving or discharging pupils the driver of the bus shall bring the bus to a stop, turn off the amber flashing warning lamps, turn on the red flashing warning lamps, and extend the stop arm. After receiving or discharging pupils, the bus driver shall turn off all flashing warning lamps, retract the stop arm and proceed on the route. Except to the extent that reduced visibility is caused by fog, snow or other weather conditions, a school bus shall not stop to receive or discharge pupils unless there is at least three hundred feet of unobstructed vision in each direction. However, the driver of a school bus is not required to use flashing warning lamps and the stop arm when receiving or discharging pupils at a designated loading and unloading zone at a school attendance center or at extracurricular or educational activity locations where students exiting the bus do not have to cross the street or highway.

Sec. 25. Section 321.423, subsections 3 and 4, Code 1995, are amended to read as follows:

3. BLUE LIGHT. A blue light shall not be used on any vehicle except for the following:

a. A vehicle owned or exclusively operated by a fire department~~; or~~.

b. A vehicle authorized by the ~~director when:~~ chief of the fire department if

~~(1)~~ ~~The~~ the vehicle is owned by a member of a the fire department~~.~~

~~(2)~~ ~~The~~, the request for authorization is made by the member on forms provided by the department~~.~~

~~(3)~~ ~~Necessity~~, and necessity for authorization is demonstrated in the request.

~~(4) The chief of the fire department certifies that the member is in good standing with the fire department and recommends that the authorization be granted.~~

4. EXPIRATION OF AUTHORITY. The authorization shall expire at midnight on the thirty-first day of December five years from the year in which it was issued, or when the vehicle is no longer owned by the member, or when the member has ceased to be an active member of the fire department or of an ambulance, rescue, or first responder service or when the member has used the blue or white light beyond the scope of its authorized use. A person issued an authorization under subsection 3, paragraph "b", shall return the authorization to the fire chief upon expiration or upon a determination by the fire chief or the department that the authorization should be revoked.

Sec. 26. Section 321.463, Code 1995, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 2:

NEW UNNUMBERED PARAGRAPH. Notwithstanding other provisions of this chapter

to the contrary, indivisible loads operating under the permit requirements of sections 321E.7, 321E.8, and 321E.9 shall be allowed a maximum of twenty thousand pounds per axle.

Sec. 27. Section 321.484, unnumbered paragraph 2, Code 1995, is amended to read as follows:

The owner of a vehicle shall not be held responsible for a violation of a provision regulating the stopping, standing, or parking of a vehicle, whether the provision is contained in this chapter, or chapter 321L, or an ordinance or other regulation or rule, if the owner establishes that at the time of the violation the vehicle was in the custody of an identified person other than the owner pursuant to a lease as defined in chapter 321F. The furnishing to the clerk of the district court where the charge is pending of a copy of the ~~certificate of responsibility~~ lease prescribed by section 321F.6 that was in effect for the vehicle at the time of the alleged violation shall be prima facie evidence that the vehicle was in the custody of an identified person other than the owner within the meaning of this paragraph, and the charge against the owner shall be dismissed. The clerk of the district court then shall cause a uniform citation and complaint to be issued against the lessee of the vehicle, and the citation shall be served upon the defendant by ordinary mail directed to the defendant at the address shown in the certificate of responsibility.

Sec. 28. Section 321E.11, unnumbered paragraph 1, Code 1995, 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 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~~ those highways designated ~~highway system~~ by the department. Additional safety lighting and escorts may be required for movement at night.

Sec. 29. Section 321F.6, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

321F.6 FINANCIAL RESPONSIBILITY – LEASE.

The lessee shall carry in the vehicle being leased, evidence of financial responsibility as required by this chapter and a copy of the lease, setting forth the name and address of the lessee, period of the lease, and other information as the director may require. The lease shall be shown to any peace officer upon request.

Sec. 30. Section 321L.2, subsection 3, Code 1995, is amended to read as follows:

3. Each handicapped identification device shall be acquired by ~~the department and sold at a cost not to exceed five dollars, to~~ handicapped persons upon application on forms prescribed by the department. Before delivering a handicapped identification device to a handicapped person the department shall permanently affix to the device a unique number which may be used by the department to identify the individual to whom the device is issued. A temporary handicapped identification hanging device shall have the expiration date permanently affixed to the device. Expiration dates and identification numbers affixed to handicapped identification hanging devices shall be of sufficient size to be readable from outside the vehicle.

A handicapped person who owns a motor vehicle for which the handicapped person has been issued radio operator registration plates under section 321.34, subsection 3, or registration plates as a seriously disabled veteran under section 321.105 may apply to the department for a handicapped identification sticker to be affixed to the plates. The handicapped identification stickers shall bear the international symbol of accessibility. The handicapped identification stickers shall be acquired by ~~the department and sold at a cost not to exceed five dollars, to~~ eligible handicapped persons upon application on forms prescribed by the department.

Sec. 31. Section 327B.1, Code 1995, is amended to read as follows:

327B.1 AUTHORITY SECURED AND REGISTERED.

It is unlawful for a carrier to perform an interstate transportation service for compensation upon the highways of this state without first registering the authority obtained from the interstate commerce commission or evidence that such authority is not required with the state department of transportation.

The department shall participate in the single state insurance registration program for regulated motor carriers as provided in 49 U.S.C. § 11506 and interstate commerce commission regulations.

Registration for carriers transporting commodities exempt from interstate commerce commission regulation shall be granted without hearing upon application and payment of a twenty-five-dollar filing fee and an annual one-dollar fee per vehicle. ~~Each amendment of supplemental authority shall require a ten dollar filing fee.~~

~~The department shall participate in the single state insurance registration system for motor carriers as provided in 49 U.S.C. § 11506.~~

The state department of transportation may execute reciprocity agreements with authorized representatives of any state exempting nonresidents from payment of fees as set forth in this chapter. The state department of transportation shall adopt rules pursuant to chapter 17A for the identification of vehicles operated under reciprocity agreements.

Fees may be subject to reduction or proration pursuant to sections 326.5 and 326.32.

Sec. 32. Section 327B.6, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Registration under section 327B.1 shall not be granted until the exempt carrier has filed with the state department of transportation evidence of insurance or surety bond issued by an insurance carrier or bonding company authorized to do business in this state ~~and~~ in ~~the~~ a form prescribed ~~in 49 C.F.R. § 387.15 for motor carriers of property and in 49 C.F.R. § 387.39 for motor carriers of passengers~~ by the department. The minimum limits of liability for each interstate motor carrier for hire subject to federal minimum limits of liability are those adopted under United States Code, Title 49, and prescribed in 49 C.F.R. § 387.3 and § 387.9 for motor carriers of property and in 49 C.F.R. § 387.27 and § 387.33 for motor carriers of passengers.

Sec. 33. NEW SECTION. 327B.7 RECIPROCITY FOR EXEMPT COMMODITY BASE STATE REGISTRATION SYSTEM.

The department may enter into a reciprocity agreement on behalf of this state with authorized representatives of other states to become a member of an exempt commodity base state registration system for the registration, insurance verification, and fee collection for carriers hauling commodities exempt from interstate commerce commission authority.

Sec. 34. Section 805.3, Code 1995, is amended to read as follows:

805.3 PROCEDURE.

Before the cited person is released, the person shall sign the citation, either in a paper or electronic format, as a written promise to appear in court at the time and place specified. A copy of the citation shall be given to the person.

Sec. 35. Section 805.5, Code 1995, is amended to read as follows:

805.5 FAILURE TO APPEAR.

Any person who willfully fails to appear in court as specified by the citation shall be guilty of a simple misdemeanor. Where a defendant fails to make a required court appearance, the court shall issue an arrest warrant for the offense of failure to appear, and shall forward the warrant and the original or electronically produced citation to the clerk. The clerk shall enter a transfer to the issuing agency on the docket, and shall return the warrant with the original citation attached to the law enforcement agency which issued the

original or electronically produced citation for enforcement of the warrant. Upon arrest of the defendant, the warrant and the original or electronically produced citation shall be returned to the court, and the offenses shall be heard and disposed of simultaneously.

Sec. 36. Section 805.6, subsection 1, paragraph a, unnumbered paragraph 3, Code 1995, is amended to read as follows:

Notwithstanding other contrary requirements of this section, a uniform citation and complaint may be originated from a computerized device. The officer issuing the citation through a computerized device shall obtain electronically the signature of the person cited as provided in section 805.3 and 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. 37. 1994 Iowa Acts, chapter 1102, section 4, as amended by 1994 Iowa Acts, chapter 1199, section 52, is amended to read as follows:

SEC. 4. EFFECTIVE DATE. The provisions of this Act which amend section 321.189, take effect May 1, ~~1995~~ 1997.

Sec. 38. Section 321F.7, Code 1995, is repealed.

Sec. 39. EFFECTIVE DATE AND APPLICABILITY. Sections 22 and 37 of this Act, being deemed of immediate importance, take effect upon enactment and apply retroactively to May 1, 1995, in order to delay the effective date of the amendments to section 321.189, subsection 7, Code 1993, to May 1, 1997.

Sec. 40. EFFECTIVE DATE. Sections 7, 19, and 20 of this Act take effect on January 1, 1997.

Approved April 29, 1995

CHAPTER 119

ESTABLISHMENT OF LEGAL SETTLEMENT

H.F. 41

AN ACT relating to the establishment of legal settlement for certain persons, providing for the Act's applicability, and providing an effective date.

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

Section 1. Section 230.12, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 4. An action filed or an alternative dispute resolution stipulated to under this section is subject to the applicable provisions of sections 230.13 and 230.14.

Sec. 2. Section 252.16, subsection 6, Code 1995, is amended to read as follows:

6. a. Subsections 1, 2, 3, 7, and 8 do not apply to a blind person who is receiving assistance under the laws of this state.

b. 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, except as specified in paragraph "c". ~~However, a~~

c. A blind person who is an inpatient or resident of, ~~or~~ is supported by, or is receiving treatment or support services from 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, or any community-based provider of treatment or services for mental retardation, developmental disabilities, mental health, or substance abuse, does not acquire legal settlement in the county in which the institution, facility, or provider is located, unless the blind person has resided in the county in which the institution, facility, or provider is located for a period of six months prior to the date of commencement of receipt of assistance under the laws of this state or for a period of six months subsequent to the date of termination of assistance under the laws of this state.

Sec. 3. Section 347.16, subsection 3, Code 1995, is amended to read as follows:

3. Care and treatment may be furnished in a county public hospital to any sick or injured person who has legal settlement outside the county which maintains the hospital, subject to such policies and rules as the board of hospital trustees may adopt. If care and treatment is provided under this subsection to a person who is indigent, the county in which that person has legal settlement shall pay to the board of hospital trustees the fair and reasonable cost of the care and treatment provided by the county public hospital unless the cost of the indigent person's care and treatment is otherwise provided for. If care and treatment is provided to an indigent person under this subsection, the county public hospital furnishing the care and treatment shall immediately notify, by regular mail, the auditor of the county of legal settlement of the indigent person of the provision of care and treatment to the indigent person.

Sec. 4. BLIND PERSONS CURRENTLY RECEIVING ASSISTANCE - REDETERMINATION - CONTINUATION OF PAYMENT FOR ASSISTANCE.

1. For purposes of redetermination of legal settlement under subsection 2, section 252.17 shall not apply to a blind person who acquired legal settlement in this state on or after July 1, 1994, and prior to the effective date of this Act.

2. If legal settlement of a blind person receiving assistance under the laws of this state was established in this state under state law in effect on the effective date of this Act, eligibility of the blind person for future assistance may be redetermined. At the time of the redetermination of the eligibility for assistance, if the blind person had no legal settlement in this state prior to receipt of the assistance, the state shall pay the costs of assistance provided under the laws of this state subsequent to the time of redetermination.

Sec. 5. APPLICABILITY. With the exception of section 4, this Act shall not be construed to have retroactive applicability or effect and shall not be construed to affect, deny, or negate assistance, service, or treatment provided to individuals prior to the effective date of this Act.

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

Approved May 1, 1995

CHAPTER 120

MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES ASSISTANCE AND RELATED MATTERS

S.F. 315

AN ACT relating to mental health and developmental disabilities assistance by extending a moratorium on the number of intermediate care facility for the mentally retarded beds, providing for access to certain mental health information by a county responsible for payment of costs, and applying certain requirements to the state-county management committee, and providing an applicability provision and an effective date.

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

Section 1. Section 135.63, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 4. For the period beginning July 1, 1995, and ending June 30, 1997, the department shall not process applications for and the council shall not consider a new or changed institutional health service for an intermediate care facility for the mentally retarded except as provided in this subsection.

a. For the period beginning July 1, 1995, and ending June 30, 1997, the department and council shall process applications and consider applications if either of the following conditions are met:

(1) 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.

(2) 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.

b. Both of the following requirements shall apply to an application considered under this section:

(1) 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.

(2) 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.

Sec. 2. Section 228.1, subsection 1, Code 1995, is amended to read as follows:

1. "Administrative information" means an individual's name, identifying number, age, sex, address, dates and character of professional services provided to the individual, fees for the professional services, third-party payor name and payor number of a patient, if known, name and location of the facility where treatment is received, the date of the individual's admission to the facility, and the name of the individual's attending physician or attending mental health professional.

Sec. 3. Section 229.24, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 3. If all or part of the costs associated with hospitalization of an individual under this chapter are chargeable to a county of legal settlement, the county of legal settlement and the county in which the hospitalization order is entered shall have access to the following information pertaining to the individual which would be confidential under subsection 1:

a. Administrative information, as defined in section 228.1.

b. An evaluation order under this chapter and the location of the individual's placement under the order.

c. A hospitalization or placement order under this chapter and the location of the individual's placement under the order.

d. The date, location, and disposition of any hearing concerning the individual held under this chapter.

e. Any payment source available for the costs of the individual's care.

Sec. 4. Section 230.20, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 7. The department shall provide a county with information, which is not otherwise confidential under law, in the department's possession concerning a patient whose cost of care is chargeable to the county, including but not limited to the information specified in section 229.24, subsection 3.

Sec. 5. Section 331.438, subsection 3, paragraph b, Code 1995, is amended to read as follows:

b. The management committee shall consist of not more than ~~nine~~ eleven voting members representing the state and counties~~.~~ as follows:

(1) 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. Members appointed by the Iowa state association of counties shall be selected from a pool nominated by the county supervisor affiliate of the association with four members from the affiliate. The affiliate shall select the nominees through a secret ballot process.

(2) ~~In addition, the~~ 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.

(3) 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.

(4) 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.

Sec. 6. STATE-COUNTY MANAGEMENT COMMITTEE. The state-county management committee's annual report to be submitted to the governor and the general assembly no later than January 1, 1996, pursuant to section 331.438, subsection 3, paragraph "c", subparagraph (13), shall include the following:

1. Proposed benchmarks for efficiency and quality in the delivery of mental health and developmental disabilities assistance by the state and counties. The committee shall consider the following efficiency measures in developing the benchmarks:

a. Consumer satisfaction and outcomes.

b. Relative number of acute care days used.

c. Net expenditures per capita for the same disability.

d. Number of persons served and number of persons unserved or underserved.

e. Disability populations served and unserved.

f. Number of persons served in varying types of services settings, from least restrictive to most restrictive.

g. Community-based service availability and number of persons served outside the local area.

h. Equity with respect to local taxing ability.

2. Recommendations for the state and counties to provide mental health and developmental disabilities assistance under a fixed funding budget. The committee shall consider all of the following in developing the recommendations:

a. The feasibility of requiring counties to expend a certain portion of the budgeted moneys for implementing community-based services innovations to reduce acute care placements.

b. Modifying legal mandates for counties to serve particular disability populations so that the legal consequences are clarified if a county has insufficient funding for an entire fiscal year and mandated services or populations remain without assistance.

c. The effect of counties continuing to provide assistance to persons with mental illness or a developmental disability who received the assistance as of June 30, 1995, regardless of whether the assistance is mandated.

d. Any statutory changes which would be necessary to allow the placing of persons on a waiting list for assistance and the feasibility of establishing crisis services to meet the short-term needs of persons placed on a waiting list.

e. Creation of an appeal process for persons denied assistance or denied access to the assistance desired.

f. Provisions to require the state and counties to maintain their financial commitments under a fixed funding budget.

3. Consideration and recommendations involving the following intermediate care facility for the mentally retarded issues:

a. Providing more authority for case managers, in conjunction with the medical assistance review organization, to review placement requests and participate in meetings to consider treatment provided to a resident of an intermediate care facility for the mentally retarded.

b. Determining the need for and methods for improving the education level of intermediate care facilities for the mentally retarded providers concerning levels of active treatment provided to residents.

Sec. 7. APPLICABILITY. The provisions of section 5 of this Act shall apply to appointments made on or after July 1, 1995, for expired terms and to fill vacancies in the membership of the state-county management committee.

Sec. 8. EFFECTIVE DATE. Section 1 of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 1, 1995

CHAPTER 121

EXPANSION OF VOLUNTEER PHYSICIAN PROGRAM

H.F. 197

AN ACT relating to the expansion of the volunteer physician program to include other health care providers and to apply to certain charitable organizations.

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

Section 1. Section 135.24, Code 1995, is amended to read as follows:

135.24 VOLUNTEER ~~PHYSICIAN~~ HEALTH CARE PROVIDER PROGRAM ESTABLISHED - IMMUNITY FROM CIVIL LIABILITY.

1. The director shall establish within the department a program to provide to eligible hospitals, clinics, or other health care facilities, ~~or~~ health care referral programs, or charitable organizations, free medical services given on a voluntary basis by ~~physicians licensed under chapter 148, 150, or 150A~~ health care providers. A participating ~~physician~~ health care provider shall register with the department and obtain from the department a list of eligible, participating hospitals, clinics, or other health care facilities, ~~or~~ health care referral programs, or charitable organizations.

2. The department, in consultation with the department of human services, shall adopt rules to implement the volunteer ~~physician~~ health care provider program which shall include the following:

a. Procedures for registration of ~~physicians~~ health care providers deemed qualified by the board of medical examiners, the board of physician assistant examiners, and the board of nursing.

b. Criteria for and identification of hospitals, clinics, or other health care facilities, ~~or~~ health care referral programs, or charitable organizations, eligible to participate in the provision of free medical services through the volunteer ~~physician~~ health care provider program. A health care facility, a health care referral program, a charitable organization, or a health care provider participating in the program shall not bill or charge a patient for any ~~physician~~ health care provider service provided under the volunteer ~~physician~~ health care provider program.

3. A ~~physician~~ health care provider providing free care under this section shall be considered an employee of the state under chapter 669 and shall be afforded protection as an employee of the state under section 669.21, provided that the ~~physician~~ health care provider has done all of the following:

a. Registered with the department pursuant to subsection 1.

b. Provided medical services through a hospital, clinic, or other health care facility, ~~or~~ health care referral program, or charitable organization listed as eligible and participating by the department pursuant to subsection 1.

4. For the purposes of this section, "health care provider" means a physician licensed under chapter 148, 150, or 150A, a physician assistant licensed and practicing under a supervising physician pursuant to chapter 148C, a licensed practical nurse, or a registered nurse.

5. For the purposes of this section, "charitable organization" means a charitable organization within the meaning of section 501(c)(3) of the Internal Revenue Code which has as its primary purpose the sponsorship or support of programs designed to improve the quality, awareness, and availability of medical services to children and to serve as a funding mechanism for provision of medical services, including but not limited to immunizations, to children in this state.

Approved May 1, 1995

CHAPTER 122

TRANSFER OF DOGS FROM POUNDS TO INSTITUTIONS

S.F. 79

AN ACT relating to the transfer of dogs to educational and scientific institutions by pounds.

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

Section 1. Section 145B.3, Code 1995, is amended to read as follows:

145B.3 DOGS HELD FOR REDEMPTION BY OWNER.

An institution so authorized by the Iowa department of public health may request dogs from a pound. The pound ~~shall~~ may tender to such institution ~~all~~ dogs in its custody seized or held by authority of the state, municipality, or other political subdivision~~, except that no~~. However, a dog shall not be ~~so~~ tendered unless it has been held for redemption by its owner or for sale for a period of not less than three nor more than fifteen days ~~and no~~. A dog lawfully licensed at the time of its seizure shall not be ~~so~~ tendered unless its owner ~~shall so consent~~ consents in writing. ~~No dogs, except those actually~~ Unless a dog is sick or injured or ~~those~~ lawfully licensed at the time of seizure, a pound shall ~~be destroyed by a pound~~ not destroy a dog while a request ~~to that pound~~ of an authorized institution to that pound is ~~unfulfilled unless first tendered to such institution and refused by it~~ pending.

Approved May 1, 1995

CHAPTER 123

PROVISION OF EMERGENCY MEDICAL SERVICES BY TOWNSHIPS

S.F. 280

AN ACT authorizing townships to provide emergency medical services.

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

Section 1. Section 359.42, Code 1995, is amended to read as follows:

359.42 TOWNSHIP FIRE PROTECTION SERVICE, EMERGENCY WARNING SYSTEM, AND AMBULANCE SERVICE.

The trustees of each township shall provide fire protection service for the township, exclusive of any part of the township within a benefited fire district and~~, in counties not providing ambulance services,~~ may provide ~~ambulance~~ emergency medical service. The trustees may purchase, own, rent, or maintain fire protection service or ~~ambulance~~ emergency medical service apparatus or equipment or both kinds of apparatus or equipment and provide housing for the equipment. The trustees of a township which is located within a county having a population of three hundred thousand or more may also establish and maintain an emergency warning system within the township. The trustees may contract with a public or private agency under chapter 28E for the purpose of providing any service or system required or authorized under this section.

Sec. 2. Section 359.43, subsection 1, Code 1995, is amended to read as follows:

1. The township trustees may levy an annual tax not exceeding forty and one-half cents per thousand dollars of assessed value of the taxable property in the township, excluding property within a benefited fire district or within the corporate limits of a city, for the purpose of exercising the powers and duties specified in section 359.42. However, in a township having a fire protection service or ~~ambulance~~ emergency medical service agreement or both service agreements with a special charter city having a paid fire department, the township trustees may levy an annual tax not exceeding fifty-four cents per thousand dollars of the assessed value of the taxable property for the services authorized or required under section 359.42 and in a township which is located within a county having a population of three hundred thousand or more, the township trustees may levy an annual tax not exceeding sixty-seven and one-half cents per thousand dollars of assessed value of taxable property for the services authorized or required under section 359.42.

Approved May 1, 1995

CHAPTER 124

DUTIES OF COUNTY RECORDERS AND DISTRICT COURT CLERKS – VITAL STATISTICS AND MARRIAGE – FEES

S.F. 422

†**AN ACT** relating to the duties of the county recorder, by transferring certain duties of the clerk of the district court relating to vital statistics and marriage, by providing for fees, by providing for other properly related matters, and providing effective dates.

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

Section 1. Section 144.5, subsection 3, Code 1995, is amended to read as follows:

3. Direct, supervise, and control the activities of clerks of the district court and county recorders related to the operation of the vital statistics system and provide registrars with necessary postage.

Sec. 2. Section 144.5, subsection 6, Code 1995, is amended to read as follows:

6. Delegate functions and duties vested in the state registrar to officers, to employees of the department, to the clerks of the district court, and to the county registrars as the state registrar deems necessary or expedient.

Sec. 3. Section 144.9, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The ~~clerk of the district court~~ county recorder is the county registrar and with respect to the county shall:

Sec. 4. NEW SECTION. 144.11 PUBLIC ACCESS TO RECORDS.

The county registrar shall allow public access to public records under the custody of the county registrar during normal business hours for county offices in the county.

Sec. 5. Section 144.13A, Code 1995, is amended to read as follows:

144.13A FEES – USE OF FUNDS.

The county registrar or state registrar shall charge the parent a ten dollar fee for the registration of a certificate of birth and a separate fee established under section 144.46 for a certified copy of the certificate except as otherwise provided in section 331.605, subsection 6. The certified copy shall be mailed to the parent by the state registrar. If the person responsible for the filing of the certificate of birth under section 144.13 is not the parent, the person is entitled to collect the fee from the parent. The fee shall be remitted to the appropriate registrar. If the expenses of the birth are reimbursed under the medical assistance program established by chapter 249A, or paid for under the statewide indigent patient care program established by chapter 255, or paid for under the obstetrical and newborn indigent patient care program established by chapter 255A, or if the parent is indigent and unable to pay the expenses of the birth and no other means of payment is available to the parent, the registration fee and certified copy fee are waived. If the person responsible for the filing of the certificate is not the parent, the person is discharged from the duty to collect and remit the fee under this section if the person has made a good faith effort to collect the fee from the parent. The fees collected by the county registrar and state registrar shall be remitted to the treasurer of state for deposit in the general fund of the state. It is the intent of the general assembly that the funds generated from the registration fees be appropriated and used for primary and secondary child abuse prevention programs. It is the intent of the general assembly that the funds generated from the fees as established under section 144.46 for the mailing of the certified copy of the birth certificate be appropriated and used to support the distribution of the automatic birth certificate and the implementation of the electronic birth certificate system.

Sec. 6. Section 144.36, subsections 1, 2, and 4, Code 1995, are amended to read as follows:

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

1. A certificate recording each marriage performed in this state shall be filed with the state registrar. The ~~clerk of the district court~~ county registrar shall prepare the certificate on the form furnished by the state registrar upon the basis of information obtained from the parties to be married, who shall attest to the information by their signatures. The ~~clerk of the district court~~ county registrar in each county shall keep a record book for marriages. The form of marriage record books shall be uniform throughout the state. A properly indexed permanent record of marriage certificates upon microfilm, electronic computer, or data processing equipment may be kept in lieu of marriage record books.

2. Every person who performs a marriage shall certify the fact of marriage and return the certificate to the ~~clerk of the district court~~ county registrar within fifteen days after the ceremony. The certificate shall be signed by the witnesses to the ceremony and the person performing the ceremony.

4. The ~~clerk of the district court~~ county registrar shall record and forward to the state registrar on or before the tenth day of each calendar month the original certificates of marriages filed with the ~~clerk~~ county registrar during the preceding calendar month and the fees collected by the county registrar on behalf of the state for applications for a license to marry in accordance with section 331.605, subsection 7.

Sec. 7. Section 144.45, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The state registrar and the ~~clerk of the district court~~ county registrar shall, upon written request from any applicant entitled to ~~such~~ a record, issue a certified copy of any certificate or record in the registrar's ~~or clerk's~~ custody or of a part ~~thereof~~ of a certificate or record. Each copy issued shall show the date of registration; and copies issued from records marked "delayed", "amended", or "court order" shall be similarly marked and show the effective date.

Sec. 8. Section 144.46, Code 1995, 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~~ county registrar 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 and by the county registrar on behalf of the state 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.~~ Fees collected by the county registrar pursuant to section 331.605, subsection 6, shall be deposited in the county general fund. A fee shall not be collected from a political subdivision or agency of this state.

Sec. 9. Section 331.601, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 4. In counties in which the office of county recorder has been abolished, the board of supervisors shall reassign the duties of the county recorder who also serves as the county registrar pursuant to chapter 144.

Sec. 10. Section 331.602, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 40. Accept applications for passports.

Sec. 11. Section 331.605, Code 1995, is amended by adding the following new subsections:

NEW SUBSECTION. 6. A county fee of four dollars for the following certificates, records, or services:

a. A certified copy of a birth record, death record, or marriage certificate.

b. A birth registration.

NEW SUBSECTION. 7. For filing an application for the license to marry, thirty dollars. For issuing an application for an order of the district court authorizing the issuance of a license to marry before the expiration of three days from the date of filing the application for the license, five dollars. The district court shall authorize the issuance of a marriage license without the payment of any fees imposed in this subsection upon showing that the applicant is unable to pay the fees.

Sec. 12. NEW SECTION. 331.611 VITAL STATISTICS.

1. The recorder shall be the county registrar and carry out duties as provided in chapter 144.

2. The duties include, but are not limited to, the following:

a. Register and maintain certifications of birth as provided in sections 144.13 through 144.18, 144.45, and 144.46.

b. Register and maintain certifications of death as provided in sections 144.26 through 144.35, 144.45, and 144.46.

c. Issue and maintain marriage certificates as provided in sections 144.36, 144.45, and 144.46, and chapter 595.

Sec. 13. Section 595.3, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Previous to the solemnization of any marriage, a license for that purpose must be obtained from the ~~clerk of the district court~~ county registrar. ~~Such~~ The license must not be granted in any case:

Sec. 14. Section 595.4, Code 1995, is amended to read as follows:

595.4 AGE AND QUALIFICATION – VERIFIED APPLICATION – WAITING PERIOD – EXCEPTION.

Previous to the issuance of any license to marry, the parties desiring ~~such~~ the license shall sign and file a verified application with the ~~clerk of the court~~ county registrar which application either may be mailed to the parties at their request or may be signed by them at the office of the ~~clerk of the district court~~ county registrar in the county in which the license is to be issued. ~~Such~~ The application shall set forth at least one affidavit of some competent and disinterested person stating ~~such~~ the facts as to age and qualification of the parties ~~as the clerk may deem necessary to determine the competency of the parties to contract a marriage~~. Upon the filing of the application for a license to marry, the ~~clerk of the district court~~ county registrar shall file the application in a record kept for that purpose.

After expiration of three days from the date of filing the application by the parties, the ~~clerk~~ county registrar shall issue the license ~~if the clerk is satisfied as to the competency of the parties to contract a marriage~~. If the license has not been issued within six months from the date of the application, the application is void.

A license to marry may be issued prior to the expiration of three days from the date of filing the application for the license in cases of emergency or extraordinary circumstances. An order authorizing the issuance of a license may be granted by a judge of the district court under conditions of emergency or extraordinary circumstances upon application of the parties filed with the ~~clerk of court~~ county registrar. No ~~such~~ order may be granted unless the parties have filed an application for a marriage license in a county within the judicial district. An application for ~~such~~ an order shall be made on forms furnished by the ~~clerk~~ county registrar at the same time the application for the license to marry is made. ~~If after~~ After examining the application for the marriage license ~~the clerk is satisfied as to the competency of the parties to contract a marriage~~, the ~~clerk~~ county registrar shall refer the parties to a judge of the district court for action on the application for an order authorizing the issuance of a marriage license prior to expiration of three days from the date of filing the application for the license. The judge shall, if satisfied as to the existence of an

emergency or extraordinary circumstances, grant an order 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 to marry. The ~~clerk~~ county registrar shall issue a license to marry upon presentation by the parties of the order authorizing a license to be issued. A fee of five dollars shall be paid to the ~~clerk~~ county registrar at the time the application for the order is made, which fee is in addition to the fee prescribed by law for the issuance of a marriage license.

Sec. 15. Section 595.5, Code 1995, is amended to read as follows:

595.5 SURNAME ADOPTED.

A party may request on the application for a marriage license a name change to that of the other party or to some other surname mutually agreed upon by the parties. The names used on the marriage license shall become the legal names of the parties to the marriage. The marriage license shall contain a statement that when a name change is requested and affixed to the marriage license, the new name is the legal name of the requesting party. If a party requests a name change, other than a change of surname to that of the other spouse or to a combination of the surnames of both spouses, the party shall request approval of the court pursuant to chapter 674 and shall submit to the court the information required by section 674.2. Upon approval of the court and solemnization of the marriage, the ~~clerk of the district court~~ county registrar shall send a certified copy of the return of marriage to the recorder's office in every county in this state where real property is owned by either of the parties. The judge may approve the name change. The new names and the immediate former names shall appear on the return of marriage, and the return of marriage shall be recorded in the miscellaneous records in the recorder's office. An individual shall have only one legal name at any one time.

Sec. 16. Section 595.6, Code 1995, is amended to read as follows:

595.6 FILING AND RECORD REQUIRED.

The affidavit or certificate, in each case, shall be filed by the ~~clerk~~ county registrar and constitute a part of the records of the ~~clerk's~~ registrar's office. A memorandum of the affidavit or certificate shall also be entered in the license book.

Sec. 17. Section 595.7, Code 1995, is amended to read as follows:

595.7 DELIVERY OF BLANK WITH LICENSE.

When a license is issued the ~~clerk~~ county registrar shall deliver to the applicant a blank return for the marriage, and give ~~such~~ instructions relative ~~thereto~~ to the blank return as will insure a complete and accurate return.

Sec. 18. Section 595.11, Code 1995, is amended to read as follows:

595.11 NONSTATUTORY SOLEMNIZATION - FORFEITURE.

Marriages solemnized, with the consent of parties, in any manner other than that prescribed in this chapter, are valid; but the parties, and all persons aiding or abetting them, shall pay to the treasurer of state for deposit in the general fund of the state the sum of fifty dollars each; but this shall not apply to the person conducting the marriage ceremony, if within fifteen days ~~thereafter~~ after the ceremony is conducted, the person makes the required return to the ~~clerk of the district court~~ county registrar.

Sec. 19. Section 595.13, subsection 2, Code 1995, is amended to read as follows:

2. Make return of ~~such~~ the marriage within fifteen days to the ~~clerk of the district court~~ county registrar, who issued the marriage license upon the blank provided for that purpose.

Sec. 20. Section 595.15, Code 1995, is amended to read as follows:

595.15 INADEQUATE RETURN.

If the return of a marriage is not complete in every particular as required by the forms specified in section 144.12, the ~~clerk~~ county registrar shall require the person making the same to supply the omitted information.

Sec. 21. Section 595.16, Code 1995, is amended to read as follows:

595.16 SPOUSE RESPONSIBLE FOR RETURN.

When a marriage is consummated without the services of a cleric or magistrate, the required return ~~thereof~~ of the marriage may be made to the ~~clerk~~ county registrar by either spouse.

Sec. 22. Section 602.8102, subsection 83, Code 1995, is amended by striking the subsection.

Sec. 23. Section 602.8105, subsection 2, paragraph a, Code 1995, is amended by striking the paragraph.

Sec. 24. TRANSFER OF RECORDS. All records in the custody of the clerk of the district court which relate to vital statistics duties being transferred to the county recorder or a successor county officer shall be transferred to the county recorder or a successor county officer on the effective date of this Act.

Sec. 25. TRANSITION – MODERNIZATION OF SYSTEM. During a transitional period prior to July 1, 1997, the clerks of the district court and the county recorders or their successor county officers shall cooperate to implement a modernization of the vital statistics records system within the counties.

Sec. 26. EFFECTIVE DATES.

1. Sections 1 through 24 of this Act take effect July 1, 1997.
2. Section 25 of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 1, 1995

CHAPTER 125

LANDLORDS AND TENANTS

H.F. 492

AN ACT relating to the exclusion of certain nonprofit transitional housing from landlord-tenant agreements and remedies, tenant remedies for landlord noncompliance with a rental agreement, landlord remedies for tenant noncompliance with a rental agreement and acts constituting a clear and present danger and providing an effective date.

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

Section 1. Section 535.2, subsection 7, Code 1995, is amended to read as follows:

7. This section does not apply to a charge imposed for late payment of rent. However, in the case of a residential lease, a late payment fee shall not exceed ~~three dollars a day for the first five days the rent is late and one dollar a day for the next twenty-five days~~ ten dollars a day or forty dollars per month.

Sec. 2. Section 562A.5, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 8. Occupancy in housing owned by a nonprofit organization whose purpose is to provide transitional housing for persons released from drug or alcohol treatment facilities and in housing for homeless persons.

Sec. 3. Section 562A.6, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 15. "Transitional housing" means temporary or nonpermanent housing.

Sec. 4. Section 562A.21, subsection 1, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Except as provided in this chapter, if there is a material noncompliance by the landlord with the rental agreement or a noncompliance with section 562A.15 materially affecting health and safety, the tenant may elect to commence an action under this section and shall deliver a written notice to the landlord specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than ~~thirty~~ seven days after receipt of the notice if the breach is not remedied in ~~fourteen~~ seven days, and the rental agreement shall terminate and the tenant shall surrender as provided in the notice subject to the following:

Sec. 5. Section 562A.21, subsection 1, paragraph b, Code 1995, is amended to read as follows:

b. If substantially the same act or omission which constituted a prior noncompliance of which notice was given recurs within six months, the tenant may terminate the rental agreement upon at least ~~fourteen~~ seven days' written notice specifying the breach and the date of termination of the rental agreement unless the landlord has exercised due diligence and effort to remedy the breach which gave rise to the noncompliance.

Sec. 6. Section 562A.27, subsection 1, Code 1995, is amended to read as follows:

1. Except as provided in this chapter, if there is a material noncompliance by the tenant with the rental agreement or a noncompliance with section 562A.17 materially affecting health and safety, the landlord may deliver a written notice to the tenant specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than ~~thirty~~ seven days after receipt of the notice if the breach is not remedied in ~~fourteen~~ seven days, and the rental agreement shall terminate as provided in the notice subject to the provisions of this section. If the breach is remediable by repairs or the payment of damages or otherwise and the tenant adequately remedies the breach prior to the date specified in the notice, the rental agreement shall not terminate. If substantially the same act or omission which constituted a prior noncompliance of which notice was given recurs within six months, the landlord may terminate the rental agreement upon at least ~~fourteen~~ seven days' written notice specifying the breach and the date of termination of the rental agreement.

Sec. 7. Section 562A.27, subsection 4, paragraph b, Code 1995, is amended to read as follows:

b. That the tenant notified the landlord at least ~~fourteen~~ seven days prior to the due date of the tenant's rent payment of the tenant's intention to correct the condition constituting the breach referred to in paragraph "a" ~~of this subsection~~ at the landlord's expense; and

Sec. 8. Section 562A.27A, subsection 1, Code 1995, is amended to read as follows:

1. Notwithstanding section 562A.27 or 648.3, if a tenant has created or maintained a threat constituting a clear and present danger to the health or safety of other tenants, the landlord, ~~or~~ the landlord's employee or agent, or other persons on or within one thousand feet of the landlord's property, the landlord, after a single three days' written notice of termination and notice to quit, may file suit against the tenant for recovery of possession of the premises pursuant to chapter 648, except as otherwise provided in subsection 3. The petition shall state the incident or incidents giving rise to the notice of termination and notice to quit. The tenant shall be given the opportunity to contest the termination in the court proceedings by notice thereof at least ~~five~~ three days prior to the hearing.

Sec. 9. Section 562A.27A, subsection 2, unnumbered paragraph 1, Code 1995, is amended to read as follows:

A clear and present danger to the health or safety of other tenants, the landlord, ~~or~~ the landlord's employees or agents, or other persons on or within one thousand feet of the landlord's property includes, but is not limited to, any of the following activities of the tenant or of any person on the premises with the consent of the tenant:

Sec. 10. Section 562A.28, Code 1995, is amended to read as follows:

562A.28 FAILURE TO MAINTAIN.

If there is noncompliance by the tenant with section 562A.17, materially affecting health and safety, that can be remedied by repair or replacement of a damaged item or cleaning, and the tenant fails to comply as promptly as conditions require in case of emergency or within ~~fourteen~~ seven days after written notice by the landlord specifying the breach and requesting that the tenant remedy it within that period of time, the landlord may enter the dwelling unit and cause the work to be done in a competent manner and submit an itemized bill for the actual and reasonable cost or the fair and reasonable value of it as rent on the next date when periodic rent is due, or if the rental agreement has terminated, for immediate payment.

Sec. 11. Section 562B.25A, subsection 1, Code 1995, is amended to read as follows:

1. Notwithstanding section 562B.25 or 648.3, if a tenant has created or maintained a threat constituting a clear and present danger to the health or safety of other tenants, the landlord, ~~or~~ the landlord's employee or agent, or other persons on or within one thousand feet of the landlord's property, the landlord, after a single three days' written notice of termination and notice to quit, may file suit against the tenant for recovery of possession of the premises pursuant to chapter 648, except as otherwise provided in subsection 3. The petition shall state the incident or incidents giving rise to the notice of termination and notice to quit. The tenant shall be given the opportunity to contest the termination in the court proceedings by notice thereof at least ~~five~~ three days prior to the hearing.

Sec. 12. Section 562B.25A, subsection 2, unnumbered paragraph 1, Code 1995, is amended to read as follows:

A clear and present danger to the health or safety of other tenants, the landlord, or the landlord's employees or agents, or other persons on or within one thousand feet of the landlord's property includes, but is not limited to, any of the following activities of the tenant or of any person on the premises with the consent of the tenant:

Sec. 13. Section 631.4, subsection 2, paragraph b, Code 1995, is amended to read as follows:

b. Original notice shall be served personally upon each defendant as provided in rule 56.1 of the rules of civil procedure, which service shall be made at least ~~five~~ three days prior to the date set for hearing. Upon receipt of the prescribed costs the clerk shall cause the original notice to be delivered to a peace officer or other person for service upon each defendant.

Sec. 14. Section 648.5, Code 1995, is amended to read as follows:

648.5 JURISDICTION – HEARING – PERSONAL SERVICE.

The court within the county shall have jurisdiction of actions for the forcible entry or detention of real property. They shall be tried as equitable actions. Unless commenced as a small claim, a petition shall be presented to a district court judge. Upon receipt of the petition, the court shall order a hearing which shall not be later than ~~fourteen~~ seven days from the date of the order. Personal service shall be made upon the defendant not less than ~~five~~ three days prior to the hearing. In the event that personal service cannot be completed in time to give the defendant the minimum notice required by this section, the court may set a new hearing date. A default cannot be made upon a defendant unless the ~~five~~ three days' notice has been given.

Sec. 15. Section 648.22, Code 1995, is amended to read as follows:

648.22 JUDGMENT - EXECUTION - COSTS.

If the defendant is found guilty, judgment shall be entered that the defendant be removed from the premises, and that the plaintiff be put in possession of the premises, and an execution for the defendant's removal within ~~ten~~ three days from the judgment shall issue accordingly, to which shall be added a clause commanding the officer to collect the costs as in ordinary cases.

Sec. 16. EFFECTIVE DATE. The amendments in this Act to sections 562A.5 and 562A.6, being deemed of immediate importance, take effect upon enactment.

Approved May 1, 1995

CHAPTER 126

USE OF DANGEROUS WEAPONS IN FORCIBLE FELONIES - MINIMUM SENTENCE

S.F. 293

AN ACT relating to providing for a five-year minimum prison term for a person who uses a dangerous weapon in the commission of a forcible felony.

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

Section 1. Section 902.7, Code 1995, is amended to read as follows:

902.7 MINIMUM SENTENCE - USE OF A ~~FIREARM~~ DANGEROUS WEAPON.

At the trial of a person charged with participating in a forcible felony, if the trier of fact finds beyond a reasonable doubt that the person is guilty of a forcible felony and that the person represented that the person was in the immediate possession and control of a ~~firearm~~ dangerous weapon, displayed a ~~firearm~~ dangerous weapon in a threatening manner, or was armed with a ~~firearm~~ dangerous weapon while participating in the forcible felony the convicted person shall serve a minimum of five years of the sentence imposed by law. A person sentenced pursuant to this section shall not be eligible for parole until the person has served the minimum sentence of confinement imposed by this section.

Approved May 1, 1995

CHAPTER 127

ENFORCEMENT PROVISIONS FOR FAILURE TO PAY RESTITUTION

S.F. 373

AN ACT to permit the court to find a person in contempt for failure to pay restitution after the period of probation, work release, parole, or the person's sentence has ended and providing for the entry of a civil judgment for restitution owed to a victim.

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

Section 1. Section 910.4, unnumbered paragraph 1, Code 1995, is amended to read as follows:

When restitution is ordered by the sentencing court and the offender is placed on probation, restitution shall be a condition of probation. Failure of the offender to comply with the plan of restitution, plan of payment, or community service requirements when community service is ordered by the court as restitution, shall constitute a violation of probation and shall constitute contempt of court. The court may hold the offender in contempt, revoke probation, or extend the period of probation, or upon notice of such noncompliance and hearing thereon, the court may enter a civil judgment against the offender for the outstanding balance of payments under the plan of restitution and such judgment shall be governed by the law relating to judgments, judgment liens, executions, and other process available to creditors for the collection of debts. However, if the period of probation is extended it shall not be for more than the maximum period of probation for the offense committed as provided in section 907.7. After discharge from probation or after the expiration of the period of probation, the failure of an offender to comply with the plan of restitution ordered by the court shall constitute contempt of court. As part of the order discharging an offender from probation, the court shall enter a civil judgment against the offender for the balance, if any, of any restitution owed by the offender to the victim of the crime.

Sec. 2. Section 910.5, subsection 1, unnumbered paragraph 2, Code 1995, is amended to read as follows:

An offender committed to a penal or correctional facility of the state, shall make restitution while placed in that facility. Upon commitment to the custody of the director of the Iowa department of corrections, the director or the director's designee shall prepare a restitution plan of payment or modify any existing plan of payment. The new or modified plan of payment shall reflect the offender's present circumstances concerning the offender's income, physical and mental health, education, employment, and family circumstances. The director or the director's designee may modify the plan of payment at any time to reflect the offender's present circumstances. After the expiration of the offender's sentence, the failure of an offender to comply with the plan of restitution ordered by the court shall constitute contempt of court. Upon the expiration of the offender's sentence, the department shall notify the court which sentenced the offender and the court shall enter a civil judgment against the offender for the balance, if any, of any restitution owed by the offender to the victim of the crime.

Sec. 3. Section 910.5, subsections 2, 3, and 4, Code 1995, are amended to read as follows:

2. If an offender is to be placed on work release from an institution under the control of the director of the Iowa department of corrections, restitution shall be a condition of work release. The chief of the bureau of community correctional services of the Iowa department of corrections, shall prepare a restitution plan of payment or may modify any previously existing restitution plan of payment. The new or modified plan of payment shall reflect the offender's present circumstances concerning the offender's income, physical and mental health, education, employment, and family circumstances. The bureau chief may modify the plan of payment at any time to reflect the offender's present circumstances. Failure of the offender to comply with the restitution plan of payment, including the community service requirement, if any, shall constitute a violation of a condition of work release and the work release privilege may be revoked. After the expiration of the offender's sentence, the failure of an offender to comply with the plan of restitution ordered by the court shall constitute contempt of court. Upon the expiration of the offender's sentence, the bureau chief shall notify the court which sentenced the offender and the court shall enter a civil judgment against the offender for the balance, if any, of any restitution owed by the offender to the victim of the crime.

3. If an offender is to be placed on work release from a facility under control of a county sheriff or the judicial district department of correctional services, restitution shall be a

condition of work release. The office or individual charged with supervision of the offender shall prepare a restitution plan of payment or may modify any previously existing restitution plan of payment. The new or modified plan of payment shall reflect the offender's present circumstances concerning the offender's income, physical and mental health, education, employment and family circumstances. Failure of the offender to comply with the restitution plan of payment including the community service requirement, if any, constitutes a violation of a condition of work release. The office or individual charged with supervision of the offender may modify the plan of restitution at any time to reflect the offender's present circumstances. After the expiration of the offender's sentence, the failure of an offender to comply with the plan of restitution ordered by the court shall constitute contempt of court. Upon the expiration of the offender's sentence, the office or individual charged with supervision of the offender shall notify the court which sentenced the offender and the court shall enter a civil judgment against the offender for the balance, if any, of any restitution owed by the offender to the victim of the crime.

4. If an offender is to be placed on parole, restitution shall be a condition of parole. The district department of correctional services to which the offender will be assigned shall prepare a restitution plan of payment or may modify any previously existing restitution plan of payment. The new or modified plan of payment shall reflect the offender's present circumstances concerning the offender's income, physical and mental health, education, employment, and family circumstances. Failure of the offender to comply with the restitution plan of payment including a community service requirement, if any, shall constitute a violation of a condition of parole. The parole officer may modify the plan of payment any time to reflect the offender's present circumstances. A restitution plan of payment or modified plan of payment, prepared by a parole officer, must meet the approval of the director of the district department of correctional services. After the expiration of the offender's sentence, the failure of an offender to comply with the plan of restitution ordered by the court shall constitute contempt of court. Upon the expiration of the offender's sentence, the parole officer shall notify the court which sentenced the offender and the court shall enter a civil judgment against the offender for the balance, if any, of any restitution owed by the offender to the victim of the crime.

Approved May 1, 1995

CHAPTER 128

COMMUTATION OF LIFE SENTENCES

S.F. 398

AN ACT relating to commutation of sentences of persons who have been sentenced to life imprisonment.

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

Section 1. Section 902.2, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

902.2 COMMUTATION PROCEDURE FOR CLASS "A" FELONS.

A person who has been sentenced to life imprisonment under section 902.1, may, no more frequently than once every ten years, make an application to the governor requesting that the person's sentence be commuted to a term of years. The director of the Iowa department of corrections may make a request to the governor that a person's sentence be

commuted to a term of years at any time. Upon receipt of a request for commutation, the governor shall send a copy of the request to the Iowa board of parole for investigation and recommendations as to whether the person should be considered for commutation. The board shall conduct an interview of the class "A" felon and shall make a report of its findings and recommendations to the governor.

Sec. 2. Section 914.2, Code 1995, is amended to read as follows:

914.2 RIGHT OF APPLICATION.

~~A~~ Except as otherwise provided in section 902.2, a person convicted of a criminal offense has the right to make application to the board of parole for recommendation or to the governor for a reprieve, pardon, commutation of sentence, remission of fines or forfeitures, or restoration of rights of citizenship at any time following the conviction.

Sec. 3. Section 914.3, subsection 1, Code 1995, is amended to read as follows:

1. ~~The~~ Except as otherwise provided in section 902.2, the board of parole shall periodically review all applications by persons convicted of criminal offenses and shall recommend to the governor the reprieve, pardon, commutation of sentence, remission of fines or forfeitures, or restoration of the rights of citizenship for persons who have by their conduct given satisfactory evidence that they will become or continue to be law-abiding citizens.

Approved May 1, 1995

CHAPTER 129

CIVIL RIGHTS

S.F. 457

AN ACT relating to the civil rights commission concerning the enforcement of civil rights laws.

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

Section 1. Section 22.7, subsection 32, Code 1995, is amended to read as follows:

32. Memoranda, work products, and case files of a mediator and all other confidential communications in the possession of a mediator, as provided in ~~chapter~~ chapters 86 and 216. Information in these confidential communications is subject to disclosure only as provided in ~~section~~ sections 86.44 and 216.15B, notwithstanding any other contrary provision of this chapter.

Sec. 2. Section 216.2, subsection 3, Code 1995, is amended to read as follows:

3. "Court" means the district court in and for ~~the~~ any judicial district of the state of Iowa ~~in which the alleged unfair or discriminatory practice occurred~~ or any judge of ~~said~~ the court if the court is not in session at that time.

Sec. 3. Section 216.5, subsection 2, Code 1995, is amended to read as follows:

2. To receive, investigate, mediate, and finally determine the merits of complaints alleging unfair or discriminatory practices.

Sec. 4. Section 216.5, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 15. To utilize volunteers to aid in the conduct of the commission's business including case processing functions such as intake, screening, investigation, and mediation.

Sec. 5. Section 216.12, subsection 4, unnumbered paragraph 1, Code 1995, is amended to read as follows:

~~Dwellings~~ Discrimination on the basis of familial status involving dwellings provided under any state or federal program specifically designed and operated to assist elderly persons, as defined in the state or federal program that the commission determines to be consistent with determinations made by the United States secretary of housing and urban development, and housing for older persons. As used in this subsection, "housing for older persons" means housing communities consisting of dwellings intended for either of the following:

Sec. 6. Section 216.12, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Discrimination on the basis of sex involving the rental, leasing, or subleasing of a dwelling within which residents of both sexes would be forced to share a living area.

Sec. 7. Section 216.12, unnumbered paragraph 2, Code 1995, is amended to read as follows:

The exceptions to the requirements of sections 216.8 and 216.8A provided for dwellings specified in ~~subsection~~ subsections 2, 3, and 5 do not apply to advertising related to those dwellings.

Sec. 8. Section 216.15, subsection 1, Code 1995, is amended to read as follows:

1. Any person claiming to be aggrieved by a discriminatory or unfair practice may, in person or by an attorney, make, sign, and file with the commission a verified, written complaint ~~in triplicate~~ which shall state the name and address of the person, employer, employment agency, or labor organization alleged to have committed the discriminatory or unfair practice of which complained, shall set forth the particulars thereof, and shall contain such other information as may be required by the commission. The commission, a commissioner, or the attorney general may in like manner make, sign, and file such complaint.

Sec. 9. Section 216.15, subsection 4, Code 1995, is amended to read as follows:

4. The members of the commission and its staff shall not disclose the filing of a complaint, the information gathered during the investigation, or the endeavors to eliminate such discriminatory or unfair practice by mediation, conference, conciliation, and persuasion, unless such disclosure is made in connection with the conduct of such investigation.

Sec. 10. Section 216.15, subsection 9, Code 1995, is amended to read as follows:

9. The terms of a conciliation or mediation agreement reached with the respondent may require the respondent to refrain in the future from committing discriminatory or unfair practices of the type stated in the agreement, to take remedial action as in the judgment of the commission will carry out the purposes of this chapter, and to consent to the entry in an appropriate district court of a consent decree embodying the terms of the conciliation or mediation agreement. Violation of such a consent decree may be punished as contempt by the court in which it is filed, upon a showing by the commission of the violation at any time within six months of its occurrence. ~~In all cases where a conciliation agreement is entered into, the commission shall issue an order stating its terms and furnish a copy of the order to the complainant, the respondent, and such other persons as the commission deems proper.~~ At any time in its discretion, the commission may investigate whether the terms of the agreement are being complied with by the respondent.

Upon a finding that the terms of the conciliation or mediation agreement are not being complied with by the respondent, the commission shall take appropriate action to assure compliance.

Sec. 11. Section 216.15, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 13. The commission or a party to a complaint may request mediation of the complaint at any time during the commission's processing of the complaint. If the complainant and respondent participate in mediation, any mediation agreement may be enforced pursuant to this section. Mediation may be discontinued at the request of any party or the commission.

Sec. 12. NEW SECTION. 216.15B MEDIATION - CONFIDENTIALITY.

1. For the purposes of this section, "mediator" shall be the person designated in writing by the commission to conduct mediation of a complaint filed under this chapter. The written designation must specifically refer to this section.

2. All verbal or written information relating to the subject matter of a mediation agreement and transmitted between either the complainant or the respondent and a mediator to resolve a complaint filed under this chapter, whether reflected in notes, memoranda, or other work products, is a confidential communication except as otherwise expressly provided in this chapter. Mediators involved in a mediation under this section shall not be examined in any judicial or administrative proceeding regarding the confidential communications and are not subject to judicial or administrative process requiring the disclosure of the confidential communications. If a written confidential communication is kept by the mediator it must be kept in a mediation file which is maintained separately from the case file. The confidential communications may not be included in the commission's case file unless the person providing the information consents to its inclusion in the case file. The mediation file is not part of the file made available to the parties upon the commission's receipt of a right to sue letter. Information maintained in the mediation file and not included in the case file shall not be considered when making a recommendation or decision regarding screening, probable cause, or any issue in a contested case.

3. A mediator who has reason to believe that a complainant or respondent has given perjured evidence concerning a confidential communication is not barred by this section from disclosing the basis for this belief to any party to a cause in which the alleged perjury occurs or to the appropriate authorities, including testifying concerning the relevant confidential communications. If a dispute regarding the existence of a mediation agreement exists, the terms of the mediation agreement, or the conduct of the mediation process itself, the mediator may be examined regarding relevant confidential communications.

Sec. 13. Section 216.16A, subsection 2, paragraphs c, d, and e, Code 1995, are amended to read as follows:

c. An aggrieved person may file an action under this ~~section~~ subsection whether or not a discriminatory housing or real estate complaint has been filed under section ~~216.15A~~ 216.15, and without regard to the status of any discriminatory housing or real estate complaint filed under that section.

d. If the commission has obtained a mediation agreement with the consent of an aggrieved person, the aggrieved person shall not file an action under this ~~section~~ subsection with respect to the alleged discriminatory practice that forms the basis for the complaint except to enforce the terms of the agreement.

e. An aggrieved person shall not file an action under this ~~section~~ subsection with respect to an alleged discriminatory housing or real estate practice that forms the basis of a charge issued by the commission if the commission has begun a hearing on the record under this chapter with respect to the charge.

Sec. 14. Section 216.16A, subsection 2, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. In an action filed in district court under this subsection, the court may, upon a finding of discrimination, order any of the remedies provided for in section 216.17A, subsection 6.

Sec. 15. Section 216.17A, subsection 6, unnumbered paragraph 1, Code 1995, is amended to read as follows:

In an action under ~~this section~~ subsection 1 and section 216.16A, subsection 2, if the district court finds that a discriminatory housing or real estate practice has occurred or is about to occur, the district court may award or issue to the plaintiff one or more of the following:

Sec. 16. Section 216.17A, subsection 8, paragraph a, Code 1995, is amended to read as follows:

a. On the request of the commission, the attorney general may intervene in an action under ~~this~~ section 216.16A, subsection 2, if the commission certifies that the case is of general public importance.

Sec. 17. Section 216.17A, subsection 9, paragraph b, unnumbered paragraph 1, Code 1995, is amended to read as follows:

In an action under this ~~section~~ subsection and subsection 8, the district court may do any of the following:

Approved May 1, 1995

CHAPTER 130

SCHOOL FINANCE – REGULAR PROGRAM DISTRICT COST GUARANTEE

S.F. 83

AN ACT extending for an additional budget year the regular program district cost guarantee for school districts and increasing the amount of that guarantee and providing an effective date.

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

Section 1. Section 257.1, subsection 2, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For the budget year commencing July 1, 1995, the department of management shall add the amount of the additional budget adjustment computed in section 257.14, subsection 2, to the combined foundation base.

Sec. 2. Section 257.14, unnumbered paragraph 1, Code 1995, is amended to read as follows:

1. For the budget years commencing July 1, 1991, July 1, 1992, July 1, 1993, July 1, 1994, ~~and~~ July 1, 1995, and July 1, 1996, if the department of management determines that the regular program district cost of a school district for a budget year is less than the total of the regular program district cost plus any adjustment added under this section for the base year for that school district, the department of management shall provide a budget adjustment for that district for that budget year that is equal to the difference.

2. For the budget year beginning July 1, 1995, if the department of management determines that the regular program district cost plus the budget adjustment computed under subsection 1 of a school district is less than one hundred one percent of the total of the regular program district cost plus any adjustment added under this section for the base year for that school district, the department of management shall provide an additional budget adjustment for that budget year that is equal to the difference.

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

Approved May 1, 1995

CHAPTER 131

STUDIES CONCERNING THE IOWA COMMUNICATIONS NETWORK

H.F. 461

AN ACT relating to the Iowa communications network by directing the Iowa telecommunications and technology commission to conduct studies concerning the possible sale of the network, and the possible conversion of the network into a public utility.

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

Section 1. STUDIES.

1. a. The Iowa telecommunications and technology commission established in section 8D.3 shall initiate and complete a study concerning the possible sale of the network. The study shall include a review of legal and practical issues which may affect whether the sale of the network should be approved or rejected, or which may affect the terms under which a sale should be completed. The study shall include a review of issues including all of the following:

(1) The effect of the sale on the tax-exempt bonds which were issued for purposes of financing certain parts of the network.

(2) The impact on existing telecommunications providers.

(3) The protection of state interests including the assurance of affordable access to the network for public entities, including Part III users which are not yet connected to the network.

(4) The necessity of compliance with other applicable state law.

(5) Issues relating to the use of public rights-of-way by any potential buyer of the network.

(6) Benefits to Iowa businesses and citizens.

(7) Providing for a long-term lease of capacity sufficient to meet the needs of existing and future educational users of the network identified in chapter 8D.

(8) A review of whether a sale of the network should be completed pursuant to a request for proposals or by auction.

(9) A review of the impact of federal communications commission policy and regulations on the potential sale of the network in its entirety or in parts, and a recommendation as to the manner in which the network should be sold as a result of this review.

(10) Other relevant issues as identified by the commission.

b. The commission shall consult with other state agencies, appropriate federal agencies, and private associations and vendors in completing this study.

2. The commission, in consultation with the utilities division of the department of commerce, shall study the possible conversion of the Iowa communications network into a public utility. The study shall include a review of legal and practical issues identified by the commission and the division which may affect such conversion.

3. The commission, prior to November 1, 1995, shall complete the studies required by this Act and deliver a written report including any recommendations related to each study to the members of the house of representatives committee on technology and the senate committee on communications and information policy, the chief clerk of the house, and the secretary of the senate.

Approved May 1, 1995

CHAPTER 132

DISASTER LEAVE FOR STATE EMPLOYEES

S.F. 106

AN ACT to provide disaster leave for certain state employees.

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

Section 1. NEW SECTION. 70A.26 DISASTER SERVICE VOLUNTEER LEAVE.

An employee of an appointing authority who is a certified disaster service volunteer of the American red cross may be granted leave with pay from work for not more than fifteen working days in any twelve-month period to participate in disaster relief services for the American red cross at the request of the American red cross for the services of that employee and upon the approval of the employee's appointing authority without loss of seniority, pay, vacation time, personal days, sick leave, insurance and health coverage benefits, or earned overtime accumulation. The appointing authority shall compensate an employee granted leave under this section at the employee's regular rate of pay for those regular work hours during which the employee is absent from work. An employee deemed to be on leave under this section shall not be deemed to be an employee of the state for purposes of workers' compensation. An employee deemed to be on leave under this section shall not be deemed to be an employee of the state for purposes of the Iowa tort claims Act. Leave under this section shall be granted only for services relating to a disaster in the state of Iowa.

Approved May 1, 1995

CHAPTER 133

IOWA-FOALED HORSES AND IOWA-WHELPED DOGS FOR PARI-MUTUEL RACING

S.F. 146

AN ACT relating to Iowa-foaled horses and Iowa-whelped dogs used for breeding and racing.

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

Section 1. Section 99D.22, subsection 1, Code 1995, is amended to read as follows:

1. A licensee shall hold at least one race on each racing day limited to Iowa-foaled horses or Iowa-whelped dogs as defined by the department of agriculture and land stewardship using standards consistent with this section. However, if sufficient competition cannot be had among that class of horses or dogs on any day, another race for the day may be substituted. A sum equal to twelve percent of the purse won by an Iowa-foaled horse or Iowa-whelped dog shall be used to promote the horse and dog breeding industries. The twelve percent shall be withheld by the licensee from the breakage and shall be paid at the end of the race meeting to the state department of agriculture and land stewardship which in turn shall deposit it in a special fund to be known as the Iowa horse and dog breeders fund and pay it by December 31 of each calendar year to the breeder of the winning Iowa-foaled horse or Iowa-whelped dog. For the purposes of this section, the breeder of a thoroughbred horse shall be considered to be the owner of the brood mare at the time the foal is dropped. The breeder of a quarter horse or standardbred horse shall be considered to be the owner of the mare at the time of breeding.

Sec. 2. Section 99D.22, subsection 2, unnumbered paragraph 1, Code 1995, is amended to read as follows:

For the purposes of this chapter, the following shall be considered in determining if a horse is an Iowa-foaled thoroughbred horse, quarter horse, or standardbred horse:

Sec. 3. Section 99D.22, subsection 2, paragraph a, Code 1995, is amended to read as follows:

a. All thoroughbred horses, quarter horses, or standardbred horses foaled in Iowa prior to January 1, 1985, which are registered by the jockey club, American quarter horse association, or United States trotting association as Iowa foaled shall be considered to be Iowa foaled.

Sec. 4. Section 99D.22, subsection 2, paragraph c, unnumbered paragraph 1, Code 1995, is amended to read as follows:

To be eligible for registration as an Iowa thoroughbred, quarter horse, or standardbred stallion, the following requirements shall be met:

Sec. 5. Section 99D.22, subsection 2, paragraph c, subparagraph (1), Code 1995, is amended by striking the subparagraph and inserting in lieu thereof the following:

(1) Stallion residency from January 1 through July 31 for the year of registration. However, horses going to stud for the first year shall be eligible upon registration with residency to continue through July 31.

Sec. 6. Section 99D.22, subsection 3, paragraphs a and d, Code 1995, are amended to read as follows:

a. Adopt standards to qualify thoroughbred, quarter horse, or standardbred stallions for Iowa breeding. A stallion shall stand for service in the state at the time of the foal's conception and shall not stand for service at any place outside the state during the calendar year in which the foal is conceived.

d. Adopt a schedule of fees to be charged to breeders of thoroughbreds, quarter horses, or standardbreds to administer this subsection.

Sec. 7. Section 99D.22, subsection 4, Code 1995, is amended to read as follows:

4. To qualify for the Iowa horse and dog breeders fund, a dog shall have been whelped in Iowa and raised for the first six months of its life in Iowa. In addition, the owner of the dog shall have been a resident of the state for at least two years prior to the whelping. The department of agriculture and land stewardship shall adopt rules and prescribe forms to bring Iowa breeders into compliance with residency requirements of dogs and breeders in this subsection.

Approved May 1, 1995

CHAPTER 134

FARM DEER

S.F. 85

AN ACT providing for the regulation of farm deer and making penalties applicable.

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

Section 1. Section 189A.2, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. "Farm deer" means an animal belonging to the cervidae family and classified as part of the dama species of the dama genus, commonly referred to

as fallow deer; part of the elaphus species of the cervus genus, commonly referred to as red deer or elk; or part of the nippon species of the cervus genus, commonly referred to as sika. However, a farm deer does not include any unmarked free ranging elk.

Sec. 2. Section 189A.2, subsection 14, Code 1995, is amended to read as follows:

14. "Livestock" means ~~any~~ a live or dead animal which is limited to cattle, sheep, swine, goats, ~~horses, mules or other equines, whether live or dead~~ farm deer, or which is classified as an equine including a horse or mule.

Sec. 3. Section 189A.2, subsection 16, Code 1995, is amended to read as follows:

16. "Meat food product" means any product capable of use as human food which is made wholly or in part from any meat or other portion of the carcass of any cattle, sheep, swine, or goats, excepting products which contain meat or other portions of such carcasses only in a relatively small proportion or historically have not been considered by consumers as products of the meat food industry, and which are exempted from definition as a meat food product by the secretary under such conditions as the secretary may prescribe to assure that the meat or other portions of such carcass contained in such product are not adulterated and that such products are not represented as meat food products. This term as applied to food products of equines or farm deer shall have a meaning comparable to that provided in this paragraph with respect to cattle, sheep, swine, and goats.

Sec. 4. Section 189A.18, Code 1995, is amended to read as follows:

189A.18 HUMANE SLAUGHTER PRACTICES.

Every establishment subject to the provisions of this chapter engaged in the slaughter of bovine, porcine, or ovine animals or farm deer shall slaughter all such animals in an approved humane slaughtering method. For purposes of this section an approved humane slaughtering method shall include and be limited to slaughter by shooting, electrical shock, captive bolt, or use of carbon dioxide gas prior to the animal being shackle hoisted, thrown, cast or cut; however, the slaughtering, handling or other preparation of livestock in accordance with the ritual requirements of the Jewish or any other faith that prescribes and requires a method whereby slaughter becomes effected by severance of the carotid arteries with a sharp instrument is hereby designated and approved as a humane method of slaughter under the law.

Sec. 5. Section 481A.1, subsection 20, paragraph h, Code 1995, is amended to read as follows:

h. The Cervidae: such as ~~deer and~~ elk or deer, other than farm deer. As used in this paragraph, "farm deer" means an animal belonging to the cervidae family and classified as part of the dama species of the dama genus, commonly referred to as fallow deer; part of the elaphus species of the cervus genus, commonly referred to as red deer or elk; or part of the nippon species of the cervus genus, commonly referred to as sika. However, a farm deer does not include any unmarked free ranging elk.

Sec. 6. Section 717.1, subsection 2, Code 1995, is amended to read as follows:

2. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine, or porcine species; farm deer, as defined in section 481A.1; or poultry.

Sec. 7. The department of agriculture and land stewardship shall conduct a study relating to the needs and desirability of adopting or enhancing animal health requirements including health certificates for farm deer. In conducting the study, the department shall solicit comments and participation from organizations representing farm deer producers, cattle producers, pork producers, sheep producers, and the department of natural resources. As used in this section, "farm deer" means an animal belonging to the cervidae family and classified as part of the dama species of the dama genus, commonly referred to as fallow deer; part of the elaphus species of the cervus genus, commonly referred to as red deer or elk; or part of the nippon species of the cervus genus, commonly referred to as sika. However, a farm deer does not include any unmarked free ranging elk.

Approved May 1, 1995

CHAPTER 135

CONDEMNATION DAMAGES - RIGHT-OF-WAY NOTICES - SCENIC HIGHWAY ADVERTISING

H.F. 460

AN ACT relating to governmental control of property by providing for the interest rates assessed for condemnation damages, providing for right-of-way notice filings, and concerning advertising control laws on scenic highways.

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

Section 1. Section 6B.24, Code 1995, is amended to read as follows:

6B.24 REDUCTION OF DAMAGES — INTEREST ON INCREASED AWARD.

If the amount of damages awarded by the commissioners is decreased on ~~the trial of the~~ appeal, the reduced amount ~~only~~ shall be paid to the landowner. If the amount of damages awarded by the commissioners is increased on appeal, interest shall be paid from the date of the condemnation. Interest shall not be paid on any amount which was previously paid. Interest shall be calculated at an annual rate equal to the coupon issue yield equivalent, as determined by the United States secretary of the treasury, of the average accepted auction price for the last auction of fifty-two-week United States treasury bills settled immediately before the date of the award.

Sec. 2. Section 306.19, subsection 5, paragraph a, Code 1995, is amended to read as follows:

a. The department may notify a city or county that a road under the jurisdiction or control of the department will be established, improved, relocated, or maintained and that the department may need to acquire additional right-of-way or property rights within an area described by the department. The notice shall include a depiction of the area on a map provided by the city, county, or the department. This notice shall be valid for a period of three years from the date of notification to the city or county and may be refiled by the department ~~for an additional three year period~~ every three years. Within seven days of filing the notice, the department shall publish in a newspaper of public record a description and map of the area and a description of the potential restrictions applied to the city or county with respect to the granting of building permits, approving of subdivision plats, or zoning changes within the area.

Sec. 3. Section 306C.11, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Subject to the ~~provision~~ provisions made in section 306C.13 regarding control of bonus interstate highways and section 306D.4 regarding scenic highways or byways, ~~no~~ an advertising device shall not be erected or maintained within any adjacent area ~~as defined in section 306C.10~~, or on the ~~right of way~~ right-of-way of any primary highway, except the following:

Sec. 4. NEW SECTION. 306D.4 SCENIC HIGHWAY ADVERTISING.

The department of transportation shall have the authority to adopt rules to control the erection of new advertising devices on a highway designated as a scenic highway or scenic byway in order to comply with federal requirements concerning the implementation of a scenic byways program.

Approved May 1, 1995

CHAPTER 136

LIABILITY OF MOTOR VEHICLE OWNERS

H.F. 504

AN ACT relating to a motor vehicle owner's liability for damages caused by the driver.

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

Section 1. Section 321.493, Code 1995, is amended to read as follows:

321.493 LIABILITY FOR DAMAGES.

1. In all cases where damage is done by any motor vehicle by reason of negligence of the driver, and driven with the consent of the owner, the owner of the motor vehicle shall be liable for such damage. For purposes of this subsection, "owner" means the person to whom the certificate of title for the vehicle has been issued or assigned or to whom a manufacturer's or importer's certificate of origin for the vehicle has been delivered or assigned. However, if the vehicle is leased, "owner" means the person to whom the vehicle is leased, not the person to whom the certificate of title for the vehicle has been issued or assigned or to whom the manufacturer's or importer's certificate of origin for the vehicle has been delivered or assigned. For purposes of this subsection, "leased" means the transfer of the possession or right to possession of a vehicle to a lessee for a valuable consideration for a continuous period of twelve months or more, pursuant to a written agreement.

2. A person who has made a bona fide sale or transfer of the person's right, title, or interest in or to a motor vehicle and who has delivered possession of ~~such~~ the motor vehicle to the purchaser or transferee shall not be liable for any damage thereafter resulting from negligent operation of ~~such~~ the motor vehicle by another, but the purchaser or transferee to whom possession was delivered shall be deemed the owner. The provisions of subsection 2 of section 321.45 shall not apply in determining, for the purpose of fixing liability ~~hereunder~~ under this subsection, whether such sale or transfer was made.

Sec. 2. Section 321A.1, subsection 8, Code 1995, is amended to read as follows:

8. OWNER. ~~A~~ "Owner" means a person who holds the legal title of a motor vehicle, ~~or in~~ however, if the ~~event a~~ motor vehicle is the subject of a security agreement with a right of possession in the debtor, ~~then such~~ the debtor shall be deemed the owner for ~~the purpose~~ purposes of this chapter or if the motor vehicle is leased as defined in section 321.493, the lessee shall be deemed the owner for purposes of this chapter.

Approved May 1, 1995

CHAPTER 137

REMEDIES FOR DISHONOR OF FINANCIAL INSTRUMENTS

H.F. 485

AN ACT relating to remedies upon the dishonoring of a financial instrument and providing penalties.

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

Section 1. Section 537.2501, subsection 1, paragraph g, Code 1995, is amended to read as follows:

g. A surcharge of not more than ~~ten~~ five percent of the amount of the face value of the payment instrument or twenty dollars, whichever is greater, for each dishonored payment

instrument provided that the fee is clearly and conspicuously disclosed in the cardholder agreement. However, the amount of the surcharge shall not exceed twenty dollars unless the check, draft, or order was presented twice or the maker does not have an account with the drawee. If the check, draft, or order was presented twice or the maker does not have an account with the drawee, the amount of the surcharge shall not exceed fifty dollars. The surcharge shall not be assessed against the maker if the reason for the dishonor of the instrument is that the maker has stopped payment pursuant to section 554.4403.

Sec. 2. NEW SECTION. 554.3512 HOLDER'S RECOURSE FOR DISHONOR.

1. The holder of a dishonored check, draft, or order may assess against the maker of that check, draft, or order a surcharge of not more than the greater of twenty dollars or five percent of the face value of the check. However, the amount of the surcharge shall not exceed twenty dollars unless the check, draft, or order was presented twice or the maker does not have an account with the drawee. If the check, draft, or order was presented twice or the maker does not have an account with the drawee, the amount of the surcharge shall not exceed fifty dollars.

2. The surcharge authorized by this section shall not be assessed unless the holder clearly and conspicuously posts a notice at the usual place of payment, or in the billing statement of the holder, stating that a surcharge will be assessed and the amount of the surcharge. However, the surcharge shall not be assessed against the maker if the reason for the dishonor of the check, draft, or order is that the maker has stopped payment pursuant to section 554.4403.

Sec. 3. NEW SECTION. 554.3513 CIVIL REMEDY FOR DISHONOR.

1. In a civil action against a person who makes a check, draft, or order, which has been dishonored for lack of funds or credit, after having been presented twice, or because the maker has no account with the drawee, the plaintiff shall recover from the defendant total damages equaling three times the face value of the dishonored check, draft, or order, which sum shall include the face value of the check, draft, or order. However, total recovery under this section shall not exceed by more than five hundred dollars the amount of the check, draft, or order and may be awarded only if all of the following apply:

a. The plaintiff made written demand of the defendant for payment of the amount of the check, draft, or order not less than thirty days before commencing the action.

b. The written demand notified the defendant that treble damages would be sought if the face value of the dishonored check was not paid within thirty days of receipt, and was received by the defendant through personal service or restricted certified mail.

c. The defendant has failed to tender to the plaintiff, prior to commencement of the action, an amount of money not less than the face value of the dishonored check, draft, or order.

d. The plaintiff clearly and conspicuously posted a notice at the usual place of payment, or in a billing statement of the plaintiff, stating that civil damages pursuant to this section would be sought upon dishonorment.

2. In an action for damages pursuant to subsection 1, if the court or jury determines that the failure of the defendant to satisfy the dishonored check, draft, or order is due to economic hardship, the court or jury may waive all or part of the allowable civil damages. However, if the court or jury waives all or part of the civil damages, the court or jury shall render judgment against the defendant in the amount of the dishonored check, draft, or order and the actual costs incurred by the plaintiff in bringing the action.

3. This section does not apply if the reason for the dishonor of the check, draft, or order is that the maker has stopped payment pursuant to section 554.4403 because of a bona fide dispute between the maker and the holder relating to the consideration for which the check, draft, or order was given.

4. In actions brought pursuant to this section, no additional award pursuant to section 554.3512 or 625.22 shall be made.

5. The plaintiff in a civil action to collect a dishonored check, draft, or order brought before the district court sitting in small claims shall not request or recover punitive or exemplary damages, but may seek the civil damages allowed under this section. The plaintiff in a civil action to collect a dishonored check, draft, or order in the district court not sitting in small claims, may seek punitive or exemplary damages if appropriate under chapter 668A, or civil damages allowed under this section, but not both.

6. A violation of this section is an unlawful practice as provided in section 714.16, subsection 2, paragraph "a".

Approved May 1, 1995

CHAPTER 138

LIMITED LIABILITY COMPANIES

H.F. 490

AN ACT relating to limited liability companies.

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

Section 1. Section 490A.202, subsection 17, paragraph a, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Except as otherwise provided in the articles of organization or an operating agreement, or as provided in paragraph "d", indemnify an individual made a party to a proceeding because the individual is or was a member or manager against liability incurred in the proceeding if all of the following apply:

Sec. 2. Section 490A.401, subsection 1, Code 1995, is amended to read as follows:

1. A limited liability company name must contain the words "Limited Company" or "Limited Liability Company" or the abbreviation "L.C." or "L.L.C." or words or abbreviations of like import in another language.

Sec. 3. Section 490A.702, subsection 3, paragraph b, Code 1995, is amended to read as follows:

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

Sec. 4. Section 490A.702, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 6. For purposes of this section, a person is deemed to have knowledge of a provision in the articles of organization limiting the agency authority of a manager or class of managers.

Sec. 5. Section 490A.1301, subsection 3, Code 1995, is amended to read as follows:

3. Unless otherwise provided in the articles of organization or an operating agreement,

upon the death, insanity, retirement, resignation, withdrawal, expulsion, bankruptcy, or dissolution of a member or occurrence of any other event~~, except assignment of a membership interest voluntarily or by operation of law,~~ that terminates the continued membership of a member in the limited liability company, unless the business of the limited liability company is continued by the consent of the members in the manner stated in the articles of organization or an operating agreement or if not so stated, by the unanimous consent of the remaining members.

Sec. 6. Section 490A.1501, subsection 4, Code 1995, is amended to read as follows:

4. "Profession" means the profession of certified public accountancy, architecture, chiropractic, dentistry, physical therapy, psychology, professional engineering, land surveying, landscape architecture, law, medicine and surgery, optometry, osteopathy, osteopathic medicine and surgery, accounting practitioner, podiatry, speech pathology, audiology, veterinary medicine, pharmacy, ~~and~~ nursing, and marriage and family therapy, provided that the marriage and family therapist is licensed under chapters 147 and 154D.

Approved May 1, 1995

CHAPTER 139

DELAYED DEPOSIT SERVICES BUSINESSES

S.F. 423

AN ACT relating to delayed deposit services businesses and providing penalties.

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

Section 1. NEW SECTION. 533D.1 TITLE.

This chapter shall be known and may be cited as the "Delayed Deposit Services Licensing Act".

Sec. 2. NEW SECTION. 533D.2 DEFINITIONS.

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

1. "Check" means a check, draft, share draft, or other instrument for the payment of money.

2. "Delayed deposit services business" means a person who for a fee does either of the following:

a. Accepts a check dated subsequent to the date it was written.

b. Accepts a check dated on the date it was written and holds the check for a period of time prior to deposit or presentment pursuant to an agreement with, or any representation made to, the maker of the check, whether express or implied.

3. "Licensee" means a person licensed to operate pursuant to this chapter.

4. "Person" means an individual, group of individuals, partnership, association, corporation, or any other business unit or legal entity.

5. "Superintendent" means the superintendent of banking.

Sec. 3. NEW SECTION. 533D.3 LICENSE REQUIRED - APPLICATION PROCESS - DISPLAY.

1. A person shall not operate a delayed deposit services business in this state unless the person is licensed by the superintendent as provided in this chapter.

2. An applicant for a license shall submit an application, under oath, to the superintendent on forms prescribed by the superintendent. The forms shall contain such information as the superintendent may prescribe.

3. The application required by this section shall be submitted with both of the following:

a. An application fee in an amount prescribed by rule adopted by the superintendent.

b. A surety bond executed by a surety company authorized to do business in this state in the sum of twenty-five thousand dollars, which bond shall be continuous in nature until canceled by the surety. A surety shall provide at least thirty days' notice in writing to the licensee and to the superintendent indicating the surety's intent to cancel the bond and the effective date of the cancellation. The surety bond shall be for the benefit of the citizens of this state and shall be conditioned upon the licensee's willingness to comply with this chapter, the faithful performance by the licensee of the duties and obligations pertaining to the delayed deposit services business so licensed, and the prompt payment of any judgment recovered against the licensee. The surety's liability under this chapter is limited to the amount of the bond regardless of the number of years the bond is in effect.

4. The superintendent shall issue a license to an applicant if the superintendent finds all of the following:

a. The experience, character, and general fitness of the applicant and its officers, directors, shareholders, partners, or members are such as to warrant a finding that the applicant will conduct the delayed deposit services business honestly, fairly, and efficiently.

b. The applicant and its officers, directors, shareholders, partners, or members have not been convicted of a felony in this state, or convicted of a crime in another jurisdiction which would be a felony in this state.

c. The applicant is financially responsible and will conduct the delayed deposit services business pursuant to this chapter and other applicable laws.

d. The applicant has unencumbered assets of at least twenty-five thousand dollars available for operating the delayed deposit services business.

5. The superintendent shall approve or deny an application for a license by written order not more than ninety days after the filing of an application. An order of the superintendent issued pursuant to this section may be appealed pursuant to chapter 17A.

6. A license issued pursuant to this chapter shall be conspicuously posted at the licensee's place of business. A license shall remain in effect until the next succeeding May 1, unless earlier suspended or revoked by the superintendent. A license shall be renewed annually by filing with the superintendent an application for renewal containing such information as the superintendent may require to indicate any material change in the information contained in the original application or succeeding renewal applications and a renewal fee of one hundred dollars.

Sec. 4. NEW SECTION. 533D.4 SURRENDER OF LICENSE.

A licensee may surrender a delayed deposit services license by delivering to the superintendent written notice that the license is surrendered. The surrender does not affect the licensee's civil or criminal liability for acts committed prior to such surrender, the liability of the surety on the bond, or entitle such licensee to a return of any part of the annual license fee. The superintendent may establish procedures for the disposition of the books, accounts, and records of the licensee and may require such action as deemed necessary for the protection of the makers of checks which are outstanding at the time of surrender of the license.

Sec. 5. NEW SECTION. 533D.5 CHANGE IN CIRCUMSTANCES - NOTIFICATION OF SUPERINTENDENT.

A licensee is to notify the superintendent in writing within thirty days of the occurrence of a material development affecting the licensee, including, but not limited to, any of the following:

1. Filing for bankruptcy or reorganization.

2. Reorganization of the business.

3. Commencement of license revocation or any other civil or criminal proceedings by any other state or jurisdiction.

4. The filing of a criminal indictment or complaint against the licensee or any of the licensee's officers, directors, shareholders, partners, members, employees, or agents.

5. A felony conviction against the licensee or any of the licensee's officers, directors, shareholders, partners, members, employees, or agents.

Sec. 6. NEW SECTION. 533D.6 CONTINUED OPERATION AFTER CHANGE IN OWNERSHIP - APPROVAL OF SUPERINTENDENT REQUIRED.

1. The prior written approval of the superintendent is required for the continued operation of a delayed deposit services business whenever a change in control of a licensee is proposed. Control in the case of a corporation means direct or indirect ownership, or the right to control, ten percent or more of the voting shares of the corporation, or the ability of a person to elect a majority of the directors or otherwise effect a change in policy. Control in the case of any other entity means any change in the principals of the organization, whether active or passive. The superintendent may require information deemed necessary to determine whether a new application is required. Costs incurred by the superintendent in investigating a change of control request shall be paid by the person requesting such approval.

2. A license issued pursuant to this chapter is not transferable or assignable.

Sec. 7. NEW SECTION. 533D.7 PRINCIPAL PLACE OF BUSINESS - BRANCH OFFICES AUTHORIZED.

1. Except as provided in subsection 2, a licensee may operate a delayed deposit services business only at an office designated as its principal place of business in the application. The licensee shall maintain its books, accounts, and records at its designated principal place of business. A licensee may change the location of its designated principal place of business with the prior written approval of the superintendent. The superintendent shall establish forms and procedures for determining whether the change of location should be approved.

2. A licensee may operate branch offices only in the same county in which the licensee's designated principal place of business is located. The licensee may establish a branch office or change the location of a branch office with the prior written approval of the superintendent. The superintendent shall establish forms and procedures for determining whether the location of a branch office should be approved.

3. A fee of one hundred fifty dollars shall be paid to the superintendent for each request made pursuant to subsection 1 or 2.

Sec. 8. NEW SECTION. 533D.8 OTHER BUSINESS OPERATIONS AT SAME SITE - RESTRICTIONS.

1. A licensee may operate a delayed deposit services business at a location where any other business is operated or in association or conjunction with any other business with the written approval of the superintendent and consistent with both of the following requirements:

a. The books, accounts, and records of the delayed deposit services business are kept and maintained separate and apart from the books, accounts, and records of the other business.

b. The other business is not of a type which would tend to enable the concealment of acts engaged in to evade the requirements of this chapter. If the superintendent determines upon investigation that the other business is of a type which would conceal such acts the superintendent shall order the licensee to cease the operation of the delayed deposit services business at the location.

2. The department may order the licensee to cease operations of the business if it fails to obtain written approval of the superintendent before operating a business in association or conjunction with services provided under this chapter.

Sec. 9. NEW SECTION. 533D.9 FEE RESTRICTION - REQUIRED DISCLOSURE.

1. A licensee shall not charge a fee in excess of fifteen dollars on the first one hundred dollars on the face amount of a check or more than ten dollars on subsequent one hundred dollar increments on the face amount of the check for services provided by the licensee, or pro rata for any portion of one hundred dollars face value.

2. A licensee shall give to the maker of the check, at the time any delayed deposit service transaction is made, or if there are two or more makers, to one of them, notice written in clear, understandable language disclosing all of the following:

a. The fee to be charged for the transaction.

b. The annual percentage rate on the first hundred dollars on the face amount of the check which the fee represents, and the annual percentage rate on subsequent one hundred dollar increments which the fee represents, if different.

c. The date on which the check will be deposited or presented for negotiation.

d. Any penalty, not to exceed fifteen dollars, which the licensee will charge if the check is not negotiable on the date agreed upon. A penalty to be charged pursuant to this section shall only be collected by the licensee once on a check no matter how long the check remains unpaid. A penalty to be charged pursuant to this section is a licensee's exclusive remedy and if a licensee charges a penalty pursuant to this section no other penalties under this chapter or any other provision apply.

3. In addition to the notice required by subsection 2, every licensee shall conspicuously display a schedule of all fees, charges, and penalties for all services provided by the licensee authorized by this section. The notice shall be posted at the office and every branch office of the licensee.

Sec. 10. NEW SECTION. 533D.10 PROHIBITED ACTS BY LICENSEE.

1. A licensee shall not do any of the following:

a. Hold from any one maker more than two checks at any one time.

b. Hold from any one maker a check or checks in an aggregate face amount of more than five hundred dollars at any one time.

c. Hold or agree to hold a check for more than thirty-one days.

d. Require the maker to receive payment by a method which causes the maker to pay additional or further fees and charges to the licensee or another person.

e. Repay, refinance, or otherwise consolidate a postdated check transaction with the proceeds of another postdated check transaction made by the same licensee.

f. Receive any other charges or fees in addition to the fees listed in section 533D.9, subsections 1 and 2.

2. For purposes of this section, "licensee" includes a person related to the licensee by common ownership or control, a person in whom the licensee has any financial interest, or any employee or agent of the licensee.

Sec. 11. NEW SECTION. 533D.11 EXAMINATION OF RECORDS BY SUPERINTENDENT.

The superintendent shall examine the books, accounts, and records of each licensee annually. The costs of the superintendent incurred in an examination shall be paid by the licensee.

The superintendent may examine or investigate complaints or reports concerning alleged violations of this chapter or any rule adopted or order issued by the superintendent. The superintendent may order the actual cost of the examination or investigation to be paid by the person who is the subject of the examination or investigation, whether or not the alleged violator is licensed.

Sec. 12. NEW SECTION. 533D.12 SUSPENSION OR REVOCATION OF LICENSE.

1. The superintendent may, after notice and hearing pursuant to chapter 17A, suspend or revoke any license issued pursuant to this chapter upon the finding of any of the following:

a. A licensee or any of its officers, directors, shareholders, partners, or members has violated this chapter or any rule adopted or order issued by the superintendent.

b. A licensee has failed to pay a license fee required under this chapter.

c. A fact or condition existing which, if it had existed at the time of the original application for the license, would have resulted in the denial of the superintendent to issue the license.

d. A licensee has abandoned its place of business for a period of sixty days or more.

e. A licensee fails to pay an administrative penalty and the cost of investigation as ordered by the superintendent.

2. Notice of the time and place of the hearing provided for in this section shall be given no less than ten days prior to the date of the hearing.

Sec. 13. NEW SECTION. 533D.13 CEASE AND DESIST ORDER - INJUNCTION.

If the superintendent believes that any person has engaged in or is about to engage in an act or practice constituting a violation of this chapter or any rule adopted or order issued by the superintendent, the superintendent may issue and serve on the person a cease and desist order. Upon entry of a cease and desist order the superintendent shall promptly notify in writing all persons to whom the order is directed that it has been entered and the reasons for the order. Any person to whom the order is directed may request in writing a hearing within fifteen business days after the date of the issuance of the order. Upon receipt of the written request, the matter shall be set for hearing within fifteen business days of the receipt by the superintendent, unless the person requesting the hearing consents to a later date. If a hearing is not requested within fifteen business days and none is ordered by the superintendent, the order of the superintendent shall automatically become final and remain in effect until modified or vacated by the superintendent. If a hearing is requested or ordered, the superintendent, after notice and hearing, shall issue written findings of fact and conclusions of law and shall affirm, vacate, or modify the order.

The superintendent may vacate or modify an order if the superintendent finds that the conditions which caused its entry have changed or that it is otherwise in the public interest to do so. Any person aggrieved by a final order of the superintendent may appeal the order as provided in chapter 17A.

If it appears that a person has engaged in or is engaging in an act or practice in violation of this chapter, the attorney general may initiate an action in the district court to enjoin such acts or practices and to enforce compliance with this chapter. Upon a showing of a violation of this chapter, a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted or a receiver or conservator may be appointed to oversee the person's assets. The attorney general shall not be required to post a bond.

Sec. 14. NEW SECTION. 533D.14 ADMINISTRATIVE PENALTY.

1. If the superintendent finds, after notice and hearing as provided in this chapter, that a person has violated this chapter, a rule adopted pursuant to this chapter, or an order of the superintendent, the superintendent may order the person to pay an administrative fine of not more than five thousand dollars for each violation, in addition to the costs of investigation.

2. If a person fails to pay an administrative fine and the costs of investigation ordered pursuant to subsection 1, a lien in the amount of the fine and costs may be imposed upon all assets and property of the person in this state and may be recovered in a civil action by the superintendent. Failure of the person to pay the fine and costs constitutes a separate violation of this chapter.

Sec. 15. NEW SECTION. 533D.15 CRIMINAL VIOLATION - OPERATION OF BUSINESS WITHOUT LICENSE - INJUNCTION.

A person required to be licensed under this chapter who operates a delayed deposit services business in this state without first obtaining a license under this chapter or while such license is suspended or revoked by the superintendent is guilty of a serious misdemeanor. In addition to the criminal penalty provided for in this section, the superintendent may also commence an action to enjoin the operation of the business.

Sec. 16. NEW SECTION. 533D.16 APPLICABILITY.

This chapter does not apply to a bank incorporated under the provisions of any state or federal law, a savings and loan association incorporated under the provisions of any state or federal law, a credit union organized under the provisions of any state or federal law, a corporation licensed as an industrial loan company under chapter 536A, or an affiliate of a bank, savings and loan association, credit union, or industrial loan company.

Sec. 17. Section 537.7102, subsection 3, Code 1995, is amended to read as follows:

3. "Debt" means an actual or alleged obligation arising out of a consumer credit transaction, consumer rental purchase agreement, or a transaction which would have been a consumer credit transaction either if a finance charge was made, if the obligation was not payable in installments, if a lease was for a term of four months or less, or if a lease was of an interest in land. A debt includes a check as defined in section 554.3104 given in a transaction in connection with a consumer rental purchase agreement, in a transaction which was a consumer credit sale or in a transaction which would have been a consumer credit sale if credit was granted and if a finance charge was made, or in a transaction regulated under chapter 533D.

Approved May 1, 1995

CHAPTER 140

WORKERS' COMPENSATION - COMPUTATION OF WEEKLY EARNINGS - JUDICIAL REVIEW PROCEDURES

S.F. 286

AN ACT concerning workers' compensation by providing for the computing of gross weekly earnings for volunteer ambulance drivers, emergency medical technician trainees, and seasonal workers, and relating to judicial review of workers' compensation contested cases.

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

Section 1. Section 85.36, subsection 9, Code 1995, is amended by striking the subsection.

Sec. 2. Section 85.36, subsection 10, paragraph a, Code 1995, is amended to read as follows:

a. In computing the compensation to be allowed a volunteer fire fighter, basic or advanced emergency medical care provider, ~~or~~ reserve peace officer, volunteer ambulance driver, or emergency medical technician trainee, the earnings as a fire fighter, basic or advanced emergency medical care provider, ~~or~~ reserve peace officer, volunteer ambulance driver, or emergency medical technician trainee shall be disregarded and the volunteer fire fighter, basic or advanced emergency medical care provider, ~~or~~ reserve peace officer, volunteer ambulance driver, or emergency medical technician trainee shall be paid an amount equal to the compensation the volunteer fire fighter, basic or advanced emergency medical care provider, ~~or~~ reserve peace officer, volunteer ambulance driver, or emergency medical technician trainee would be paid if injured in the normal course of the volunteer fire fighter's, basic or advanced emergency medical care provider's, ~~or~~ reserve peace officer's, volunteer ambulance driver's, or emergency medical technician trainee's regular employment or an amount equal to one hundred and forty percent of the statewide average weekly wage, whichever is greater.

Sec. 3. Section 86.26, Code 1995, is amended to read as follows:

86.26 JUDICIAL REVIEW.

Judicial review of decisions or orders of the industrial commissioner may be sought in accordance with chapter 17A. Notwithstanding chapter 17A, the Iowa Administrative Procedure Act, petitions for judicial review may be filed in the district court of the county in which the hearing under section 86.17 was held and the industrial commissioner shall transmit to the reviewing court the original or a certified copy of the entire record of the contested case which is the subject of the petition within thirty days after receiving written notice from the party filing the petition that a petition for judicial review has been filed. Such a review proceeding shall be accorded priority over other matters pending before the district court.

Sec. 4. The state shall not pay any additional costs incurred by a political subdivision as a result of this Act.

Approved May 1, 1995

CHAPTER 141

BUSINESS INCOME FOR CORPORATE INCOME TAX PURPOSES

H.F. 548

AN ACT relating to the definition of business income for purposes of the state corporate income tax and providing effective and applicability date provisions.

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

Section 1. Section 422.32, subsection 2, Code 1995, is amended to read as follows:

2. "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business; ~~and includes~~ or income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations; or gain or loss resulting from the sale, exchange, or other disposition of real property or of tangible or intangible personal property, if the property while owned by the taxpayer was operationally related to the taxpayer's trade or business carried on in Iowa; or gain or loss resulting from the sale, exchange, or other disposition of stock in another corporation if the activities of the other corporation were operationally related to the taxpayer's trade or business carried on in Iowa while the stock was owned by the taxpayer. A taxpayer may have more than one regular trade or business in determining whether income is business income.

It is the intent of the general assembly to treat as apportionable business income all income that may be treated as apportionable business income under the Constitution of the United States.

The filing of an Iowa income tax return on a combined report basis is neither allowed nor required by this subsection.

Sec. 2. To the extent a taxpayer treated income as business income according to the definition amended in section 1 of this Act or treated income as nonbusiness income consistent with the decision in Phillips Petroleum Company v. Iowa Department of Revenue and Finance, 511 N.W.2d 608 (Iowa 1993) on a filed tax return for tax periods beginning prior to January 1, 1995, the director of revenue and finance shall not challenge such treatment.

Sec. 3. This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 1995, for tax years beginning on or after that date.

Approved May 1, 1995

CHAPTER 142

SALES TAX EXEMPTION FOR AIRCRAFT

S.F. 181

AN ACT providing a sales tax exemption relating to aircraft, limiting the amount of refunds, and providing effective date and retroactive applicability provisions.

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

Section 1. Section 422.45, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 38A. The gross receipts from the sale or rental of aircraft; the sale or rental of tangible personal property permanently affixed or attached as a component part of the aircraft, including but not limited to repair or replacement materials or parts; and the gross receipts of all services used for aircraft repair, remodeling, and maintenance services when such services are performed on aircraft, aircraft engines, or aircraft component materials or parts. For the purposes of this exemption, "aircraft" means aircraft used in a scheduled interstate federal aviation administration-certified air carrier operation.

Sec. 2. REFUNDS. Refunds of taxes, interest, or penalties which arise from claims resulting from the enactment of section 422.45, subsection 38A, in this Act, occurring between July 1, 1988, and June 30, 1995, shall not be allowed unless filed prior to October 1, 1995 and shall be limited to twenty-five thousand dollars in the aggregate, notwithstanding any other provision of law. If the amount of claims totals more than twenty-five thousand dollars in the aggregate, the department of revenue and finance shall prorate the twenty-five thousand dollars among all claimants in relation to the amounts of the claimants' valid claims.

Sec. 3. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY PROVISION. This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 1988.

Approved May 1, 1995

CHAPTER 143

HABITUAL OFFENDERS OF MOTOR VEHICLE LAWS - OPERATING WHILE INTOXICATED

S.F. 358

AN ACT relating to certain offenders of the motor vehicle laws, by providing for an administrative adjudication of the habitual offender status, providing for a youthful offender substance abuse awareness program, requiring ignition interlock devices for temporary restricted licenses, providing penalties, and providing for the payment of fees.

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

Section 1. Section 321.215, subsection 2, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Upon conviction and the suspension or revocation of a person's motor vehicle license under section 321.209, subsection 5, 6, or 8; 321.210; 321.210A; or 321.513; or upon the denial of issuance of a motor vehicle license under section 321.560, based solely on offenses enumerated in section 321.555, subsection 1, paragraph "c", or section 321.555, subsection 2, and upon the denial by the director of an application for a temporary restricted license, a person may apply to the district court having jurisdiction for the residence of the person for a temporary restricted permit to operate a motor vehicle for the limited purpose or purposes specified in subsection 1. The application may be granted only if all of the following criteria are satisfied:

Sec. 2. Section 321.556, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

321.556 NOTICE AND HEARING - FINDINGS AND ORDER.

1. If, upon review of the record of convictions of any person, the department determines that the person appears to be a habitual offender, the department shall immediately notify the person in writing and afford the licensee an opportunity for a hearing. The notice shall direct the person named in the notice to appear for hearing and show cause why the person should not be barred from operating a motor vehicle on the highways of this state. The notice shall meet the requirements of section 17A.12 and shall be served in the manner provided in that section. Service of notice on any nonresident of this state may be made in the same manner as provided in sections 321.498 through 321.506. A peace officer stopping a person for whom a notice to appear for hearing has been issued under the provisions of this section may personally serve the notice upon forms approved by the department to satisfy the notice requirements of this section. A peace officer may confiscate the motor vehicle license of a person if the license has been revoked or has been suspended subsequent to a hearing and the person has not forwarded the motor vehicle license to the department as required.

2. The hearing shall be conducted as provided in section 17A.12 before the department in the county where the alleged events occurred, unless the director and the person agree that the hearing may be held in some other county, or the hearing may be held by telephone conference at the discretion of the agency conducting the hearing. The hearing shall be recorded and its scope shall be limited to the issue of whether the person notified is a habitual offender.

3. An abstract certified by the director of transportation may be admitted as evidence as provided in section 622.43, at the hearing, and shall be prima facie evidence that the person named in the abstract was duly convicted by the court in which the conviction or holding was made of each offense shown by the abstract. If the person named in the abstract denies conviction of any of the relevant convictions contained in the abstract, the person shall have the burden of proving that the conviction is untrue. For purposes of this subsection, a conviction is relevant if it is for one of the offenses listed in section 321.555.

4. If the department finds that the person is not the same person named in the abstract, or otherwise concludes that the person is not a habitual offender as provided in section 321.555, the department shall issue a decision dismissing the proceedings. If the department's findings and conclusions are that the person is a habitual offender, the department shall issue an order prohibiting the person from operating a motor vehicle on the highways of this state for the period specified in section 321.560. If a person is found to be a habitual offender, the person shall surrender all licenses or permits to operate a motor vehicle in this state to the department. A person who is found to be an habitual offender may be assessed a fee by the department to cover the costs of the habitual offender proceedings. Fees assessed shall be paid before the person may be issued a license or permit to operate a motor vehicle in this state.

Sec. 3. Section 321.560, Code 1995, is amended to read as follows:

321.560 BARRED FOR SIX YEARS.

A license to operate a motor vehicle in this state shall not be issued to any person declared to be ~~an~~ a habitual offender under section 321.555, subsection 1 for a period of not less than two years nor more than six years from the date of ~~judgment as ordered by the court~~ the final decision of the department under section 17A.19 or the date on which the district court upholds the final decision of the department, whichever occurs later. However, a temporary restricted license may be issued to a person declared to be a habitual offender under section 321.555, subsection 1, paragraph "c", pursuant to section 321.215, subsection 2. A license to operate a motor vehicle in this state shall not be issued to any person declared to be ~~an~~ a habitual offender under section 321.555, subsection 2, for a period of one year from the date of ~~judgment~~ the final decision of the department under section 17A.19 or the date on which the district court upholds the final decision of the department, whichever occurs later. The department shall adopt rules under chapter 17A which establish a point system which shall be used to determine the period for which a person who is declared to be a habitual offender under section 321.555, subsection 1, shall not be issued a license.

Sec. 4. Section 321.561, Code 1995, is amended to read as follows:

321.561 PUNISHMENT FOR VIOLATION.

It shall be unlawful for any person ~~convicted as an~~ found to be a habitual offender to operate any motor vehicle in this state during the period of time specified in section 321.560 except for a habitual offender who has been granted a temporary restricted license pursuant to section 321.215, subsection 2. ~~This conviction shall constitute~~ A person violating this section commits an aggravated misdemeanor.

Sec. 5. Section 321J.4B, subsection 12, as enacted by 1995 Iowa Acts, Senate File 446,* is amended to read as follows:

12. Operating a motor vehicle on a street or highway in this state in violation of an order of impoundment or immobilization is a serious misdemeanor. A motor vehicle which is subject to an order of impoundment or immobilization that is operated on a street or highway in this state ~~during the period of impoundment or immobilization~~ in violation of the order shall be seized and forfeited to the state under chapter 809.

Sec. 6. Section 321J.17, Code 1995, is amended to read as follows:

321J.17 CIVIL PENALTY – DISPOSITION – REINSTATEMENT.

When the department revokes a person's motor vehicle license or nonresident operating privilege under this chapter, the department shall assess the person a civil penalty of two hundred dollars. The money collected by the department under this section shall be transmitted to the treasurer of state who shall deposit one-half of the money in the separate fund established in section 912.14 and one-half of the money shall be deposited in the general fund of the state. A ~~temporary restricted license shall not be issued or a~~ motor vehicle license or nonresident operating privilege shall not be reinstated until the civil penalty has been paid.

*Chapter 48 herein

Sec. 7. Section 321J.20, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Following the minimum period of ineligibility, a temporary restricted license under this section shall not be issued until such time as the applicant installs an ignition interlock device of a type approved by the commissioner of public safety on all motor vehicles owned or operated by the applicant, in accordance with section 321J.4, subsection 7. Installation of an ignition interlock device under this section shall be required for the period of time for which the temporary restricted license is issued, but no longer than one year, unless the court order under section 321J.4, subsection 7, provides for a longer period of time.

Sec. 8. NEW SECTION. 321J.24A YOUTHFUL OFFENDER SUBSTANCE ABUSE AWARENESS PROGRAM.

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

a. "Participant" means a person whose motor vehicle license or operating privilege has been revoked for a violation of section 321J.2A, if enacted by 1995 Iowa Acts, Senate File 446.*

b. "Program" means a substance abuse awareness program provided under a contract entered into between the provider and the commission on substance abuse of the Iowa department of public health under chapter 125.

c. "Program coordinator" means a person assigned the duty to coordinate a participant's activities in a program by the program provider.

2. A substance abuse awareness program is established in each of the regions established by the commission on substance abuse. The program shall consist of an insight class and a substance abuse evaluation, which shall be attended by the participant, to discuss issues related to the potential consequences of substance abuse. The parent or parents of the participant shall also be encouraged to participate in the program. The program provider shall consult with the participant or the parents of the participant in the program to determine the timing and appropriate level of participation for the participant and any participation by the participant's parents. The program may also include a supervised educational tour by the participant to any or all of the following:

a. A hospital or other emergency medical care facility which regularly receives victims of motor vehicle accidents, to observe treatment of appropriate victims of motor vehicle accidents involving intoxicated drivers, under the supervision of a registered nurse, physician, paramedic, or emergency medical technician.

b. A facility for the treatment of chemical substance abuse as defined in section 125.2, under the supervision of appropriately licensed medical personnel.

c. If approved by the state or county medical examiner, a morgue or a similar facility to receive appropriate educational material and instruction concerning damage caused by the consumption of alcohol or other drugs, under the supervision of the county medical examiner or deputy medical examiner.

3. If the program includes a tour, the program coordinator shall explain and discuss the experiences which may be encountered during the tour to the participant. If the program coordinator determines at any time before or during a tour that the tour may be traumatic or otherwise inappropriate for the participant, the program coordinator shall terminate the tour without prejudice to the participant.

4. Upon the revocation of the motor vehicle license or operating privileges of a person who is fourteen years of age or older for a violation of section 321J.2A, if enacted, if the person has had no previous revocations under either section 321J.2 or section 321J.2A, if enacted, a person may participate in the substance abuse awareness program. The state department of transportation shall notify a potential program participant of the possibility and potential benefits of attending a program and shall notify a potential program participant of the availability programs** which exist in the area in which the person resides. The state department of transportation shall consult with the Iowa department of public

*Chapter 48 herein

**The term "availability of programs" probably intended

health to determine what programs are available in various areas of the state. The period of revocation for a person whose motor vehicle license or operating privilege has been revoked under section 321J.2A, if enacted, shall be reduced by fifty percent upon receipt by the state department of transportation of a certification by a program provider that the person has completed a program.

5. Program providers and facilities toured during the program are not liable for any civil damages resulting from injury to the participant, or civil damages caused by the participant during or from any activities related to a tour, except for willful or grossly negligent acts intended to, or reasonably expected to result in, such injury or damage.

6. The program provider shall determine fees to be paid by participants in the program. The program fees shall be paid on a sliding scale, based upon the ability of a participant and a participant's family to pay the fees, and shall not exceed one hundred dollars per participant. The program provider shall use the fees to pay all costs associated with the program.

Sec. 9. Section 331.756, subsection 58, Code 1995, is amended by striking the subsection.

Sec. 10. Section 602.8102, subsection 52, Code 1995, is amended by striking the subsection.

Sec. 11. Section 602.8106, subsection 1, paragraph a, Code 1995, is amended to read as follows:

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.

Sec. 12. Section 321J.12, subsection 5, as enacted by 1995 Iowa Acts, Senate File 446,* is amended to read as follows:

5. Upon certification, subject to penalty of perjury, by the peace officer that there existed reasonable grounds to believe that the person had been operating a motor vehicle in violation of section 321J.2A, that there existed one or more of the necessary conditions for chemical testing described in section 321J.6, subsection 1, and that the person submitted to chemical testing and the test results indicated an alcohol concentration as defined in section 321J.1 of .02 or more but less than .10, the department shall revoke the person's motor vehicle license or operating privilege for a period of ~~thirty~~ sixty days if the person has had no revocations within the previous six years under section 321J.2A, and for a period of ninety days if the person has had one or more previous revocations within the previous six years under section 321J.2A.

Sec. 13. REPEAL. Sections 321.557, 321.558, and 321.559, Code 1995, are repealed.

Sec. 14. REPORT BY DEPARTMENT OF TRANSPORTATION. The department of transportation shall, by January 15, 1996, submit a report to the general assembly regarding the number of habitual offender contested cases which take place on or after the effective date of this Act. The report shall also contain information regarding the average length and cost of conducting the hearings.

Approved May 2, 1995

*Chapter 48 herein

CHAPTER 144

SEXUALLY VIOLENT PREDATORS

S.F. 432

AN ACT relating to sexually violent predators, by providing notice of the petition to the attorney general, by specifying the location for trial, by requiring the state to pay the costs incurred by a county for services in sexually violent offender proceedings, providing for notification of victims, providing for a departmental study, and providing an effective date.

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

Section 1. NEW SECTION. 709C.2A NOTIFICATION OF RELEASE.

Within six months of the impending release of an inmate who has been convicted of a sexually violent offense, the department of corrections shall notify the county attorney for the county in which the person was convicted and the attorney general of the impending release.

Sec. 2. Section 709C.5, Code 1995, is amended to read as follows:

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 in the county in which the person was convicted of a sexually violent offense 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. 3. NEW SECTION. 709C.11 FUNDING.

All costs incurred by a county pursuant to sections 709C.1 through 709C.10, including, but not limited to, the cost of filing a sexually violent predator petition under section 709C.3; the cost of an evaluation under section 709C.4; the cost of participating in the sexually violent predator trial on behalf of the petitioner under section 709C.5; the cost of court-appointed counsel for indigents under section 709C.5; the cost of qualified experts or professionals retained under section 709C.5; the cost of control, care, and treatment at a facility operated by the department of human services under section 709C.6; the cost of annual examinations under section 709C.7; the cost of representing the state in a petition for release hearing under section 709C.8; and the cost of having the petitioner examined by an expert or professional person under section 709C.8, shall be paid by the state.

Sec. 4. NEW SECTION. 709C.12 EFFECTIVE DATE.

This chapter takes effect July 1, 1996, and applies to persons convicted of a sexually violent offense on or after July 1, 1997.

Sec. 5. Section 910A.9A, Code 1995, is amended to read as follows:

910A.9A NOTIFICATION BY DEPARTMENT OF HUMAN SERVICES.

The department of human services shall notify a victim registered with the department, regarding a juvenile adjudicated delinquent for a violent crime, committed to the custody of the department of human services, and placed at the state training school at Eldora or Toledo, or regarding a person determined to be a sexually violent predator under chapter 709C, and committed to the custody of the department of human services, of the following:

1. The date on which the juvenile or sexually violent predator is expected to be temporarily released from the custody of the department of human services, and whether the juvenile is expected to return to the community where the registered victim resides.
2. The juvenile's or the sexually violent predator's escape from custody.
3. The recommendation by the department to consider the juvenile or sexually violent predator for release or placement.
4. The date on which the juvenile or sexually violent predator is expected to be released from a facility pursuant to a plan of placement.

Sec. 6. 1994 Iowa Acts, chapter 1172, section 74, is amended to read as follows:

SEC. 74. EFFECTIVE ~~DATES~~ DATE. ~~Sections 43 through 52 take effect July 1, 1995.~~ Section 63 of this Act takes effect June 30, 1994.

Sec. 7. DEPARTMENTAL STUDY. The department of justice, in consultation with the department of human services, shall conduct a study of the issues involved in the implementation of chapter 709C, including, but not limited to, the costs associated with the current hearing process, the costs of and security problems related to the confinement of sexually violent predators, legal issues surrounding the commitment and confinement of sexually violent predators, and potential alternatives to commitment and confinement of sexually violent predators. In conducting the study, the department shall also consult with an association of county attorneys and the department of corrections. The department of justice shall submit its findings and any recommendations in a report to the general assembly by January 1, 1996.

Approved May 2, 1995

CHAPTER 145

SENIOR JUDGES – APPOINTMENT, COMPENSATION, AND RETIREMENT

S.F. 427

AN ACT relating to authorizing the payment of salaries to senior judges, providing for a maximum retirement annuity amount paid to senior judges, affecting senior judge retirement benefits, the appointment of judges to senior judge status, and providing effective and applicability dates.

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

Section 1. Section 602.9203, subsection 2, unnumbered paragraph 1, Code 1995, is amended to read as follows:

A judicial officer referred to in subsection 1 ~~qualifies for a senior judgeship~~ may be appointed, at the discretion of the supreme court, for a two-year term as a senior judge if the judicial officer meets all of the following requirements:

Sec. 2. Section 602.9203, subsection 5, Code 1995, is amended by striking the subsection and inserting in lieu thereof the following:

5. A senior judge may be reappointed to additional two-year terms, at the discretion of the supreme court, if the judicial officer meets the requirements of subsection 2.

Sec. 3. Section 602.9204, subsection 1, Code 1995, is amended to read as follows:

1. A ~~senior~~ judge ~~or a retired senior judge~~ who retires on or after July 1, 1994 and who is appointed a senior judge under section 602.9203, shall ~~not~~ be paid a salary as determined by the general assembly. 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 basic senior judge salary, 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 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.

Sec. 4. Section 602.9204, subsection 2, paragraphs a and c, Code 1995, are amended to read as follows:

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~~ basic annual salary which the judge is receiving at the time the judge becomes separated from full-time service, 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.

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~~ basic annual salary which the judge is receiving at the time the judge becomes separated from full-time service 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. 5. Section 602.9208, subsection 3, Code 1995, is amended to read as follows:

3. A person who relinquishes a senior judgeship in the manner provided in subsection 1 or who is not reappointed shall be paid a retirement annuity that commences on the effective date of the relinquishment or the date of the completion of the term or appointment and shall be based upon the number of years the person served as a senior judge. A person who serves six or more years as a senior judge shall be paid a retirement annuity that is in an amount equal to the amount of the annuity the person is receiving on the effective date of the relinquishment or the date of the completion of the term or appointment in lieu of an amount determined according to section 602.9204. If the person serves less than six years as a senior judge, the person shall be paid a retirement annuity that is in

an amount equal to an amount determined according to section 602.9107 added to an amount equal to the number of years the person served as a senior judge, divided by six, multiplied by the difference between the amount of the annuity the person is receiving on the effective date of the relinquishment and the amount determined according to section 602.9107. A person who is removed from a senior judgeship as provided in subsection 2 shall be paid a retirement annuity that commences on the effective date of the removal and is in an amount determined according to section 602.9107 in lieu of section 602.9204, and any service and annuity of the person as a senior judge is disregarded.

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

Approved May 2, 1995

CHAPTER 146

SEX OFFENDER REGISTRY

S.F. 93

†**AN ACT** related to criminal offenses against minors, sexual exploitation, and sexually violent offenses and offenders committing those offenses, by requiring registration by offenders, providing for the establishment of a sex offender registry, permitting the charging of fees, providing penalties, and providing for transition, applicability, and severability provisions.

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

Section 1. NEW SECTION. 692A.1 DEFINITIONS.

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

1. "Convicted" or "conviction" means a person who is found guilty of, pleads guilty to, or is sentenced or adjudicated delinquent for an act which is an indictable offense in this state or in another jurisdiction, including, but not limited to, a juvenile who has been adjudicated delinquent, but whose juvenile court records have been sealed under section 232.150, and a person who has received a deferred sentence or a deferred judgment or has been acquitted by reason of insanity. "Convicted" or "conviction" does not mean a plea, sentence, adjudication, deferral of sentence or judgment which has been reversed or otherwise set aside.

2. "Criminal justice agency" means an agency or department of any level of government or an entity wholly owned, financed, or controlled by one or more such agencies or departments which performs as its principal function the apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal offenders.

3. "Criminal offense against a minor" means any of the following criminal offenses or conduct:

a. Kidnapping of a minor, except for kidnapping of a minor in the third degree which is committed by a parent.

b. False imprisonment of a minor, except when committed by a parent.

c. Any indictable offense involving sexual conduct directed toward a minor.

d. Solicitation of a minor to engage in an illegal sex act.

e. Use of a minor in a sexual performance.

f. Solicitation of a minor to practice prostitution.

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

g. Any indictable offense against a minor involving sexual contact with the minor.

h. An attempt to commit an offense enumerated in this subsection.

i. Dissemination and exhibition of obscene material to minors in violation of section 728.2.

j. Admitting minors to premises where obscene material is exhibited in violation of section 728.3.

k. An indictable offense committed in another jurisdiction which would constitute an indictable offense under paragraphs "a" through "j".

4. "Department" means the department of public safety.

5. "Residence" means the place where a person sleeps, which may include more than one location, and may be mobile or transitory.

6. "Sexually violent offense" means any of the following indictable offenses:

a. Sexual abuse as defined under section 709.1.

b. Assault with intent to commit sexual abuse in violation of section 709.11.

c. Sexual misconduct with offenders in violation of section 709.16.

d. Any of the following offenses, if the offense involves sexual abuse or attempted sexual abuse: murder, kidnapping, or burglary.

e. A criminal offense committed in another jurisdiction which would constitute an indictable offense under paragraphs "a" through "d" if committed in this state.

7. "Sexual exploitation" means sexual exploitation by a counselor or therapist under section 709.15.

Sec. 2. NEW SECTION. 692A.2 PERSONS REQUIRED TO REGISTER.

1. A person who has been convicted of either a criminal offense against a minor, sexual exploitation, or a sexually violent offense shall register as provided in this chapter for a period of ten years commencing from the date of placement on probation, parole, work release, or other release from custody. A person is not required to register while incarcerated. A person who is convicted, as defined in section 692A.1, of either a criminal offense against a minor or a sexually violent offense as a result of adjudication of delinquency in juvenile court shall not be required to register as required in this chapter if the juvenile court finds that the person should not be required to register under this chapter. If a person is placed on probation, parole, or work release and the probation, parole, or work release is revoked, the ten years shall commence anew upon release from custody.

2. A person who has been convicted of an offense under the laws of this state or of another state which would qualify the person as a sexually violent predator under the federal Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, shall register as provided in this chapter for an indeterminate period terminating only upon a determination by the sentencing court that registration is no longer required.

Sec. 3. NEW SECTION. 692A.3 REGISTRATION PROCESS.

1. A person required to register under this chapter shall register with the sheriff of the county of the person's residence within ten days of establishment of residence in this state or within ten days of any conviction for which the person is not incarcerated, a release from custody, or placement on probation, parole, or work release.

2. A person required to register under this chapter shall, within ten days of changing residence within a county in this state, notify the sheriff of the county in which the person is registered of the change of address and any changes in the person's telephone number in writing on a form provided by the sheriff. The sheriff shall send a copy of the change of address to the department within three working days of receipt of notice of the address change.

3. A person required to register under this chapter shall register with the sheriff of a county in which residence has been newly established and notify the sheriff of the county in which the person was registered, within ten days of changing residence to a location outside the county in which the person was registered. Registration shall be in writing on

a form provided by the sheriff and shall include the person's change of address and any changes to the person's telephone number. The sheriff shall send a copy of the change of address to the department within three working days of receipt of notice of the address change.

4. A person required to register under this chapter shall notify the sheriff of the county in which the person is registered, within ten days of changing residence to a location outside this state, of the new residence address and any changes in telephone number and shall register in the other state within the ten days, if persons are required to register under the laws of the other state. The sheriff shall send a copy of the change of address to the department within three working days of receipt of notice of the address change.

5. The collection of information by a court or releasing agency under section 692A.5 shall serve as the person's initial registration for purposes of this section. The court or releasing agency shall forward a copy of the registration to the department within three working days of completion of registration.

Sec. 4. NEW SECTION. 692A.4 VERIFICATION OF ADDRESS.

1. The address of a person required to register under this chapter shall be verified annually as follows:

a. On a date which falls within the month in which the person was initially required to register, the department shall mail a verification form to the last reported address of the person. Verification forms shall not be forwarded to the person who is required to register under this chapter if the person no longer resides at the address, but shall be returned to the department.

b. The person shall complete and mail the verification to the department within ten days of receipt of the form.

c. The verification form shall be signed by the person, and state the address at which the person resides. If the person is in the process of changing residences, the person shall state that fact as well as the old and new addresses or places of residence.

2. Verification of address for a person who has been convicted of an offense under the laws of this state or of another state which would qualify the person as a sexually violent predator under the federal Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, shall be accomplished in the same manner as in subsection 1, except that the verification shall be done every three months at times established by the department.

Sec. 5. NEW SECTION. 692A.5 DUTY TO FACILITATE REGISTRATION.

1. When a person who is required to register under this chapter is released from confinement from a jail, prison, juvenile facility, or other correctional institution or facility, or when such a person is convicted but not incarcerated, the sheriff, warden, or superintendent, or in the case of conviction without incarceration, the court, shall do the following prior to release or sentencing of the convicted person:

a. Obtain fingerprints, the social security number, and a photograph of the person if fingerprints and a photograph and the social security number have not already been obtained in connection with the offense that triggers registration. A current photograph may also be required.

b. Inform the person of the duty to register.

c. Inform the person that, within ten days of changing residence, registration with the sheriff in the county in which residence is established is required, if the residence is within the state.

d. Inform the person that if the person moves their residence to another state, the person must give the person's new address to the sheriff's department in the county of the person's old residence within ten days of changing addresses, and that, if the other state has a registration requirement, the person is also required to register in the new state of residence, not later than ten days after establishing residence in the other state and to verify the address at least annually.

e. Require the person to read and sign a form stating that the duty of the person to register under this chapter has been explained. If the person cannot read, is unable to write, or refuses to cooperate, the duty and the form shall be explained orally and a written record maintained by the person explaining the duty and the form.

2. When a person who is required to register under this chapter is released from confinement from a jail, prison, juvenile facility, or other correctional institution or facility, or when such a person is convicted but not incarcerated, the sheriff, warden, or superintendent, or in the case of conviction without incarceration, the court shall verify that the person has completed initial registration forms, and accept the forms on behalf of the sheriff of the county of registration. The sheriff, warden, superintendent, or the court shall send the initial registration information to the department within three working days of completion of the registration. Probation, parole, work release, or any other form of release after conviction shall not be granted unless the person has registered as required under this chapter.

3. The sheriff, warden, or superintendent, or in the case the person is placed on probation, the court, shall forward one copy of the registration information to the department and to the sheriff of the county in which the person is to reside within three days after completion of the registration.

Sec. 6. NEW SECTION. 692A.6 REGISTRATION FEES AND CIVIL PENALTY FOR OFFENDERS.

1. At the time of filing a registration statement, or a change of registration, with the sheriff of the county of residence, a person who is required to register under this chapter shall pay a fee of ten dollars to the sheriff. If, at the time of registration, the person who is required to register is unable to pay the fee, the sheriff may allow the person time to pay the fee, permit the payment of the fee in installments, or may waive payment of the fee. Fees paid to the sheriff shall be used to defray the costs of duties related to the registration of persons under this chapter.

2. In addition to any other penalty, at the time of conviction for a public offense committed on or after the effective date of this Act which requires a person to register under this chapter, the person shall be assessed a civil penalty of two hundred dollars, to be payable in the same manner as a fine. The clerk of the district court shall transmit money collected under this subsection each month to the treasurer of state, who shall deposit ten percent of the moneys transmitted by the clerk into the court technology and modernization fund, for use for the purposes established in section 602.8108, subsection 4, paragraph "a", and deposit the balance of the moneys transmitted by the clerk into the sex offender registry fund established under section 692A.11.

3. The fees required by this section shall not be assessed against a person who has been acquitted by reason of insanity of the offense which requires registration under this chapter.

Sec. 7. NEW SECTION. 692A.7 FAILURE TO COMPLY - PENALTY.

1. A willful failure to register as required under this chapter is an aggravated misdemeanor for a first offense and a class "D" felony for a second or subsequent offense. However, a person who willfully fails to register as required under this chapter and who commits a criminal offense against a minor, sexual exploitation, or a sexually violent offense is guilty of a class "C" felony. Any fine imposed for a second or subsequent offense shall not be suspended. The court shall not defer judgment or sentence for any violation of the registration requirements of this chapter. The willful failure of a person who is on probation, parole, or work release, or any other form of release to register as required under this chapter shall result in the automatic revocation of the person's probation, parole, or work release.

2. In determining if a violation is a second or subsequent offense, a conviction for a violation of this section which occurred more than ten years prior to the date of the violation

charged shall not be considered in determining that the violation charged is a second, third, or subsequent offense. Violations in any other states under sex offender registry provisions that are substantially similar to those contained in this section shall be counted as previous offenses. The court shall judicially notice the statutes of other states which are substantially equivalent to this section.

Sec. 8. NEW SECTION. 692A.8 DETERMINATION OF REQUIREMENT TO REGISTER.

1. A person who is registered under this chapter may request that the department determine whether the offense for which the person has been convicted requires the person to register under this chapter or whether the period of time during which the person is obligated to register under this chapter has expired.

2. Application for determination shall be made on forms provided by the department and accompanied by copies of sentencing or adjudicatory orders with respect to each offense for which the person asks that a determination be made.

3. The department shall, within ninety days of the filing of the request, determine whether the person is required to register under this chapter.

Sec. 9. NEW SECTION. 692A.9 REGISTRATION FORMS.

Registration forms shall be prepared by the department and shall include the registrant's name, the registrant's social security number, the registrant's current address, and, if applicable, the registrant's telephone number. The forms may provide for the reporting of additional relevant information such as, but not limited to, fingerprints and photographs but shall not include information identifying the victim of the crime of which the registrant was convicted. Copies of blank forms shall be available upon request to any person from the sheriff.

Sec. 10. NEW SECTION. 692A.10 DEPARTMENT DUTIES - REGISTRY.

The department shall perform all of the following duties:

1. Develop and disseminate standard forms for use in registering of, verifying addresses of, and verifying understanding of registration requirements by persons required to register under this chapter. Forms used to verify addresses of persons required to register under this chapter shall contain a warning against forwarding of the forms and of the requirement to return the forms if the person to whom the form is directed no longer resides at the address listed on the form or the mailing.

2. Maintain a central registry of information collected from persons required to register under this chapter, which shall be known as the sex offender registry.

3. In consultation with the attorney general, adopt rules under chapter 17A which list specific offenses under present and former law which constitute criminal offenses against a minor under this chapter.

4. Adopt rules under chapter 17A, as necessary, to ensure compliance with registration and verification requirements of this chapter, to provide guidelines for persons required to assist in obtaining registry information, and to provide a procedure for the dissemination of information contained in the registry. The procedure for the dissemination of information shall include, but not be limited to, practical guidelines for use by criminal justice agencies in determining when public release of information contained in the registry is appropriate and a requirement that if a member of the general public requests information regarding a specific individual in the manner provided in section 692A.13, subsection 6, the information shall be released. The department, in developing the procedure, shall consult with associations which represent the interests of law enforcement officers. Rules adopted shall also include a procedure for removal of information from the registry upon the reversal or setting aside of a conviction of a person who is registered under this chapter.

Sec. 11. NEW SECTION. 692A.11 SEX OFFENDER REGISTRY FUND.

A sex offender registry fund is established as a separate fund within the state treasury

under the control of the department. The fund shall consist of moneys received as a result of the imposition of the penalty imposed under section 692A.6 and other funds allocated for purposes of establishing and maintaining the sex offender registry, conducting research and analysis related to sex crimes and offenders, and to perform other duties required under this chapter. Notwithstanding section 8.33, unencumbered or unobligated moneys and any interest remaining in the fund on June 30 of any fiscal year shall not revert to the general fund of the state, but shall remain available for expenditure in subsequent fiscal years.

Sec. 12. NEW SECTION. 692A.12 DUTIES OF THE SHERIFF.

The sheriff of each county shall comply with the requirements of this chapter and rules adopted by the department pursuant to this chapter.

Sec. 13. NEW SECTION. 692A.13 AVAILABILITY OF RECORDS.

Information contained in the sex offender registry is a confidential record under section 22.7, subsection 9, and shall only be disseminated or redisseminated as follows:

1. The department or a sheriff may disclose information to criminal justice agencies for law enforcement or prosecution purposes.

2. The department may disclose information to government agencies which are conducting confidential background investigations.

3. The department or a criminal justice agency with case-specific authorization from the department may release relevant information from the registry regarding a criminal offense against a minor, sexual exploitation, or a sexually violent offense, that is necessary to protect the public concerning a specific person who is required to register under this chapter.

4. The department may disseminate departmental analyses of information contained in the sex offender registry to persons conducting bona fide research, if the data does not contain individually identified information, as defined under section 692.1.

5. Criminal history information contained in the registry may be released as provided in chapter 692 or used by criminal justice agencies as an index for purposes of locating a relevant conviction record.

6. A sheriff shall release information regarding a specific person who is required to register under this chapter to a member of the general public if the person requesting the information gives the person's name and address in writing, states the person's reason for requesting the information, and provides the sheriff with the name and address of the person about whom the information is sought. The sheriff shall maintain a record of persons requesting information from the registry. The record of persons requesting information from the registry is a confidential record under section 22.7, subsection 9, unless the person requesting the information from the registry requests that the record of the information request be a public record.

7. Notwithstanding sections 232.147 through 232.151, records concerning convictions for criminal offenses against a minor or sexually violent offenses which are committed by a minor may be released in the same manner as records of convictions of adults.

Sec. 14. NEW SECTION. 692A.14 COOPERATION WITH REGISTRATION.

Each agency of state and local government which possesses information relevant to requirements that a person register under this chapter shall provide that information to the court or the department upon request. All confidential records provided under this section shall remain confidential, unless otherwise ordered by a court, by the lawful custodian of the records, or by another person duly authorized to release such information.

Sec. 15. NEW SECTION. 692A.15 IMMUNITY FOR GOOD FAITH CONDUCT.

Criminal justice agencies, officials, and employees of criminal justice agencies and state agencies and their employees shall be immune from liability for acts or omissions arising from a good faith effort to comply with this chapter.

Sec. 16. STATE MANDATE. For purposes of section 25B.2, subsection 3, the moneys received from fees which are permitted to be charged under this Act shall constitute full funding of any state mandate which is not otherwise excluded from the requirements of that subsection and which is imposed upon a political subdivision under this Act.

Sec. 17. APPLICABILITY OF ACT - TRANSITION PROVISIONS.

1. The registration requirements of this Act shall apply to persons convicted of criminal offenses against a minor, sexual exploitation, or a sexually violent offense prior to the effective date of this Act but who are released on or after the effective date of this Act, are participating in a work release or institutional work release program on or after the effective date of this Act, or who are under parole or probation supervision by a judicial district department of correctional services on or after the effective date of this Act.

2. Persons required to register under subsection 1, shall register for a period of ten years commencing with the later of either the effective date of this Act, or the date of the person's release from confinement, release on work release or institutional work release, or release on parole or probation. For persons released from confinement, registration shall be initiated by the warden or superintendent in charge of the place of confinement in the same manner as provided in section 692A.5. For persons who are under parole or probation supervision, the person's parole or probation officer shall inform the person of the person's duty to register and shall obtain the registration information required under section 692A.5.

Sec. 18. SEVERABILITY OF ACT. If any provision of this Act or the application of this Act to any person is held invalid, the invalidity shall not affect the provisions or application of this Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are severable.

Approved May 3, 1995

CHAPTER 147

CHILD ABUSE AND TERMINATION OF PARENTAL RIGHTS

S.F. 208

AN ACT relating to child abuse and termination of parental rights provisions, and providing an effective date.

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

Section 1. IOWA CHILD DEATH REVIEW TEAM - FINDINGS AND PURPOSE.

1. The general assembly finds the following:

a. Protection of the health and welfare of the children of this state is a goal of its people and the death of children is an important public health concern that requires legislative action.

b. Collecting accurate data on the cause and manner of deaths will better enable the state to identify preventable deaths, and thus help reduce the incidence of such deaths.

c. Multidisciplinary review of child deaths is a mechanism to assist the state in developing a greater understanding of the incidence and causes of child deaths and the methods for prevention of such deaths.

2. The purpose of the child death review team is to aid in the reduction of the incidence of serious injury and death to children by accurately identifying the cause and manner of death of children.

Sec. 2. NEW SECTION. 135.43 IOWA CHILD DEATH REVIEW TEAM ESTABLISHED - DUTIES.

1. An Iowa child death review team is established as an independent agency of state government. The Iowa department of public health shall provide staffing and administrative support to the team.

2. The membership of the review team is subject to the provisions of sections 69.16 and 69.16A, relating to political affiliation and gender balance. Review team members who are not designated by another appointing authority shall be appointed by the director of public health in consultation with the director of human services. Membership terms shall be for three years. A membership vacancy shall be filled in the same manner as the original appointment. The review team shall elect a chairperson and other officers as deemed necessary by the review team. The review team shall meet upon the call of the chairperson, upon the request of a state agency, or as determined by the review team. The members of the team are eligible for reimbursement of actual and necessary expenses incurred in the performance of their official duties.

The review team shall include the following:

a. The state medical examiner or the state medical examiner's designee.

b. A certified or licensed professional who is knowledgeable concerning sudden infant death syndrome.

c. A pediatrician who is knowledgeable concerning deaths of children.

d. A family practice physician who is knowledgeable concerning deaths of children.

e. One mental health professional who is knowledgeable concerning deaths of children.

f. One social worker who is knowledgeable concerning deaths of children.

g. A certified or licensed professional who is knowledgeable concerning domestic violence.

h. A professional who is knowledgeable concerning substance abuse.

i. A local law enforcement official.

j. A county attorney.

k. An emergency room nurse who is knowledgeable concerning the deaths of children.

l. A perinatal expert.

m. A representative of the health insurance industry.

n. One other appointed at large.

3. The review team shall perform the following duties:

a. Collect, review, and analyze child death certificates and child death data, including patient records or other pertinent confidential information concerning the deaths of children age six or younger, and other information as the review team deems appropriate for use in preparing an annual report to the governor and the general assembly concerning the causes and manner of child deaths. The report shall include analysis of factual information obtained through review and recommendations regarding prevention of child deaths.

b. Recommend to the governor and the general assembly interventions to prevent deaths of children based on an analysis of the cause and manner of such deaths.

c. Recommend to the agencies represented on the review team changes which may prevent child deaths.

d. Maintain the confidentiality of any patient records or other confidential information reviewed.

e. Develop protocols for and establish a committee to review child abuse investigations which involve the death of a child.

4. The following individuals shall designate a liaison to assist the review team in fulfilling its responsibilities:

a. Director of public health.

b. Director of human services.

c. Commissioner of public safety.

d. Administrator of the division of vital records of the Iowa department of public health.

e. Attorney general.
f. Director of transportation.
g. Director of the department of education.

5. The review team may establish subcommittees to which the team may delegate some or all of the team's responsibilities under subsection 3.

6. The Iowa department of public health and the department of human services shall adopt rules providing for disclosure of information which is confidential under chapter 22 or any other provision of state law, to the review team for purposes of performing its child death and child abuse review responsibilities.

Sec. 3. Section 232.2, subsection 22, unnumbered paragraph 1, Code 1995, is amended to read as follows:

"Guardian ad litem" means a person appointed by the court to represent the interests of a child in any judicial proceeding to which the child is a party, and includes a court appointed special advocate, except that a court appointed special advocate shall not file motions or petitions pursuant to section 232.54, subsections 1 and 4, ~~and~~ section 232.103, subsection 2, paragraph "c", and section 232.111.

Sec. 4. Section 232.71, subsection 1, Code 1995, 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 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. The department shall not reveal in the written notification to the parents or otherwise the identity of the reporter of child abuse during an investigation to a subject of a child abuse report listed in section 235A.15, subsection 2, paragraph "a". If a report is determined 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. NEW SECTION. 232.71A CHILD ABUSE ASSESSMENT PILOT PROJECTS.

1. The department shall develop an assessment-based approach to respond to child abuse reports in accordance with the provisions of this section. The assessment-based approach shall be utilized on a pilot project basis in not more than five areas of the state, each of which is at least the size of a departmental county cluster, selected by the department. The pilot projects shall be selected in a manner so the pilot projects are in both rural and urban areas.

2. Notwithstanding the provisions of sections 232.70 and 232.71, in the pilot project areas, the department's responsibilities in responding to a child abuse report shall be in accordance with this section.

3. Upon receipt of a child abuse report in a pilot project area, the department shall perform an assessment. The department shall commence the assessment within seventy-two hours of the receipt of the report. The primary purpose of the assessment shall be to protect the safety of the child named in the report. The secondary purpose of the assessment shall be to engage the child's family in services to enhance family strengths and to address needs.

4. An assessment is subject to the provisions of section 232.71 as though the department is performing an investigation under that section for all of the following:

a. Notification of a child's parents in accordance with section 232.71, subsection 1.

b. Interview of a person alleged to have committed the child abuse in accordance with section 232.71, subsection 2, paragraph "e".

c. Notification of a facility providing care to a child in accordance with section 232.71, subsection 4.

d. Request for information from any person believed to have knowledge of a child abuse case and referral of a child to a physician in accordance with section 232.71, subsection 5.

e. Confidential access to a child in accordance with section 232.71, subsection 6.

f. Requests for information from the department of public safety in accordance with section 232.71, subsection 16.

g. Establishment and usage of a multidisciplinary team in accordance with section 232.71, subsection 17.

5. A child abuse assessment shall be completed in writing within twenty-one calendar days of the receipt of the report. The assessment shall include a description of the child's condition, identification of the injury or risk to which the child was exposed, the circumstances which led to the injury or risk to the child, and the identity of any person alleged to be responsible for the injury or risk to the child. In addition, the assessment shall identify the strengths and needs of the child, and of the child's parent, home, family, and community. Upon completion of the assessment, the department shall consult with the child's family in offering services to the child and the child's family to address strengths and needs identified in the assessment.

6. The department shall provide the county attorney with a written copy of any assessment which includes a recommendation for a juvenile or criminal court action or petition. The county attorney shall notify the department of any action taken concerning an assessment provided by the department.

7. Notwithstanding contrary provisions of sections 235A.13 to 235A.23, the following requirements shall apply to child abuse information in an assessment performed in accordance with this section:

a. If the department determines the child suffered significant injury or was placed in great risk of injury, the name of the child and the alleged perpetrator of the child abuse shall be placed in the central registry as a case of founded child abuse. Any of the following shall be considered to be an indicator that the child suffered significant injury or was placed in great risk of injury:

(1) The case was referred for juvenile or criminal court action as a result of the acts or omissions of the alleged perpetrator.

(2) In the opinion of a health practitioner or mental health professional, the injury to the child as a result of the acts or omission of the alleged perpetrator required or should have required medical or mental health treatment.

(3) The department determines in a subsequent assessment that the child suffered significant injury or was placed in great risk of injury due to the acts or omissions of the same alleged perpetrator.

b. In any other case, the child abuse information in an assessment shall not be placed in the central registry and notwithstanding chapter 22, the confidentiality of the information shall be maintained.

c. If information is placed in the central registry as a case of founded child abuse, all of the provisions of sections 235A.13 to 235A.23 which apply to a case of founded child abuse shall apply to a case of founded child abuse under this section.

8. The department shall implement the pilot projects by January 15, 1996. The department shall report to the governor and the general assembly concerning the pilot projects on or before February 29, 1996. The report shall include a description of successes and problems encountered in implementing the pilot projects. It is the intent of the general assembly to implement statewide an assessment-based approach to respond to child abuse reports commencing with the fiscal year beginning July 1, 1996.

Sec. 6. Section 232.111, subsection 1, Code 1995, is amended to read as follows:

1. A child's guardian, guardian ad litem, or custodian, the department of human services,

a juvenile court officer, or the county attorney may file a petition for termination of the parent-child relationship and parental rights with respect to a child.

Sec. 7. MULTIDISCIPLINARY CHILD ABUSE INTERVENTION AND PROSECUTION TEAMS. The attorney general is requested to form a multidisciplinary committee to develop a proposal for the establishment of regional multidisciplinary teams to focus upon child abuse prosecution and intervention needs. The attorney general is requested to submit a report of the committee findings to the governor and the general assembly prior to the 1996 legislative session. The committee should consider other state statutory schemes for multidisciplinary teams, provide options for regional groupings, review options for special focus teams such as sexual abuse, and recommend possible funding mechanisms.

Sec. 8. REPEAL. 1994 Iowa Acts, chapter 1130, sections 9 and 20, are repealed.

Sec. 9. DEPARTMENT OF HUMAN SERVICES PILOT PROJECTS. In implementing the pilot projects for child abuse assessment required under section 232.71A, as enacted by this Act, the department may apply a special protocol for conducting an assessment in response to a child abuse report to which all of the following circumstances apply:

1. Three previous child abuse reports have been made involving the same alleged perpetrator or a family member of the alleged perpetrator.
2. The three previous reports were made within a period of two years prior to the date of the latest report.
3. The assessments resulting from the previous three reports did not identify any child protection concerns.

The special protocol may involve an abbreviated assessment process, such as a telephone contact or other means, to address the abuse allegation without subjecting the family of the alleged perpetrator to repeated or extensive assessments regarding abuse allegations which have no basis.

Sec. 10. EFFECTIVE DATE. Section 8 of this Act, providing a repeal, being deemed of immediate importance, takes effect upon enactment.

Approved May 3, 1995

CHAPTER 148

REGULATION OF STATE BANKS AND OTHER FINANCIAL INSTITUTIONS

S.F. 320

AN ACT relating to the regulation of state banks and other financial institutions by the division of banking of the department of commerce.

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

Section 1. Section 524.103, Code 1995, is amended by adding the following new subsections:

NEW SUBSECTION. 2A. "Aggregate capital" means the sum of capital, surplus, undivided profits, and reserves as of the most recent calculation date.

NEW SUBSECTION. 8A. "Borrower" means a person named as a borrower or debtor in a loan or extension of credit, or any other person, including a drawer, endorser, or guarantor, deemed to be a borrower under section 524.904, subsection 3.

NEW SUBSECTION. 9A. "Calculation date" means the most recent of the following:

a. The date the bank's statement of condition is required to be filed pursuant to section 524.220, subsection 2.

b. The date an event occurs that reduces or increases the bank's aggregate capital by ten percent or more.

c. As the superintendent may direct.

NEW SUBSECTION. 11A. "Chief executive officer" means the person designated by the board of directors to be responsible for the implementation of and adherence to board policies and resolutions by all officers and employees of the bank.

NEW SUBSECTION. 11B. "Contractual commitment to advance funds" means a bank's obligation to do either of the following:

a. Advance funds under a standby letter of credit or other similar arrangement.

b. Make payment, directly or indirectly, to a third person contingent upon default by a customer of the bank in performing an obligation and to make such payment in keeping with the agreed upon terms of the customer's contract with a third person, or to make payments upon some other stated condition.

The term does not include commercial letters of credit and similar instruments where the issuing bank expects the beneficiary to draw on the issuer, that do not guarantee payment, and that do not provide for payment in the event of a default by a third person.

NEW SUBSECTION. 11C. "Control" means when a person, directly or indirectly or acting through or together with one or more persons, satisfies any of the following:

a. Owns, controls, or has the power to vote fifty percent or more of any class of voting securities of another person.

b. Controls, in any manner, the election of a majority of the directors, trustees, or other persons exercising similar functions of another person.

c. Has the power to exercise a controlling influence over the management or policies of another person.

NEW SUBSECTION. 13A. "Executive officer" means a person who participates or has authority to participate, other than in the capacity of a director, in major policymaking functions of a state bank, whether or not the officer has an official title, whether or not such a title designates the officer as an assistant, or whether or not the officer is serving without salary or other compensation. The chief executive officer, chairperson of the board, the president, every vice president, and the cashier of a state bank are deemed to be executive officers, unless such an officer is excluded, by resolution of the board of directors of a state bank or by the bylaws of the state bank, from participation, other than in the capacity of a director, in major policymaking functions of the state bank, and the officer does not actually participate in the major policymaking functions. All officers who serve on a board of directors are deemed to be executive officers, except as provided for in section 524.701, subsection 3.

NEW SUBSECTION. 17A. "Officer" means chief executive officer, executive officer, or any other administrative official of a bank elected by the bank's board of directors to carry out any of the bank's operating rules and policies.

NEW SUBSECTION. 17B. "Operations subsidiary" means a wholly owned corporation incorporated and controlled by a bank that performs functions which the bank is authorized to perform.

NEW SUBSECTION. 19A. "Reserves" means the amount of the allowance for loan and lease losses of a state bank.

NEW SUBSECTION. 19B. "Sale of federal funds" means any transaction between depository institutions involving the transfer of immediately available funds resulting from credits to deposit balances at federal reserve banks, or from credits to new or existing deposit balances due from a correspondent depository institution.

NEW SUBSECTION. 21A. "Standby letter of credit" means a letter of credit, or similar arrangement, that represents an obligation to the beneficiary on the part of the issuer to do any of the following:

a. Repay money borrowed by or advanced to or for the account of the account holder.
b. Make payment on account of any indebtedness undertaken by the account holder.
c. Make payment on account of any default by the account holder in the performance of an obligation.

Sec. 2. Section 524.103, subsections 7, 12, 15, 18, 22, 25, 26, and 27, Code 1995, are amended to read as follows:

7. "Bank" means a corporation ~~engaged in the business of banking, authorized by law to receive deposits and whose deposits are insured by the bank insurance fund of the federal deposit insurance corporation~~ organized under this chapter or U.S.C. title 12.

12. "Customer" means ~~any~~ a person ~~having~~ with an account or other contractual arrangement with a state bank. ~~For the purpose of this chapter, a government or governmental body or entity may be a customer.~~

15. "Insolvent" means the inability of a state bank to pay its debts and obligations as they become due in the ordinary course of its business. A state bank is also considered to be insolvent if the ratio of its capital, surplus, and undivided profits to assets is at or close to zero or if its assets are of such poor quality that its continued existence is uncertain.

18. "Person" means ~~an individual, a corporation (domestic or foreign), a partnership, an association, a trust or a fiduciary~~ as defined in section 4.1.

22. "State bank" means any bank incorporated pursuant to the provisions of this chapter after January 1, 1970, and any "state bank" or "savings bank" incorporated pursuant to the laws of this state and doing business as such ~~upon~~ on January 1, 1970.

25. "Surplus" means the aggregate of the amount originally paid in as required by section ~~524.402~~ 524.401, subsection ~~1~~ 3, any amounts transferred to surplus pursuant to section ~~524.402, subsection 2,~~ 524.405 and any amounts subsequently designated as such by action of the board of directors of the state bank.

26. "Trust company" means a business organization which is authorized to engage in trust business pursuant to section 524.1005. A bank lawfully ~~granted~~ exercising trust powers under the laws of this state or of the United States is not a trust company by reason of having authority to engage in trust business in addition to its general business.

27. "Undivided profits" means the accumulated undistributed net profits of a state bank, including any residue from the fund established pursuant to section ~~524.403~~ 524.401, subsection 3, after:

a. Payment or provision for payment of taxes and expenses of operations.
b. Transfers to reserves allocated to a particular asset or class of assets.
c. Losses estimated or sustained on a particular asset or class of assets in excess of the amount of reserves allocated therefor.
d. Transfers to surplus and capital.
e. Amounts declared as dividends to shareholders.

Sec. 3. Section 524.103, subsection 19, Code 1995, is amended by striking the subsection.

Sec. 4. Section 524.104, Code 1995, is amended to read as follows:

524.104 RULES OF CONSTRUCTION.

In the interpretation and construction of this chapter:

1. Transactions or acts validly entered into or performed before ~~January 1, 1970~~ July 1, 1995, and the rights, duties and interests flowing from them remain valid ~~thereafter~~ on and after July 1, 1995, and may be completed or terminated according to their terms and as permitted by any statute repealed or amended by this chapter, as though such repeal or amendment had not occurred.

2. All individuals who, ~~upon January 1, 1970~~ on July 1, 1995, hold any office under a provision of law repealed by this chapter, and which offices are continued by this chapter shall continue to hold such offices according to their former tenure.

Sec. 5. Section 524.105, Code 1995, is amended to read as follows:

524.105 EFFECT ON EXISTING BANKS.

1. The corporate existence of a state bank existing and operating on ~~January 1, 1970~~ July 1, 1995, ~~shall~~ is not ~~be~~ affected by the ~~enactment~~ amendment of this chapter.

2. All state banks ~~shall be~~ are subject to the provisions and requirements of this chapter in every particular, and all national banks, now or hereafter doing business in this state, ~~shall be~~ are subject to the provisions of this chapter, to the extent applicable, from ~~January 1, 1970~~ July 1, 1995.

Sec. 6. Section 524.107, subsection 1, Code 1995, is amended to read as follows:

1. ~~No~~ A person ~~may lawfully engage in this state in the business of receiving money for deposit, transact the business of banking, or may lawfully establish in this state a place of business for such purpose~~, ~~except~~ other than a state bank which is subject to the provisions of this chapter~~, a private bank to the extent provided for and limited by sections 524.1701 and 524.1702~~, and a national bank authorized by the laws of the United States to engage in the business of receiving money for deposit, shall not engage in this state in the business of receiving money for deposit, transact the business of banking, or establish in this state a place of business for such purpose.

Sec. 7. Section 524.109, Code 1995, is amended to read as follows:

524.109 BANKERS' BANK AUTHORIZED.

1. A state bank may be organized under this chapter as a bankers' bank. The bankers' bank is subject to all rights, privileges, duties, restrictions, penalties, liabilities, conditions and limitations applicable to a state ~~banks~~ bank generally, except as limited in the definition of bankers' bank contained in section 524.103, subsection 8. However, a bankers' bank shall have the same powers as those granted by federal law and regulation to a national bank organized as a bankers' bank under 12 U.S.C. § 27.

2. A state bank shall have the power to acquire and hold the shares in one or more bankers' banks or bank holding companies which own a bankers' bank in a total amount not to exceed five percent of the state bank's aggregate capital. A state bank shall not own, directly or indirectly, more than five percent of any class of voting shares of a bankers' bank.

Sec. 8. Section 524.201, subsection 1, Code 1995, is amended to read as follows:

1. The governor shall appoint, subject to confirmation by the senate, a superintendent of banking. The appointee shall be selected solely with regard to qualification and fitness to discharge the duties of office, and ~~no~~ a person shall not be appointed who has not had at least five years experience as an executive officer in a bank or in the regulation or examination of banks.

Sec. 9. Section 524.202, Code 1995, is amended to read as follows:

524.202 SUPERINTENDENT - SALARY.

The superintendent shall receive a salary to be fixed by the ~~state banking board~~ governor. ~~The superintendent shall be entitled to receive reimbursement for expenses incurred in the performance of the superintendent's duties, subject to the provisions of section 524.209.~~

Sec. 10. Section 524.204, Code 1995, is amended to read as follows:

524.204 DEPUTY SUPERINTENDENT OF BANKING.

1. The superintendent shall appoint a deputy superintendent of banking, who shall assist the superintendent in the performance of the superintendent's ~~office~~ duties and who shall perform the duties of the superintendent during the absence or the inability of the superintendent, and as directed by the superintendent.

2. The deputy superintendent shall be removable at the pleasure of the superintendent. If the office of the superintendent becomes vacant, the deputy superintendent shall have all the powers and duties of the superintendent until a new superintendent is appointed by the governor in accordance with the provisions of this chapter.

3. The deputy superintendent shall receive a salary to be fixed ~~by the state banking board~~ as provided in section 524.208. ~~The deputy superintendent shall be entitled to receive reimbursement for expenses incurred in the performance of the deputy superintendent's duties, subject to the provisions of section 524.209.~~

Sec. 11. Section 524.211, subsections 1 and 2, Code 1995, are amended by striking the subsections and inserting in lieu thereof the following:

1. The superintendent, deputy superintendent, an assistant to the superintendent, a bank examination analyst, general counsel, or an examiner assigned to the bank bureau of the banking division is prohibited from obtaining a loan of money or property from a state-chartered bank or any person or entity affiliated with a state-chartered bank.

2. The superintendent, deputy superintendent, finance company bureau chief, and all examiners assigned to the finance company bureau are prohibited from obtaining a loan of money or property from a finance company licensed by the banking division.

Sec. 12. Section 524.211, Code 1995, is amended by adding the following new subsections:

NEW SUBSECTION. 2A. The superintendent, deputy superintendent, an assistant to the superintendent, a bank examination analyst, finance company bureau chief, general counsel, or an examiner of the banking division who has credit relations with a mortgage banking company or credit card company licensed by the banking division is prohibited from participating in decisions, oversight, and official review of matters concerning the regulation of the mortgage banking company or credit card company with which such person has credit relations.

NEW SUBSECTION. 2B. An assistant to the superintendent, a bank examination analyst, general counsel, or an examiner assigned to the bank bureau of the banking division who has credit relations with a finance company licensed by the banking division is prohibited from participating in decisions, oversight, and official review of matters concerning the regulation of the finance company with which such person has credit relations.

NEW SUBSECTION. 2C. An employee of the banking division, other than the superintendent or a member of the state banking board, shall not perform any services for, and shall not be a shareholder, member, partner, owner, director, officer, or employee of, any enterprise, person, or affiliate subject to the regulatory purview of the banking division.

Sec. 13. Section 524.211, subsection 4, Code 1995, is amended to read as follows:

4. The superintendent, deputy superintendent, or any assistant or examiner who is convicted of ~~theft, burglary, robbery, larceny or embezzlement as a result of a violation of the laws of this state or of the United States~~ a felony while holding such position shall be immediately discharged from employment and shall be forever disqualified from holding any position in the banking division.

Sec. 14. Section 524.212, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

524.212 PROHIBITION AGAINST DISCLOSURE.

The superintendent, deputy superintendent, assistant to the superintendent, examiner, or other employee of the banking division shall not disclose, in any manner, to any person other than the person examined and those regulatory agencies referred to in section 524.217, subsection 2, any information relating specifically to the supervision and regulation of any state bank, persons subject to the provisions of chapter 533A, 533B, 536, or 536A, any affiliate of any state bank, or an affiliate of a person subject to the provisions of chapter 533A, 533B, 536, or 536A, except when ordered to do so by a court of competent jurisdiction and then only in those instances referred to in section 524.215, subsections 1, 2, 3, and 5.

Sec. 15. Section 524.215, Code 1995, is amended to read as follows:

524.215 RECORDS OF ~~DEPARTMENT~~ DIVISION OF BANKING.

All records of the ~~department~~ division of banking shall be public records subject to the provisions of chapter 22, except that all papers, documents, reports, reports of examinations and other writings relating specifically to the supervision and regulation of any state bank or other person by the superintendent pursuant to the laws of this state shall not be public records and shall not be open for examination or copying by the public or for examination or publication by the news media.

The superintendent, deputy superintendent, assistants, or examiners shall not be subpoenaed in any cause or proceeding to give testimony concerning information relating specifically to the supervision and regulation of any state bank or other person by the superintendent pursuant to the laws of this state, ~~nor shall~~ and the records of the banking division which relate specifically to the supervision and regulation of any such state bank or other such person shall not be offered in evidence in any court or subject to subpoena by any party except, where relevant:

1. In such actions or proceedings as are brought by the superintendent.
2. In any matter in which an interested and proper party seeks review of a decision of the superintendent.
3. In any action or proceeding which arises out of the criminal provisions of the laws of this state or the United States.
4. In any action brought as a shareholders derivative suit against a state bank.
5. In any action brought to recover moneys ~~or to recover upon an indemnity bond for~~ the loss of which was a result of embezzlement, misappropriation, or misuse of state bank funds by a director, officer, or employee of the state bank.

Sec. 16. Section 524.217, Code 1995, is amended to read as follows:

524.217 EXAMINATIONS.

1. The superintendent ~~shall have power to make~~ may do all of the following:

a. Make or cause to be made an examination of every state bank and trust company whenever in the superintendent's judgment such examination is necessary or advisable, but in no event less frequently than once during each two-year period. During the course of each examination of a state bank or trust company, inquiry shall be made as to its financial condition, the security afforded to those to whom it is obligated, the policies of its management, whether the requirements of law have been complied with in the administration of its affairs, and such other matters as the superintendent may prescribe. ~~The superintendent shall also have power to make~~

b. Make or cause to be made such limited examinations at such times and with such frequency as the superintendent ~~may deem~~ deems necessary and advisable to determine the condition of any state bank or trust company and whether any person has violated any of the provisions of this chapter.

~~2.~~ c. ~~The superintendent shall have power to make~~ Make or cause to be made an examination of any corporation in which the state bank or trust company owns shares ~~except corporations described in paragraphs "a" and "b" of subsection 3 of section 524.901. The superintendent shall also have power, upon~~

d. Upon application to and order of the district court of Polk county, ~~to~~ make or cause to be made an examination of any person having business transactions or a relationship with any state bank or trust company when such ~~an~~ examination is deemed necessary and advisable in order to determine whether the capital of the state bank or trust company is impaired or whether the safety of its deposits has been imperiled. The fee for any such examination shall be paid by the state bank or trust company.

~~3.~~ e. To the extent necessary for the purpose of any examination provided for by this section and section 524.1105, ~~the superintendent shall have the power to~~ examine all relevant books, records, accounts, and documents and ~~to~~ compel the production of the same in the manner prescribed by section 524.214.

~~4.~~ 2. The superintendent may furnish to the federal deposit insurance corporation, the federal reserve system, the office of the comptroller of the currency, the office of thrift

supervision, national credit union administration, the federal home loan bank, and financial institution regulatory authorities of other states, or to any official or supervising examiner ~~thereof~~ of such regulatory authorities, a copy of the report of any or all examinations made of any state bank and of any affiliate of a state bank.

~~5.~~ 3. A copy of the report of each examination of a state bank or trust company shall be transmitted by the superintendent to the board of directors of the state bank or trust company except to the extent that the report of any such examination may be confidential to the superintendent, and each member of the board of directors shall furnish to the superintendent, on forms to be supplied by the superintendent, a statement that the member has read the report of examination.

~~6.~~ 4. All reports of examinations, including any copies ~~thereof~~ of such reports, in the possession of any person other than the superintendent or employee of the banking division, including any state bank or any agency to which any report of such examination may be furnished under subsection ~~4 of this section~~ 2, shall be confidential communications, shall not be subject to subpoena from such persons, and shall not be published or made public by such persons.

~~7.~~ 5. The report of examination of any affiliate or of any person examined as provided for in subsection ~~2~~ 1, paragraph "c" or "d", shall not be transmitted by the superintendent to any such affiliate or person or to any state bank or trust company or to the board of directors of any state bank or trust company unless authorized or requested by such affiliate or person.

Sec. 17. Section 524.219, Code 1995, is amended to read as follows:

524.219 FEES ~~FOR EXAMINATIONS~~.

A state bank subject to examination, supervision, and regulation by the superintendent, shall pay to the superintendent ~~a fee~~ fees, established by the state banking board, based on ~~the time required for the examination and the administrative~~ costs and expenses incurred in the discharge of the duties imposed upon the superintendent by this chapter. The ~~fee~~ fees shall include, but are not ~~be~~ limited to costs and expenses for salaries, expenses and travel for employees, office facilities, supplies, and equipment. ~~Such fee shall apply equally to all state banks.~~

The ~~fee~~ fees for examination of any affiliate of a state bank as provided for in section 524.1105, and the examinations provided for in section 524.217, subsection ~~2~~ 1, paragraphs "c" and "d", shall be established by the state banking board, based on the time required for the examination and the administrative costs and expenses incurred in the discharge of the duties imposed upon the superintendent by this chapter. The ~~fee~~ fees shall include, but not be limited to costs and expenses for salaries, expenses and travel for employees, office facilities, supplies, and equipment.

Upon completion of each examination required or allowed by this chapter, the examiner in charge of ~~such~~ the examination shall render a bill for ~~such fee~~ the fees, in duplicate, and shall deliver one copy ~~thereof~~ of the bill to the state bank ~~or private bank~~ and one copy to the superintendent.

PARAGRAPH DIVIDED. Failure to pay the amount of ~~such fee~~ the fees to the superintendent within ten days after the date of ~~the close of each such examination~~ billing shall subject the state bank ~~or private bank~~ to an additional ~~fee~~ charge equal to five percent of the amount of ~~such fee~~ the fees for each day the payment is delinquent.

Sec. 18. Section 524.220, subsections 2 and 3, Code 1995, are amended to read as follows:

2. The statement shall be transmitted to the superintendent within thirty days after the ~~receipt of a request for the statement from the superintendent~~ end of each calendar quarter. ~~A statement shall be called for by the superintendent at least three times each year.~~

3. ~~Within forty days after the date of the receipt of the request for a statement of condition, the~~ The state bank shall cause the statement of condition filed for a calendar quarter which ends on June 30 to be published no later than the following August 15 and the statement of condition filed for a calendar quarter which ends on December 31 to be

published ~~once~~ no later than February 15 of the following year in a newspaper of general circulation in the municipal corporation or unincorporated area in which the state bank has its principal place of business, or if there is none, in a newspaper of general circulation published in the county, or in a county adjoining the county, in which the state bank has its principal place of business. Proof of such publication by affidavit of the publisher of the newspaper in which it was made, shall be delivered to the superintendent and ~~shall be~~ is conclusive evidence of the fact.

Sec. 19. Section 524.224, subsection 9, Code 1995, is amended to read as follows:

9. The state bank has failed to renew its corporate existence in the manner provided for in section ~~524.106~~ 524.314 within one hundred eighty days prior to the expiration thereof.

Sec. 20. Section 524.301, Code 1995, is amended to read as follows:

524.301 INCORPORATORS.

A state bank may be incorporated under this chapter by ~~not less than five~~ one or more individuals eighteen years of age or older, a majority of whom shall be ~~citizens~~ residents of this state and ~~all of whom shall be~~ citizens of the United States.

Sec. 21. Section 524.302, Code 1995, is amended to read as follows:

524.302 ARTICLES OF INCORPORATION.

1. The articles of incorporation of a state bank, in the form prescribed by the superintendent, shall set forth the following:

~~1.~~ a. The name of the state bank, that it is incorporated for the purpose of conducting the business of banking, and that it is incorporated under the provisions of this chapter.

~~2.~~ b. The location of its proposed ~~or existing~~ principal place of business including the name of the ~~county,~~ municipal corporation ~~or unincorporated area~~ and county.

~~3.~~ c. The duration of the state bank which shall be perpetual.

~~4.~~ d. The aggregate number of common and preferred shares which the state bank shall have authority to issue~~,~~ and the par value of such shares~~; if~~. If such shares are to be divided into classes or series, the number of shares of each class or series and a statement of the par value of the shares of each class or series.

~~5. If there is to be a preferred class, a statement of the preferences, voting rights, if any, limitations and relative rights in respect of the shares of such class.~~

~~6. Any provision, permissible under section 524.506, limiting or denying the shareholders the pre-emptive right to acquire additional shares of the state bank.~~

~~7. Any provision, not inconsistent with law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the corporation, including any provision restricting the transfer of shares and any provision which under this chapter is required or permitted to be set forth in the bylaws.~~

~~8.~~ e. The number of directors constituting the initial board of directors and the names and addresses of the individuals who are to serve as directors until the first annual meeting of shareholders or until their successors be elected and qualify.

~~9.~~ f. The name and address of each incorporator.

g. The specific month in which the annual meeting of shareholders is to be held.

2. The articles of incorporation may set forth any or all of the following:

a. Provisions not inconsistent with law regarding:

(1) Managing the business and regulating the affairs of the corporation.

(2) Defining, limiting, and regulating the affairs of the corporation.

b. Any provision required or permitted by this chapter to be set forth in the bylaws.

~~10.~~ c. ~~At the election of the incorporators or shareholders, a~~ A provision eliminating or limiting the personal liability of a director to the corporation or its shareholders for monetary damages for breach of fiduciary duty as a director, provided that the provision does not eliminate or limit the liability of a director for any breach of the director's duty of loyalty to the corporation or its shareholders, for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, for any transaction

from which the director derives an improper personal benefit, or under section 524.605, subsection 1 ~~and~~ or 2. A provision shall not eliminate or limit the liability of a director for any act or omission occurring prior to the date when the provision in the articles of incorporation becomes effective.

~~11. The specific month in which the annual meeting of shareholders shall be held.~~

~~12. Any provision not inconsistent with law or the purposes for which the state bank is organized, which the incorporators elect to set forth; or any provision limiting any of the powers enumerated in this chapter.~~

3. ~~It shall not be necessary to set forth in the~~ The articles of incorporation need not set forth any of the corporate powers enumerated in this chapter. The articles of incorporation shall be signed by all of the incorporators and acknowledged before an officer authorized to take acknowledgments of deeds.

Sec. 22. Section 524.303, unnumbered paragraph 2, Code 1995, is amended by striking the unnumbered paragraph.

Sec. 23. Section 524.304, Code 1995, is amended to read as follows:

524.304 PUBLICATION OF NOTICE.

1. The incorporators of a state bank shall, within thirty days of the acceptance of the application for processing, publish notice of ~~their intention to deliver, or the delivery of, the articles of~~ the proposed incorporation ~~to the superintendent,~~ once each week for two successive weeks in a newspaper of general circulation published in the municipal corporation which is proposed as the principal place of business of the state bank, or if there is none, a newspaper of general circulation published in the county, or in a county adjoining the county, in which the proposed state bank is to have its principal place of business. The ~~first publication of the~~ notice ~~shall appear prior to, or within ten days after, the date of delivery of the articles of incorporation to the superintendent and~~ shall set forth all of the following:

~~1.~~ a. The name of the proposed state bank.

~~2.~~ b. A statement that it is to be incorporated under this chapter.

~~3.~~ c. The purpose or purposes of the state bank.

~~4.~~ d. The names and addresses of the incorporators and of the members of the initial board of directors as they appear, or will appear, in the articles of incorporation.

~~5.~~ e. The date ~~of the delivery of the articles of incorporation to the superintendent~~ the application was accepted for processing.

~~6.~~ f. If the incorporation of the state bank has been approved by the superintendent under section 524.305, subsection 6, the name and address of the bank with which the state bank will have merged ~~or consolidated~~, or the assets of which the state bank will have acquired or the condition of which in some other way provided a purpose for the incorporation.

2. Proof of publication of the notice by affidavit of the publisher of the newspaper in which the notice appears shall be filed with the superintendent and is conclusive evidence of the publication.

Sec. 24. Section 524.305, Code 1995, is amended to read as follows:

524.305 APPROVAL BY SUPERINTENDENT.

1. Upon receipt of an application for approval of a state bank, the superintendent shall conduct ~~such~~ an investigation as the superintendent deems necessary to ascertain whether:

a. The articles of incorporation and supporting items satisfy the requirements of this chapter.

b. The convenience and needs of the public will be served by the proposed state bank.

c. The population density or other economic characteristics of the area primarily to be served by the proposed state bank afford reasonable promise of adequate support for the state bank.

d. The character and fitness of the incorporators and of the members of the initial board of directors are such as to command the confidence of the community and to warrant the belief that the business of the proposed state bank will be honestly and efficiently conducted.

e. The capital structure of the proposed state bank is adequate in relation to the amount of the anticipated business of the state bank and the safety of prospective depositors.

f. The proposed state bank will have sufficient personnel with adequate knowledge and experience to conduct the business of the state bank, and to administer fiduciary accounts, if the state bank is to be authorized to act in a fiduciary capacity.

2. Within one hundred eighty days after ~~receipt of~~ the application ~~for approval together with the items referred to in section 524.303, subsections 1 and 2~~ is accepted for processing, the superintendent shall ~~make a determination whether to~~ approve or disapprove the ~~pending~~ application on the basis of the investigation.

3. Within ~~ninety~~ thirty days after the date of the second publication of the notice ~~referred to in~~ required under section 524.304, any interested person ~~opposing the pending application shall file written objections with the superintendent~~ may submit written comments and information to the superintendent concerning the application. ~~Following the expiration of the ninety-day period and prior to making a determination on the pending application, the superintendent shall give adequate notice of the pending application, and may afford all interested persons, including the incorporators, an opportunity for a stenographically reported hearing during which such persons shall be allowed to present evidence in support of, or in opposition to, the pending application.~~ Comments challenging the legality of an application must be submitted separately in writing. The superintendent may extend the thirty-day comment period, if, in the judgment of the superintendent, extenuating circumstances which justify the extension exist.

~~The superintendent shall conduct such hearing if any interested person files an objection to the pending application and requests a hearing.~~

3A. Within thirty days after the date of the second publication of the notice required by section 524.304, any interested person may submit a written request of the superintendent for a hearing on the application. The request shall state the nature of the issues or facts to be presented and the reasons why written submissions would be insufficient to make an adequate presentation to the superintendent. If the reasons are related to factual disputes, the disputes shall be described. A written request for a hearing shall be evaluated by the superintendent, who may grant or deny the request in whole or in part. A hearing request shall generally be granted only it if* is determined that written submissions would be inadequate or that a hearing would otherwise be beneficial to the decision-making process. A hearing may be limited to issues considered material by the superintendent.

3B. If a request for a hearing is denied, the superintendent shall notify the applicant and all interested persons and shall state the reasons for the denial. An interested person may submit additional written comments or information on the application to the superintendent, with copies to the applicant at the time of submission to the superintendent, within fourteen days after the date of the notice of denial. The applicant shall be provided an additional seven days, after the fourteen-day deadline has expired, within which to respond to any comments submitted within the fourteen-day period after the notice of denial. The superintendent may waive this seven-day period if requested by the applicant. A copy of any response submitted by the applicant shall also be mailed by the applicant to the interested persons at the time the response is submitted to the superintendent.

4. If the superintendent approves the ~~pending~~ application, the superintendent shall ~~deliver the articles of incorporation, with the superintendent's approval indicated thereon, to the secretary of state and~~ notify the incorporators, and such other persons who requested in writing that they be notified, of ~~such~~ the approval. If the superintendent disapproves the ~~pending~~ application, the superintendent shall notify the incorporators of the action and the reason for the decision.

*According to enrolled Act

5. The actions of the superintendent shall be subject to judicial review in accordance with ~~the terms of the Iowa administrative procedure Act~~ chapter 17A. The court may award damages to the incorporators if it finds that review is sought frivolously ~~and~~ or in bad faith.

6. ~~Subsection 3 of this section~~ Subsections 3, 3A, and 3B shall not apply if the superintendent finds that one of the purposes of the proposed state bank is the merger ~~or consolidation~~ with, or the purchase of some or all of the assets of and assumption of some or all of the liabilities of, a bank for which a receiver has been appointed or which has been ordered, by authorities of this state or the United States, to cease to carry on its business, or if the superintendent finds for any other reason that immediate action on the pending application is advisable in order to protect the interests of depositors or the assets of any other bank.

7. ~~Before~~ As a condition of receiving the decision of the superintendent with respect to the ~~pending~~ application the incorporators shall~~, upon notice,~~ reimburse the superintendent ~~to the extent of the~~ for all expenses incurred by the superintendent in connection with the application.

Sec. 25. Section 524.306, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

524.306 INCORPORATION OF STATE BANK.

1. Unless a delayed effective date or time is specified, the corporate existence of a state bank begins when the articles of incorporation, with the superintendent's approval indicated on the articles of incorporation, are filed with the secretary of state. The secretary of state shall record the articles of incorporation and forward a copy of them to the county recorder of the county in which the state bank is to have its principal place of business.

2. The secretary of state's filing of the articles of incorporation is conclusive proof that the incorporators satisfied all conditions precedent to incorporation, except in a proceeding instituted by the superintendent to cancel or revoke the incorporation or involuntarily dissolve the corporation.

Sec. 26. Section 524.307, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

524.307 ORGANIZATION OF STATE BANK.

Upon incorporation of the state bank, the initial board of directors shall hold an organizational meeting within this state, at the call of a majority of the directors, to complete the organization of the state bank by electing officers, adopting bylaws, if any are to be adopted, and conducting any other business properly brought before the board at the meeting.

Sec. 27. Section 524.308, subsection 1, Code 1995, is amended by striking the subsection.

Sec. 28. Section 524.308, subsection 3, Code 1995, is amended to read as follows:

3. If a state bank transacts any business before receipt of an authorization to do business in violation of subsection 2, the directors and officers who willfully authorized or participated in ~~such~~ the action ~~shall be~~ are severally liable for the debts and liabilities of the state bank incurred prior to the receipt of the authorization to do business.

Sec. 29. Section 524.309, Code 1995, is amended to read as follows:

524.309 PUBLICATION OF AUTHORIZATION TO DO BUSINESS.

1. A state bank shall cause to be published once within two weeks after the issuance by the superintendent of the authorization to do business, in a newspaper of general circulation published in the municipal corporation which is the principal place of business of the state bank, or if there is none, a newspaper of general circulation published in the county, or in a county adjoining the county, in which the state bank has its principal place of business, a notice which shall state all of the following:

~~1.~~ a. The name of the state bank, the address of its principal place of business, and the date of the issuance of the authorization to do business.

~~2.~~ b. The names and addresses of the members of the initial board of directors as designated in the articles of incorporation.

~~3.~~ c. That the shareholders shall not be personally liable for the debts and obligations of the state bank.

2. Proof of ~~such~~ publication, by affidavit of the publisher of the newspaper in which it was made, shall be filed ~~with the secretary of state and~~ with the superintendent, and ~~shall be~~ is conclusive evidence of the fact.

Sec. 30. Section 524.310, subsections 1 and 2, Code 1995, are amended to read as follows:

1. The name of a state bank originally incorporated after the effective date of this chapter shall include the word "bank" and may include the word "state" or "trust" in its name. ~~If a~~ A state bank ~~uses~~ using the word "trust" in its name~~, it~~ must be authorized under this chapter to act in a fiduciary capacity.

2. The provisions of this section shall not require any state bank, existing and operating on January 1, 1970, to add to, modify or otherwise change its corporate name, either on January 1, 1970, or upon renewal of its corporate existence pursuant to section ~~524.106~~ 524.314.

Sec. 31. Section 524.312, subsections 1 and 2, Code 1995, are amended to read as follows:

1. A state bank originally incorporated pursuant to this chapter shall have its principal place of business within the ~~confines~~ city limits of a municipal corporation. The existence of a state bank shall not, however, be affected by the subsequent discontinuance of the municipal corporation. A state bank existing and operating on January 1, 1970, which does not have its principal place of business within the ~~confines~~ city limits of a municipal corporation, may renew its corporate existence pursuant to section ~~524.106~~ 524.314 without regard to this section and may also operate as a bank or convert to and operate as a bank office when acquired by or merged into another state bank and approved by the superintendent.

2. A state bank may, with the prior written approval of the superintendent, change the location of its principal place of business to a new location. A change of location shall be limited to another location in the same municipal corporation, to a location in a municipal corporation in the same county, or to a location in a municipal corporation in ~~counties surrounding and~~ a county that is contiguous to or touching or cornering on the county in which the state bank is located. If a state bank has its principal place of business in an unincorporated area, the superintendent may authorize a change of location of its principal place of business to a new location within the same unincorporated area as well as to any location referred to in ~~the preceding sentence~~ this subsection.

Sec. 32. Section 524.312, Code 1995, is amended by adding the following new subsections:

NEW SUBSECTION. 2A. If a change in the location of the principal place of business of a state bank is proposed, application for approval of the superintendent shall be made as required by the superintendent pursuant to this section. A change in location of the principal place of business of a state bank, including a change from one municipal corporation to another municipal corporation within an urban complex, requires an amendment to the articles of incorporation pursuant to sections 524.1502, 524.1504, and 524.1506. A state bank seeking approval of a change of location pursuant to this subsection shall publish once each week for two consecutive weeks a notice of the proposed change of location in a newspaper of general circulation in the municipal corporation or unincorporated area in which the state bank has its principal place of business, or if there is none, in a newspaper of general circulation in the county, or in a county adjoining the county, in which the state bank has its principal place of business, and in the municipal corporation in which it seeks to establish its principal place of business, or if there is none, in a newspaper of general circulation in the county, or in a county adjoining the county, in which the municipal

corporation is located. The notices shall be published within thirty days after the application to the superintendent for approval of the change in location is accepted for processing. The notice shall set forth the name of the state bank, the present location of its principal place of business, the location to which it proposes to move its principal place of business, and the date upon which the application was accepted for processing by the superintendent.

NEW SUBSECTION. 2B. Within thirty days after acceptance of an application for approval of a change of location of the principal place of business of a state bank pursuant to subsection 2A, the superintendent shall commence an investigation into the circumstances of the application as deemed necessary by the superintendent, giving due consideration to factors substantially similar to those set forth in section 524.305, subsection 1, paragraphs "c" through "f". Within one hundred eighty days after the application has been accepted for processing, the superintendent shall approve or disapprove the application on the basis of the investigation. The superintendent shall give written notice of the decision to the state bank, and in the event of disapproval a statement of the reasons for the disapproval. If the superintendent approves the change in location the superintendent shall deliver the articles of amendment to the secretary of state. As a condition of receiving the decision of the superintendent with respect to the application, the state bank shall reimburse the superintendent for all expenses incurred by the superintendent in connection with the application.

Sec. 33. Section 524.313, Code 1995, is amended to read as follows:

524.313 BYLAWS.

~~The initial bylaws, if any, of a~~ A state bank ~~shall be adopted by its board of directors~~ may adopt bylaws. The power to ~~alter,~~ adopt, amend, or repeal bylaws or adopt new bylaws ~~shall be~~ is vested in the board of directors unless reserved to the shareholders by the articles of incorporation. The bylaws may contain any provisions for the regulation and management of the affairs of the state bank not inconsistent with law or the articles of incorporation.

Sec. 34. NEW SECTION. 524.314 RENEWAL OF CORPORATE EXISTENCE OF EXISTING STATE BANK.

1. The corporate existence of a state bank existing and operating on January 1, 1970, which expires subsequent to that date, may be renewed prior to the expiration date of the corporate existence, following the affirmative vote of the holders of at least a majority of the shares entitled to vote on the renewal, at a meeting held for that purpose and called as provided by section 524.509, and delivery to the superintendent of the articles of incorporation together with the applicable filing and recording fees for the filing and recording. If the superintendent finds that the articles of incorporation satisfy the requirements of this section, the superintendent shall deliver them to the secretary of state for filing and recording in the secretary of state's office. Following the receipt of the articles of incorporation, the secretary of state shall proceed as provided in section 524.306.

2. Sections 524.303, 524.304, 524.305, 524.307, 524.308, and 524.309 are not applicable to a state bank existing and operating on January 1, 1970, which renews its corporate existence as provided in subsection 1.

3. The renewal of the corporate existence of a state bank pursuant to this section shall not affect any right accrued or established, or any liability or penalty incurred, under the laws of this state or of the United States, prior to the issuance of a certificate of incorporation by the secretary of state.

Sec. 35. Section 524.401, Code 1995, is amended to read as follows:

524.401 MINIMUM CAPITAL.

1. The minimum capital of a state bank existing and operating on ~~January~~ July 1, ~~1970~~ 1995, shall be as follows:

a. The amount required by subsection 2 ~~of this section; or.~~

b. ~~Such lesser~~ An amount ~~as~~ less than that provided for under paragraph "a" which the state bank had on ~~January~~ July 1, ~~1970~~ 1995, but not less than the minimum amount required by law prior to ~~such~~ that date.

2. The minimum capital of a state bank originally incorporated pursuant to the provisions of this chapter shall not be less than ~~one hundred thousand dollars~~ the amount required by the federal deposit insurance corporation, or its successor, or ~~such higher~~ a greater amount which the superintendent may deem necessary in view of the deposit potential of the state bank and current banking standards relating to total capital requirements.

3. A state bank originally incorporated pursuant to this chapter shall establish, prior to receiving authorization to do business from the superintendent, paid in surplus and undivided profits as required by the superintendent.

Sec. 36. Section 524.404, subsections 1 and 3, Code 1995, are amended to read as follows:

1. A state bank ~~may~~, with the prior approval of the superintendent and the affirmative vote of the holders of ~~at least three-fourths~~ a majority of the shares entitled to vote ~~thereon~~, may issue capital notes or debentures. The amounts, maturities, rate of interest, relative rights with other creditors, and other terms and conditions shall be set forth on the face of the capital notes or debentures or in an attendant agreement, and all ~~such~~ terms and conditions ~~shall be~~ are subject to the prior approval of the superintendent provided that all such capital notes and debentures shall be subordinated to the rights of other persons to the extent provided for in section 524.1312. The aggregate amount of all capital notes and debentures issued and outstanding pursuant to this section shall not exceed, at any one time, twenty-five percent of the aggregate capital ~~and surplus~~ of the state bank.

3. ~~No~~ A state bank ~~may~~ shall not issue capital notes or debentures within five years after it is originally authorized to do business.

Sec. 37. Section 524.405, Code 1995, is amended to read as follows:

524.405 INCREASE OR DECREASE OF CAPITAL STRUCTURE.

1. A state bank ~~may~~, with the approval of the superintendent, may increase its capital structure or effect an allocation of amounts within its capital structure, by the use of any of the following methods:

a. Sale of authorized but unissued shares.

b. Transfer of surplus or undivided profits to capital for authorized but unissued shares.

c. Transfer of undivided profits to surplus.

d. Authorization and issuance of common shares, preferred shares, or capital notes or debentures ~~as provided in section 524.404~~.

2. ~~Whenever~~ The superintendent, whenever it ~~shall appear~~ appears necessary to do so in the interest of the safety of the deposits of a state bank, ~~the superintendent~~ may require that the capital structure of the state bank be increased by either of the methods provided for in subsection 1, paragraphs "a" and "d" ~~of subsection 1~~.

3. ~~Neither capital nor~~ Capital or surplus shall not be decreased except with the approval of the superintendent.

Sec. 38. Section 524.501, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

524.501 AUTHORIZED SHARES.

1. The articles of incorporation must prescribe the classes of shares and the number of shares of each class that the state bank is authorized to issue. If more than one class of shares is authorized, the articles of incorporation must prescribe a distinguishing designation for each class. Prior to the issuance of shares of a class, the preferences, limitations, and relative rights of that class must be described in the articles of incorporation. All shares of a class must have preferences, limitations, and relative rights identical with those of other shares of the same class except to the extent otherwise permitted by section 524.502.

2. The articles of incorporation must authorize both of the following:

a. One or more classes of shares that together have unlimited voting rights.

b. One or more classes of shares, which may be the same class or classes as those with voting rights, that together are entitled to receive the net assets of the state bank upon dissolution.

3. The articles of incorporation may authorize one or more classes of shares that have any of the following qualities:

a. Have special, conditional, or limited voting rights, or no right to vote, unless prohibited by this chapter.

b. Are redeemable or convertible as specified in the articles of incorporation in any of the following ways:

(1) At the option of the state bank, the shareholders, or another person or upon the occurrence of a designated event.

(2) For cash, indebtedness, securities, or other property.

(3) In a designated amount or in an amount determined in accordance with a designated formula or by reference to extrinsic data or events.

c. Preferred shares are redeemable only by resolution of the board of directors with the prior approval of the superintendent. Preferred shares which are redeemable according to the terms of their issuance shall be redeemed only in accordance with such terms. Preferred shares which are redeemed shall be canceled and shall not be reissued. Preferred shares which are not redeemable according to the terms of their issuance are redeemable only pro rata, by lot, or by such other equitable method as determined by the board of directors.

d. (1) If preferred shares are redeemed by a state bank, the redemption effects a cancellation of the shares, and a statement of cancellation shall be filed as provided in this paragraph. The filing of the statement of cancellation constitutes an amendment to the articles of incorporation and reduces the number of preferred shares of the class which the state bank is authorized to issue by the number which are canceled.

(2) The statement of cancellation shall be executed by the state bank by its president or a vice president and by its cashier or an assistant cashier, and acknowledged by one of the officers signing such statement, and shall set forth all of the following:

(a) The name of the state bank and the effective date of its articles of incorporation.

(b) The number of preferred shares canceled through redemption, itemized by classes.

(c) The aggregate number of issued shares, itemized by classes, after giving effect to the cancellation.

(d) The amount, expressed in dollars, of the stated capital of the state bank after giving effect to the cancellation.

(e) The number of shares which the state bank has authority to issue, itemized by classes, after giving effect to the cancellation.

(3) The statement of cancellation, together with the applicable filing and recording fees, shall be delivered to the superintendent who shall, if the superintendent finds the statement of cancellation satisfies the requirements of this section, deliver it to the secretary of state for filing and recording in the secretary of state's office and the statement of cancellation shall also be filed and recorded in the office of the county recorder. The capital of the state bank is deemed to be reduced by the par value of the shares canceled upon the effective date of the redemption.

e. Entitle the holders to distributions calculated in any manner, including dividends that may be cumulative, noncumulative, or partially cumulative.

f. Have preference over any other class of shares with respect to distributions, including dividends and distributions upon the dissolution of the state bank.

4. The description of the designations, preferences, limitations, and relative rights of share classes in subsection 3 is not all-inclusive.

5. Unless the articles of incorporation or bylaws otherwise provide, the board of direc-

tors, by resolution duly adopted and with the approval of the superintendent as provided in section 524.405, may issue from time to time, in whole or in part, the shares authorized by the articles of incorporation.

Sec. 39. NEW SECTION. 524.501A TERMS OF CLASS OR SERIES DETERMINED BY BOARD OF DIRECTORS.

1. If the articles of incorporation provide for such, the board of directors may determine, in whole or in part, the preferences, limitations, and relative rights, within the limits set forth in section 524.501, of either of the following:

a. A class of shares before the issuance of any shares of that class.

b. One or more series within a class before the issuance of any shares of that series.

2. Each series of a class must be given a distinguishing designation.

3. All shares of a series must have preferences, limitations, and relative rights identical with those of other shares of the same series and, except to the extent otherwise provided in the description of the series, with those of other series of the same class.

4. Before issuing any shares of a class or series created under this section, the state bank shall deliver to the superintendent for filing with the secretary of state articles of amendment on forms prescribed by the superintendent, which are effective without shareholder action, that set forth all of the following:

a. The name of the state bank and the effective date of its articles of incorporation.

b. The text of the amendment determining the terms of the class or series of shares.

c. The date it was adopted.

d. A statement that the amendment was duly adopted by the board of directors.

Sec. 40. Section 524.502, Code 1995, is amended to read as follows:

524.502 CERTIFICATES REPRESENTING SHARES.

1. The shares of a state bank shall be represented by certificates signed by such officers, employees, or agents as are authorized by the articles of incorporation or bylaws to sign. If no contrary provisions are made in the articles of incorporation or bylaws, ~~such~~ the certificates shall be signed by the president or a vice president and the cashier or an assistant cashier of the state bank~~, and may be sealed with the seal of the state bank or a facsimile thereof. The signatures of the president or vice president and the cashier or an assistant cashier or other persons signing for the state bank upon a certificate may be facsimiles if the certificate is countersigned by a transfer agent, or registered by a registrar, other than the state bank itself or an employee of the state bank. In case any officer or other authorized person who has signed or whose facsimile signature has been placed upon such certificate for the state bank shall have ceased to be such officer or employee or agent before such certificate is issued, it may be issued by the state bank with the same effect as if the person were such officer or employee or agent at the date of its issue. If a state bank is authorized to issue preferred shares, every certificate issued by the state bank shall set forth upon the face or back of the certificate, or shall state that the state bank will furnish to any shareholder upon request and without charge, a full statement of the designations, preferences, limitations, and relative rights of such preferred shares.~~

~~Each certificate representing shares shall state upon the face thereof:~~

2. Each share certificate must state on its face, at a minimum, all of the following:

~~1.~~ a. ~~That the~~ The name of the issuing state bank and that it is organized under the laws of this state.

~~2.~~ b. The name of the person to whom issued.

~~3.~~ c. The number and class of shares and the designation of the series, if any, which ~~such~~ the certificate represents.

~~4.~~ d. The par value of each share represented by ~~such~~ the certificate.

3. A state bank which is authorized to issue different classes of shares or different series within a class must do one of the following:

a. Summarize on the front or back of each certificate the designations, relative rights,

preferences, and limitations applicable to each class; the variations in rights, preferences, and limitations determined for each series; and the authority of the board of directors to determine variations for future series.

b. State conspicuously on the front or back of each certificate that the state bank will furnish the shareholder this information on request in writing and without charge.

4. Each share certificate must be signed either manually or in facsimile by two officers as set forth in subsection 1, and may bear the corporate seal or its facsimile.

5. If the person who signed a share certificate no longer holds office when the certificate is issued, the certificate is nevertheless valid.

6. ~~No~~ A certificate shall not be issued for any share until such share is fully paid.

Sec. 41. Section 524.503, Code 1995, is amended to read as follows:

524.503 CONSIDERATION FOR SHARES.

~~1.~~ Except in the case of a distribution of shares authorized by section 524.517 or shares issued upon exchanges or conversion, common or preferred shares of a state bank may be issued only for cash in an amount ~~which shall be at least:~~

~~a. In the case of the issuance of additional common shares of an existing state bank, equal to the sum of the capital represented by the common shares and the surplus of the state bank divided by the number of common shares previously issued~~ not less than that determined by the superintendent.

~~b. In the case of the issuance of common shares of a proposed state bank, the amount required to equal the sum of the capital, to be represented by the common shares, the surplus and the undivided profits, required by the superintendent as a condition precedent to the issuance of an authorization to do business, divided by the number of shares to be issued.~~

~~2. Preferred shares of a state bank may be issued only for cash and for an amount not less than that determined by the superintendent.~~

Sec. 42. Section 524.504, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

524.504 SUBSCRIPTION FOR SHARES BEFORE INCORPORATION.

1. A subscription for shares entered into before incorporation of the state bank is irrevocable for six months unless the subscription agreement provides a longer or shorter period, or all subscribers agree to revocation.

2. The board of directors may determine the payment terms of subscriptions for shares that were entered into before incorporation of the state bank unless the subscription agreement specifies the terms. A call for payment by the board of directors must be uniform so far as practicable as to all shares of the same class or series, unless the subscription agreement specifies otherwise.

3. Shares issued pursuant to subscriptions entered into before incorporation of the state bank are fully paid and nonassessable when the state bank receives the consideration specified in the subscription agreement.

4. If a subscriber defaults in payment of money or property under a subscription agreement entered into before incorporation of the state bank, the state bank may do either of the following:

a. Collect the amount owed as any other debt.

b. Unless the subscription agreement provides otherwise, the state bank may rescind the agreement and may sell the shares if the debt remains unpaid more than twenty days after the state bank sends written demand for payment to the subscriber.

Sec. 43. NEW SECTION. 524.504A FRACTIONAL SHARES.

1. A state bank may do any of the following:

a. Issue fractions of a share or pay in money the value of fractions of a share.

b. Arrange for disposition of fractional shares by the shareholders of the state bank.

c. Issue scrip in registered or bearer form entitling the holder to receive a full share upon surrendering enough scrip to equal a full share.

2. Each certificate representing scrip must be conspicuously labeled "scrip" and must contain the information required by section 524.502, subsection 2.

3. The holder of a fractional share is entitled to exercise the rights of a shareholder, including the right to vote, to receive dividends, and to participate in the assets of the state bank upon liquidation, but only if the scrip provides for such rights.

4. The board of directors may authorize the issuance of scrip subject to any condition considered desirable, including either of the following:

a. That the scrip will become void if not exchanged for full shares before a specified date.

b. That the shares for which the scrip is exchangeable may be sold and the proceeds paid to the scrip holders.

Sec. 44. Section 524.505, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

524.505 LIABILITY OF SHAREHOLDERS.

1. A purchaser of the shares of a state bank is not liable to the bank, its creditors, or depositors with respect to the shares except to pay the consideration for which the shares were authorized to be issued under section 524.501, or the consideration specified in the subscription agreement authorized under section 524.504.

2. Unless otherwise provided in the articles of incorporation, a shareholder of a state bank is not personally liable for the acts or debts of the state bank.

Sec. 45. Section 524.506, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

524.506 SHAREHOLDERS' PREEMPTIVE RIGHTS.

1. Unless otherwise provided in section 524.506A, the shareholders of a state bank do not have a preemptive right to acquire the state bank's unissued shares except to the extent provided in the articles of incorporation.

2. A statement included in the articles of incorporation that "the state bank elects to have preemptive rights", or words of similar import, means that, except to the extent otherwise expressly provided in the articles of incorporation, the following principles apply:

a. A shareholder of a state bank has a preemptive right, granted on uniform terms and conditions prescribed by the board of directors to provide a fair and reasonable opportunity to exercise the right, to acquire a proportional amount of the state bank's unissued shares upon the decision of the board of directors to issue such shares.

b. A shareholder may waive the shareholder's preemptive right. A waiver evidenced in writing is irrevocable even though it is not supported by consideration.

c. There is no preemptive right with respect to any of the following:

(1) Shares issued as compensation to directors, officers, agents, or employees of the state bank, its subsidiaries, or its affiliates.

(2) Shares issued to satisfy conversion or option rights created to provide compensation to directors, officers, agents, or employees of the state bank, its subsidiaries, or its affiliates.

(3) Shares authorized in articles of incorporation that are issued within six months from the effective date of incorporation.

d. A holder of shares of any class without general voting rights but with preferential rights to distributions or assets has no preemptive rights with respect to shares of any class.

e. A holder of shares of any class with general voting rights but without preferential rights to distributions or assets has no preemptive rights with respect to shares of any class with preferential rights to distributions or assets unless the shares with preferential rights are convertible into or carry a right to subscribe for or acquire shares without preferential rights.

f. Shares subject to preemptive rights that are not acquired by shareholders may be issued to any person for a period of one year after being offered to shareholders at a

consideration set by the board of directors that is not lower than the consideration set for the exercise of preemptive rights. An offer at a lower consideration or after the expiration of one year is subject to the shareholders' preemptive rights.

3. For purposes of this section, "shares" includes a security convertible into or carrying a right to subscribe for or acquire shares.

Sec. 46. NEW SECTION. 524.506A PREEMPTIVE RIGHTS FOR EXISTING STATE BANKS.

Notwithstanding contrary provisions of this chapter, a state bank which was incorporated under this chapter prior to July 1, 1995, shall be governed by the following until July 1, 1998:

1. Except to the extent limited or denied by this section or by the articles of incorporation, shareholders have a preemptive right to acquire unissued shares or securities convertible into such shares or carrying a right to subscribe to or acquire shares.

2. Unless otherwise provided in the articles of incorporation:

a. No preemptive right exists with respect to either of the following:

(1) Acquiring any shares issued to directors, officers, or employees pursuant to approval by the affirmative vote of the holders of a majority of the shares entitled to vote or when authorized by and consistent with a plan approved by such vote of the shareholders.

(2) Acquiring treasury shares of the state bank pursuant to section 524.506B.

b. A holder of shares of any class that is preferred or limited as to dividends or assets is not entitled to any preemptive right.

c. A holder of shares of common stock is not entitled to any preemptive right to shares of any class that is preferred or limited as to dividends or assets or to any obligations, unless convertible into shares of common stock or carrying a right to subscribe to or acquire shares of common stock.

d. A holder of common stock without voting power has no preemptive right to shares of common stock with voting power.

e. A preemptive right is only an opportunity to acquire shares or other securities under the terms and conditions as fixed by the board of directors for the purpose of providing a fair and reasonable opportunity for the exercise of the preemptive right.

Sec. 47. NEW SECTION. 524.506B STATE BANK'S ACQUISITION OF ITS OWN SHARES.

1. With the prior approval of the superintendent, a state bank may acquire its own shares. Shares acquired pursuant to this section constitute authorized but unissued shares except as provided in subsection 2.

2. If the articles of incorporation prohibit the reissue of acquired shares, the number of authorized shares is reduced by the number of shares acquired, effective upon amendment of the articles of incorporation.

Sec. 48. Section 524.507, Code 1995, is amended to read as follows:

524.507 ~~OWNING OR~~ LOANING ON ITS OWN SHARES.

~~No~~ A state bank shall not make any loan or extension of credit on the security of the shares of its own capital, ~~or, except as provided in sections 524.1406 and 524.1417, be the purchaser or holder of any such shares,~~ unless such security ~~or purchase shall be~~ is necessary to prevent loss upon a debt previously contracted in good faith~~, and shares so purchased or acquired shall be sold at public or private sale within one year from the time of their purchase or acquisition, unless the time is extended by the superintendent. Any common shares of a state bank purchased or acquired by the state bank pursuant to this chapter, and sold as directed by this chapter, shall be subject to the minimum consideration requirements of subsection 1 of section 524.503 unless a lesser consideration is approved by the superintendent. Any preferred shares of a state bank purchased or acquired by the state bank pursuant to this chapter, and sold as directed by this chapter, shall be subject to the consideration requirements of subsection 2 of section 524.503.~~

Sec. 49. Section 524.509, Code 1995, is amended to read as follows:

524.509 NOTICE OF SHAREHOLDER MEETINGS – WAIVER OF NOTICE GENERALLY.

1. Written ~~or printed~~ notice stating the place, day and hour of a meeting of the shareholders and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten nor more than ~~fifty~~ sixty days before the date of the meeting, either personally or by mail, by or at the direction of the president, the cashier, or the officer or persons calling the meeting, to each shareholder of record entitled to vote at ~~such~~ the meeting. If mailed, ~~such~~ the notice ~~shall be~~ is deemed to be delivered when deposited in the United States mail addressed to the shareholder at the shareholder's address as it appears on the stock transfer books of the state bank with postage ~~thereon~~ prepaid.

2. ~~Whenever any notice is required to be given to any shareholder under the provisions of this chapter or under the provisions of the articles of incorporation or bylaws of the state bank, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice.~~ A shareholder may waive any notice required by this chapter, the articles of incorporation, or bylaws before or after the date and time stated in the notice. The waiver must be in writing, be signed by the shareholder entitled to the notice, and be delivered to the state bank for inclusion in the minutes or filing with the corporate records.

3. A shareholder's attendance at a meeting results in both of the following:

a. Waives the shareholder's objection to lack of notice or defective notice of the meeting, unless the shareholder at the beginning of the meeting or promptly upon the shareholder's arrival objects to holding the meeting or transacting business at the meeting.

b. Waives the shareholder's objection to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the shareholder objects to considering the matter when it is presented.

4. Unless the articles of incorporation or bylaws provide otherwise, the shareholders may permit any or all shareholders to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all shareholders participating may simultaneously hear each other during the meeting. A shareholder participating in a meeting as provided in this subsection is deemed to be present in person at the meeting.

Sec. 50. NEW SECTION. 524.509A ACTION WITHOUT MEETING.

1. Unless the articles of incorporation or bylaws provide otherwise, action required or permitted to be taken under this chapter at a special shareholders' meeting may be taken without a meeting if the action is consented to by all shareholders. The action must be evidenced by one or more written consents describing the action taken, signed by each shareholder, and included in the minutes or filed with the corporate records reflecting the action taken.

2. Action taken under this section is effective when the last shareholder signs the consent, unless the consent specifies a different effective date.

3. A written consent signed under this section has the effect of a meeting vote and may be described as such in any document.

Sec. 51. Section 524.510, Code 1995, is amended to read as follows:

524.510 ~~CLOSING OF~~ TRANSFER BOOKS AND FIXING RECORD DATE.

The board of directors of a state bank shall cause adequate stock transfer books to be maintained. ~~For the purpose of determining shareholders entitled to notice of or to vote at any meeting of shareholders or any adjournment thereof, or entitled to receive payment of any dividend, or in order to make a determination of shareholders for any other proper purpose, the board of directors of a state bank may provide that the stock transfer books shall be closed for a stated period but not to exceed, in any case, fifty days. If the stock~~

~~transfer books shall be closed for the purpose of determining shareholders entitled to notice of or to vote at a meeting of shareholders, such books shall be closed for at least ten days immediately preceding such meeting. In lieu of closing the stock transfer books, the~~ The bylaws, or in the absence of an applicable bylaw, the board of directors may fix, in advance, a date as the record date for any ~~such~~ determination of shareholders entitled to notice of or to vote at a meeting of shareholders, ~~such~~ the date ~~in any case~~ to be not more than ~~fifty~~ seventy days and, in case of a meeting of shareholders, not less than ten days prior to the date on which the particular action, requiring ~~such~~ the determination of shareholders, is to be taken. If ~~the stock transfer books are not closed and no~~ a record date is not fixed for the determination of shareholders entitled to notice of or to vote at a meeting of shareholders, or shareholders entitled to receive payment of a dividend, the date on which notice of the meeting is mailed or the date on which the resolution of the board of directors declaring such dividend is adopted, as the case may be, shall be the record date for ~~such~~ the determination of shareholders. ~~When~~ If a determination of shareholders entitled to vote at any meeting of shareholders has been made as provided in this section, ~~such~~ the determination ~~shall apply~~ applies to any adjournment ~~thereof~~ of the meeting.

Sec. 52. Section 524.511, Code 1995, is amended to read as follows:

524.511 VOTING LIST.

The officer or agent having charge of the stock transfer books for shares of a state bank shall ~~make~~, at least ten days before each meeting of shareholders, make a complete list of the shareholders entitled to vote at ~~such~~ the meeting or any adjournment ~~thereof~~ of the meeting, arranged in alphabetical order, with the address of and the number of shares held by each, which list, for a period of ten days prior to ~~such~~ the meeting, shall be kept on file at the principal place of business of the state bank and ~~shall be~~ is subject to inspection by ~~any~~ a shareholder, or a shareholder's agent or attorney, at any time during usual business hours. ~~Such~~ The list of shareholders shall also be produced and kept open at the time and place of the meeting and ~~shall be~~ is subject to the inspection of ~~any~~ a shareholder, or a shareholder's agent or attorney, during the whole time of the meeting. The original stock transfer books ~~shall be~~ are prima facie evidence as to who are the shareholders entitled to examine ~~such~~ the list or transfer books or to vote at ~~any~~ a meeting of shareholders. Failure to comply with the requirements of this section shall not affect the validity of action taken at ~~such~~ a meeting of shareholders.

Sec. 53. Section 524.512, Code 1995, is amended to read as follows:

524.512 QUORUM OF SHAREHOLDERS.

1. Unless otherwise provided in the articles of incorporation, a majority of the shares entitled to vote, represented in person or by proxy, ~~shall constitute~~ constitutes a quorum at a meeting of shareholders. If a quorum is present, the affirmative vote of the majority of the shares represented at the meeting and entitled to vote on the subject matter shall be the act of the shareholders, unless the vote of a greater number or voting by classes is required by the laws of this state or of the United States or by the articles of incorporation or bylaws.

2. Once a share is represented for any purpose at a meeting, it is deemed present for the purpose of determining a quorum for the remainder of the meeting and for any adjournment of that meeting unless a new record date is or must be set for that adjourned meeting.

Sec. 54. Section 524.513, Code 1995, is amended to read as follows:

524.513 VOTING OF SHARES.

1. Each outstanding share shall be entitled to one vote on each matter submitted to a vote at a meeting of shareholders, except to the extent that the voting rights of the shares of ~~any preferred class~~, a class or series may be limited or denied by the articles of incorporation.

2. Shares of a state bank purchased or acquired by such state bank pursuant to this chapter shall not be voted at any meeting and shall be excluded in determining whether matters voted upon by the shareholders were adopted by the requisite number of shares.

3. A shareholder may vote either in person or by proxy executed in writing by the shareholder or by the shareholder's duly authorized attorney-in-fact. ~~No~~ A proxy shall not be valid after eleven months from the date of its execution.

4. At each election for directors every shareholder entitled to vote at such election shall have the right to vote, in person or by proxy, the number of shares owned by the shareholder for as many individuals as there are directors to be elected and for whose election the shareholder has a right to vote.

~~Shares standing in the name of another corporation, domestic or foreign, may be voted by such officer, agent or proxy as the bylaws of such corporation may prescribe, or, in the absence of such provision, as the board of directors of such corporation may determine.~~

~~Shares held by an administrator, executor, guardian or conservator may be voted by such person, either in person or by proxy, without a transfer of such shares into the person's name. Except as provided in the following sentence, shares standing in the name of a trustee may be voted by the trustee, either in person or by proxy, but no trustee shall be entitled to vote shares held by the trustee without a transfer of such shares into the trustee's name.~~

5. In an election of directors, a state bank ~~may~~ shall not vote its own shares held by it as sole trustee unless under the terms of the trust the manner in which such shares shall be voted may be determined by a donor or beneficiary of the trust and unless such donor or beneficiary actually directs how ~~such~~ the shares shall be voted~~, provided, however, that~~. However, shares held in trust by a state bank pursuant to an instrument in effect prior to January 1, 1970, under the terms of which the manner in which such shares shall be voted could not be determined by a donor or beneficiary of the trust, may be voted in an election of directors of a state bank upon petition filed by the state bank, to a court of competent jurisdiction, and the appointment by such court of an individual to determine the manner in which ~~such~~ the shares shall be voted. When the shares of a state bank are held by such state bank and one or more persons as trustees, ~~such~~ the shares may be voted by such other person or persons as trustees, in the same manner as if the person or persons were the sole trustee. Whenever shares cannot be voted by reason of being held by a state bank as sole trustee, ~~such~~ the shares shall be excluded in determining whether matters voted upon by the shareholders were adopted by the requisite number of shares.

~~Unless otherwise provided by the governing instrument, shares which are held jointly by any number of fiduciaries shall be voted in the manner determined by the majority of such fiduciaries (excluding a trustee ineligible by reason of the preceding paragraph) or if the fiduciaries are equally divided on the manner of voting, any court of competent jurisdiction may, upon petition filed by any such fiduciaries or any beneficiary, appoint an additional person to act with such fiduciaries in determining the manner in which such shares shall be voted.~~

~~Unless otherwise provided by agreement, if persons holding shares jointly or as tenants in common are unable to agree upon the manner in which such shares shall be voted, the vote of such shares shall be divided among such persons in proportion to their interest.~~

~~Shares standing in the name of a receiver may be voted by such receiver, and shares held by or under the control of a receiver may be voted by such receiver without the transfer thereof into the receiver's name if authority so to do be contained in an appropriate order of the court by which such receiver was appointed.~~

~~A shareholder whose shares are pledged shall be entitled to vote such shares until the shares have been transferred into the name of the pledgee, and thereafter the pledgee shall be entitled to vote the shares so transferred.~~

~~On and after the date on which written notice of redemption of preferred shares has been mailed to the holders thereof and a sum sufficient to redeem such shares has been~~

~~deposited in escrow with irrevocable instruction and authority to pay the redemption price to the holders thereof upon surrender of certificates therefor, such shares shall not be entitled to vote on any matter and shall not be deemed to be outstanding shares.~~

Sec. 55. Section 524.514, Code 1995, is amended to read as follows:

524.514 VOTING TRUST.

Any number of shareholders of a state bank may create a voting trust for the purpose of conferring upon a trustee or trustees the right to vote or otherwise represent their shares, for a period of not to exceed ~~twenty~~ ten years, by entering into a written voting trust agreement specifying the terms and conditions of the voting trust, by depositing a counterpart of the agreement with the state bank at its principal place of business, by delivery of a copy ~~thereof~~ of the voting trust agreement to the superintendent and by transferring their shares to such trustee or trustees for the purposes of the agreement. The counterpart of the voting trust agreement so deposited with the state bank ~~shall be~~ is subject to examination for any proper purpose during usual business hours by a shareholder of the state bank, in person or by agent or attorney, or by any holder of a beneficial interest in the voting trust, in person or by agent or attorney.

This section shall not affect the validity of any agreement, relative to the voting of shares, in effect ~~on January~~ prior to July 1, ~~1970~~ 1995.

Sec. 56. NEW SECTION. 524.514A VOTING AGREEMENTS.

1. Two or more shareholders may provide for the manner in which they will vote their shares by signing an agreement for that purpose. A voting agreement created under this section is not subject to section 524.514.

2. A voting agreement created under this section is subject to a judicial order for specific enforcement.

Sec. 57. Section 524.516, subsection 2, Code 1995, is amended to read as follows:

2. A dividend ~~may~~ shall not be declared or paid ~~unless the transfer of net profits to surplus required by section 524.402 has been made prior to the declaration of the dividend~~ if restricted by the superintendent.

Sec. 58. Section 524.517, subsection 2, Code 1995, is amended to read as follows:

2. ~~No~~ A distribution ~~may~~ shall not be made in authorized but unissued shares of the state bank unless:

~~a. There shall be transferred to capital~~ an amount equal to the total par value of the shares distributed~~, and~~

~~b. Immediately after the distribution, the surplus of the state bank would be at least equal to fifty percent of its~~ is transferred to capital.

Sec. 59. Section 524.520, Code 1995, is amended to read as follows:

524.520 OPTIONS FOR SHARES.

A state bank may authorize the granting of options to officers and employees to purchase unissued~~, common~~ shares of the state bank in accordance with a plan approved by the superintendent ~~provided the following steps are taken:~~.

~~1. The plan is submitted to a vote of the shareholders at an annual meeting or special meeting called for the purpose, the notice of the meeting contains a complete description of the plan, and the plan receives the affirmative vote of the holders of at least two-thirds of the shares entitled to vote thereon.~~

~~2. The consideration per share shall be determined as of the date the options are granted and shall not be less than the sum of the capital represented by common shares and the surplus of the state bank divided by the number of common shares issued and outstanding on such date, but in no case less than an amount approved by the superintendent.~~

~~3. Options to purchase shares shall have a termination date and shall not be transferable by the holder of the option during the holder's lifetime. In the event that the option is to survive the death of the holder of the option, the option shall terminate one year after the date of the holder's death but may be exercised by the holder's estate during that one-year period.~~

~~4. Notice of the meeting shall describe the extent to which pre-emptive rights of shareholders are inapplicable to the issuance of shares under this section.~~

~~Upon approval by the shareholders the cashier shall reserve authorized but unissued shares for purposes of this section until the options are exercised or expire.~~

~~Upon approval by the shareholders as provided in subsection 1 of this section, the provisions of section 524.506 inconsistent with this section shall be inapplicable.~~

Sec. 60. Section 524.601, subsection 1, Code 1995, is amended to read as follows:

1. The business and affairs of a state bank shall be managed by a board of five or more directors eighteen years of age or older, a majority of whom shall be ~~citizens~~ residents of ~~this~~ the state of Iowa and ~~all of whom shall be~~ citizens of the United States.

Sec. 61. Section 524.602, Code 1995, is amended to read as follows:

524.602 BOARD OF DIRECTORS - ELECTION.

At the first annual meeting of shareholders and at each annual meeting thereafter the shareholders shall elect directors to hold office until the next succeeding annual meeting. Directors shall hold office for one year ~~and~~ or until their successors have been elected and qualified, unless removed in accordance with provisions of section 524.606. When the shareholders ~~increase~~ determine the number of directors at an annual meeting or at a special meeting, they shall, at the same meeting ~~or at a subsequent meeting~~, elect a director to fill each ~~new~~ directorship ~~created~~.

Sec. 62. Section 524.604, subsections 1 and 4, Code 1995, are amended to read as follows:

1. ~~Reasonably regular attendance at meetings of the board~~ Attendance at no less than seventy-five percent of the regular board meetings held during the calendar year.

4. ~~Utilization of a method to insure the safety of the funds of depositors as provided for in~~ Review of the adequacy of the bank's internal controls and determination of the most appropriate method to satisfy the bank's audit needs pursuant to section 524.608.

Sec. 63. Section 524.605, subsection 3, Code 1995, is amended to read as follows:

3. The directors of a state bank who, willfully or negligently, vote for or assent to ~~any loan~~ loans or ~~extension~~ extensions of credit ~~resulting in an obligation, as defined in subsection 1 of section 524.904, to such state bank~~ in violation of the provisions of this chapter, shall be jointly and severally liable to the state bank for the total amount of any loss sustained ~~as a result of such obligation~~.

Sec. 64. Section 524.606, subsection 1, Code 1995, is amended to read as follows:

1. At a meeting of shareholders expressly called for that purpose, individual directors or the entire board of directors may be removed, with or without cause, by the affirmative vote of the holders of ~~at least two-thirds~~ a majority of the shares entitled to vote at an election of directors. The vacancies created may be filled at the same meeting at which the removal proceedings take place.

Sec. 65. Section 524.607, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The board of directors shall hold at least ~~one meeting~~ nine regular meetings each calendar ~~month~~ year. No more than one regular meeting shall be held in any one calendar month. Unless the articles of incorporation or bylaws provide otherwise, the board of directors may permit directors to participate in meetings through the use of any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means is deemed to be present at the meeting.

PARAGRAPH DIVIDED. A special meeting may be called by ~~the president, a vice president, cashier~~ any executive officer or a director. Notice of a meeting shall be given to each director, either personally or by mail, at least two days in advance of the meeting. Notice

of a regular meeting shall not be required if the articles of incorporation, bylaws, or a resolution of the board of directors provide for a regular monthly meeting date.

Sec. 66. Section 524.608, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

524.608 AUDITING PROCEDURES.

In addition to any examination made by the banking division or other supervisory agency, the board of directors shall review the adequacy of the bank's internal controls and cause to be made no less frequently than annually additional auditing procedures that the board deems to be appropriate. The board shall determine the bank's audit needs and record in the board's minutes the extent to which audit procedures are to be employed. A report which summarizes significant audit findings shall be delivered to the superintendent as soon as practical upon completion.

The superintendent may require that more comprehensive auditing procedures be applied to a bank's account records when deemed necessary. These auditing procedures may range from limited scope agreed-upon procedures to an unqualified audit opinion.

Sec. 67. Section 524.610, Code 1995, is amended to read as follows:

524.610 COMPENSATION OF DIRECTORS.

The shareholders of a state bank shall fix the reasonable compensation of directors for their services as members of the board of directors. Subject to the approval of the superintendent and approval by the shareholders at an annual or special meeting called for that purpose, the shareholders of a state bank may adopt a pension or profit sharing plan, or both, or other plan of deferred compensation for directors, to which a state bank may contribute.

~~A director who is also a salaried officer or employee of the state bank of which the person is a director shall receive no additional compensation as director.~~ Directors may be reimbursed for reasonable expenses incurred in the performance of their duties.

Sec. 68. Section 524.612, Code 1995, is amended to read as follows:

524.612 DIRECTOR DEALING WITH STATE BANK.

1. ~~The total obligations, as defined in subsection 1 of section 524.904, of a director to a state bank of which the person is a director shall not exceed twenty percent of the capital and surplus of the state bank except that the total obligations of a director to a state bank of which the person is a director shall not exceed forty percent of the capital and surplus of the state bank if the amount by which such obligations exceed twenty percent of the capital and surplus of the state bank shall consist of obligations described in paragraph "a" of subsection 2 of section 524.904.~~ Subject to the provisions of section 524.904, a director of a state bank may receive loans and extensions of credit from a state bank of which the person is a director. A majority of the board of directors, voting in the absence of the applying director, shall give its prior approval to ~~any obligation, as defined in subsection 1 of section 524.904, of a director to the state bank of which the person is a director~~ such loans and extensions of credit. ~~The form of such approval shall be specified by the superintendent, and a copy recorded in the minutes of the board of directors.~~ Approval shall be recorded in the minutes.

2. A director shall not be permitted to receive any loan or extension of credit or use any property of a state bank of which the person is a director at a lower rate of interest ~~or charge than the rate charged~~ or on terms which are more favorable than the terms offered to other customers under similar circumstances.

3. A director shall not receive terms or be paid a ~~higher~~ rate of interest on deposits, by a state bank of which the person is a director, which are more favorable than ~~the rate paid~~ that provided to any other customer under similar circumstances.

4. A director shall not purchase or lease any assets from or sell or lease any assets to a state bank of which the person is a director except upon terms not less favorable to the state bank than those offered to or by other persons. All purchases or leases from and

sales or leases to a director shall receive the prior approval of a majority of the board of directors voting in the absence of the interested director.

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

a. Assets and liabilities of a director or officer are not included in the financial statement of the spouse and are not otherwise relied upon as a basis for loans or extensions of credit to the spouse.

b. The guarantee of a director or officer is not relied upon as a basis for loans or extensions of credit to the spouse.

c. The proceeds of the loans and extensions of credit to the spouse are not intermingled with or used for a common purpose with the proceeds of loans and extensions of credit to the director or officer.

Sec. 69. Section 524.613, Code 1995, is amended to read as follows:

524.613 PROHIBITIONS APPLICABLE TO CERTAIN FINANCIAL TRANSACTIONS INVOLVING DIRECTORS.

1. ~~No~~ A director of a state bank shall:

~~1.~~ ~~Receive~~ not receive anything of value, other than compensation and expense reimbursement authorized by section 524.610, for procuring, or attempting to procure, any loan or extension of credit ~~resulting, or which would result, in an obligation,~~ as defined in ~~subsection 1 of~~ section 524.904, to the state bank or for procuring, or attempting to procure, an investment by the state bank~~, of which the person is a director~~.

2. ~~Overdraw the director's deposit account in the state bank.~~ A state bank shall not pay an overdraft of a director of the state bank on an account at the state bank, unless the payment of funds is made in accordance with either of the following:

a. A written, preauthorized, interest-bearing extension of credit plan that specifies a method of repayment.

b. A written, preauthorized transfer of collected funds from another account of the account holder at the state bank.

Sec. 70. Section 524.614, Code 1995, is amended to read as follows:

524.614 HONORARY AND ADVISORY DIRECTORS.

The board of directors of a state bank may appoint an individual as an honorary director, director emeritus, or member of an advisory board. An individual so appointed ~~may~~ shall not vote at any meeting of the board of directors ~~nor~~, shall not be counted in determining a quorum, and shall not be charged with any responsibilities or be subject to any liabilities imposed upon directors by this chapter.

Sec. 71. Section 524.701, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

524.701 OFFICERS AND EMPLOYEES.

1. A state bank shall have as officers a president, one vice president, and a cashier. No more than two of these positions may be held by the same individual. A state bank may have other officers as prescribed by the articles of incorporation or bylaws.

2. The board of directors shall elect one officer as the chief executive officer, who shall be a member of the board of directors.

3. Upon written notice by the superintendent, an individual who performs active executive or official duties for a state bank may be treated as an executive officer. A state bank may have a chairperson of the board of directors who, if the person does not perform executive or official duties or receive a salary, need not be considered an executive officer of the state bank.

4. An individual employed by a state bank, other than a director or an officer, is considered an employee for the purposes of this chapter.

Sec. 72. Section 524.703, Code 1995, is amended to read as follows:

524.703 OFFICERS AND EMPLOYEES - EMPLOYMENT AND COMPENSATION.

The board of directors may fix the tenure and provide for the reasonable compensation of officers. ~~Upon approval by the board of directors, officers~~ The chief executive officer or the chief executive officer's designee shall determine the employee's compensation and tenure. Officers and employees may be reimbursed for reasonable expenses incurred by them ~~in~~ on behalf of the state bank.

Subject to the approval of the superintendent, and approval by the shareholders at an annual or special meeting called for the purpose, the board of directors of a state bank may adopt a pension or profit-sharing plan, or both, or other plan of deferred compensation, for both officers and employees, to which the state bank may contribute.

Sec. 73. Section 524.705, Code 1995, is amended to read as follows:

524.705 BONDS OF OFFICERS AND EMPLOYEES.

The officers and employees of a state bank having the care, custody, or control of any funds or securities for any state bank shall give a good and sufficient bond in a company authorized to do business in this state indemnifying the state bank against losses, which may be incurred by reason of any act or acts of fraud, dishonesty, forgery, theft, larceny, embezzlement, wrongful abstraction, misapplication, misappropriation, or other unlawful act committed by such officer or employee directly or through connivance with others, until all of the officer's or employee's accounts with the state bank ~~shall have been~~ are fully settled and satisfied. The amounts and sureties ~~shall be~~ are subject to the approval of the board of directors. The superintendent may require higher amounts as deemed necessary. If the agent of a bonding company issuing a bond under this section is an officer or employee of the state bank upon which the bond was issued, the bond so issued shall contain a provision that the bonding company shall not use, either as a grounds for rescission or as a defense to liability under the terms and conditions of the bond, the knowledge that the agent was so employed, whether or not the agent received any part of the premium for ~~such~~ the bond as a commission.

Sec. 74. Section 524.706, Code 1995, is amended to read as follows:

524.706 OFFICER DEALING WITH STATE BANK.

1. a. An executive officer of a state bank may receive loans or extensions of credit from a state bank of which the person is an executive officer~~, resulting in obligations as defined in section 524.904, subsection 1,~~ not exceeding, in the aggregate, the following:

(1) An amount secured by a lien on a dwelling which is expected, after the obligation is incurred, to be owned by the executive officer and used as the officer's principal residence~~, provided that after the loan is made there is no other loan by the bank to the executive officer, under authority of this subparagraph, outstanding~~.

(2) An amount to finance the education of a child or children of the executive officer.

(3) Any other loans or extensions of credit which in the aggregate do not at any one time exceed the higher of twenty-five thousand dollars or two ~~point five~~ and one-half percent of the bank's aggregate capital ~~and surplus~~, but in no event more than one hundred thousand dollars.

(4) Other amounts which do not, in the aggregate, exceed the principal amounts of ~~time certificates of deposit in the bank which are held in the name of the executive officer, if~~

~~repayment of the loan or credit amounts is at all times secured by pledge of the certificates~~ segregated deposit accounts which the bank may lawfully set off. An interest in or portion of a ~~time certificate of~~ segregated deposit account does not satisfy the requirements of this subparagraph if that interest or portion is also pledged to secure the payment of a debt or obligation of any person other than the executive officer. If the deposit is eligible for withdrawal before the secured loan matures, the bank shall establish internal procedures to prevent the release of the security without the bank's prior consent.

b. A state bank shall not loan money or extend credit to an executive officer of ~~such~~ the state bank, ~~nor shall~~ and an executive officer of a state bank shall not receive a loan or extension of credit from ~~such~~ the state bank, exceeding the limitations imposed by this section or for a purpose other than that authorized by this section. Such loans or extensions of credit shall not exceed an amount totaling more than ~~twenty percent of the capital and surplus~~ fifteen percent of the aggregate capital of the state bank and any such loan on real property shall comply with section 524.905. A majority of the board of directors, voting in the absence of the applying executive officer, whether or not the executive officer is also a director, shall give its prior approval to any obligation of an executive officer to the state bank of which the person is an executive officer. ~~The form of approval shall be specified by the superintendent, and a copy recorded in the minutes of the board of directors.~~ Approval shall be recorded in the minutes.

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

2. ~~The provisions of section~~ Section 524.612, ~~subsections~~ subsection 2, ~~3 and 4, shall apply~~ applies to executive officers, and section 524.612, subsections 3 and 4, apply to all officers and employees.

3. ~~If an individual is a director and an officer, the individual shall be subject to the limitations of subsection 1 of this section.~~ Upon the request of the board of directors, an officer or employee of a state bank shall submit to the board of directors a personal financial statement which shall include the names of all persons to whom the officer or employee is obligated, the dates, terms, and amounts of each loan or other obligation, the security for the loan or obligation, and the purpose for which the proceeds of the loan or other obligation has been or is to be used.

4. ~~Whenever an officer of a state bank borrows from or otherwise becomes obligated to any person or persons other than the state bank of which the person is an officer, in a total amount equal to or exceeding twenty-five thousand dollars excluding such amounts as may be owing by the officer secured by a first lien on a dwelling which is used by the officer as the officer's residence, the officer shall report in writing to the superintendent that the officer is so obligated.~~ Upon the request of the superintendent, a director or an officer of a state bank shall submit to the superintendent, a personal financial statement which shall show the names of all persons to whom the director or officer is obligated, the dates, terms, and amounts of each loan or other obligation, the security ~~therefor~~ for the loan or obligation, and the purpose for which the proceeds of ~~such loans or other obligations have~~ the loan or other obligation has been or ~~are~~ is to be used.

Sec. 75. Section 524.707, Code 1995, is amended to read as follows:

524.707 REMOVAL OF OFFICERS OR EMPLOYEES.

1. ~~Any~~ An officer or employee may be removed by the board of directors whenever in its judgment the best interests of the state bank shall be served ~~thereby~~ by such removal, but ~~such~~ the removal shall be without prejudice to the contract rights, if any, of the officer or employee so removed. Election of an officer shall not of itself create contract rights.

2. ~~Subsection 2 of section~~ Section 524.606, ~~providing~~ subsection 2, which provides for the removal of directors by the superintendent, shall have equal application to officers and employees.

Sec. 76. Section 524.708, Code 1995, is amended to read as follows:

524.708 REPORT OF CHANGE IN OFFICER PERSONNEL.

A state bank shall promptly notify the superintendent of any change in the ~~names of~~ individuals holding the offices of ~~chairperson,~~ chief executive officer or president~~, vice president, and cashier~~.

Sec. 77. Section 524.710, Code 1995, is amended to read as follows:

524.710 PROHIBITIONS APPLICABLE TO CERTAIN FINANCIAL TRANSACTIONS INVOLVING OFFICERS AND EMPLOYEES.

1. ~~No~~ An officer or employee of a state bank shall not do any of the following:

~~1.~~ a. Receive anything of value, other than compensation as authorized by section 524.703, for procuring, or attempting to procure, any loan or extension of credit ~~resulting, or which would result, in an obligation~~, as defined in ~~subsection 1 of~~ section 524.904, ~~to~~ for the state bank or for procuring, or attempting to procure, an investment by the state bank~~, of which the person is an officer or employee~~.

~~2. Overdraw the officer's or employee's deposit account in the state bank.~~

~~3.~~ b. Engage, directly or indirectly, in the sale of any kind of insurance, shares of stock, bonds or other securities, or real property, or procure or attempt to procure for a fee or other compensation, a loan or extension of credit for any person from a person other than the state bank of which the person is an officer or employee, or act in any fiduciary capacity, unless authorized to do so by the board of directors of the state bank which shall also determine the manner in which the profits, fees, or other compensation derived therefrom shall be distributed.

2. A state bank shall not pay an overdraft of an officer or employee of the state bank on an account at the state bank, unless the payment of funds is made in accordance with either of the following:

a. A written, preauthorized, interest-bearing extension of credit plan that specifies a method of repayment.

b. A written, preauthorized transfer of collected funds from another account of the account holder at the state bank.

Sec. 78. Section 524.801, subsection 1, Code 1995, is amended by striking the subsection.

Sec. 79. Section 524.801, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 13. To set off a customer's account against any of the customer's debts or liabilities owed the state bank pursuant to an agreement entered into between the customer and the state bank.

Sec. 80. Section 524.802, Code 1995, is amended to read as follows:

524.802 ADDITIONAL POWERS ~~RELATED TO CONDUCT OF BUSINESS~~ OF A STATE BANK.

A state bank shall have in addition to other powers granted by this chapter, and subject to the limitations and restrictions contained in this chapter, the power to do all of the following:

1. ~~The power to become a member of a clearing house association~~ Become an insured bank pursuant to the Federal Deposit Insurance Act and to take action as necessary to maintain the state bank's insured status.

2. ~~The power to become~~ Become a member of the federal reserve system, to acquire and hold shares ~~of stock~~ in ~~a~~ the appropriate federal reserve bank~~, to take all actions incident to maintenance of such membership~~ and to exercise all powers conferred on member banks by the federal reserve system that are not inconsistent with ~~the provisions of~~ this chapter ~~conferred on member banks by the federal reserve system~~.

3. ~~The power to become an insured bank pursuant to the federal deposit insurance Act and to take all actions incident to maintenance of an insured status thereunder.~~ Become a member of a clearinghouse association.

4. ~~The power to act~~ Act as agent of the United States or of any instrumentality or agency ~~thereof for the sale or issue of bonds, notes or other obligations~~ of the United States.

4A. Act as agent for a depository institution affiliate to the same extent that a national bank can act as an agent for a depository institution under the provisions of section 18 of the Federal Deposit Insurance Act, 12 U.S.C. § 1828.

5. ~~The power to buy~~ Buy and sell coin, currency, and bullion.

6. ~~All other powers incidental to the conduct of the business of banking.~~ Organize, acquire, and hold shares of stock in an operations subsidiary, with the prior approval of the superintendent.

7. Engage in the brokerage of insurance and real estate subject to the prior approval of the superintendent. These activities are subject to regulation, including but not limited to regulation under Title XIII, subtitle 1 and subtitle 4.

8. Acquire and hold shares of stock in the appropriate federal home loan bank and to exercise all powers conferred on member banks of the federal home loan bank system that are not inconsistent with this chapter. A purchase of federal home loan bank shares which causes the state bank's holdings to exceed fifteen percent of aggregate capital requires the prior approval of the superintendent.

9. Acquire and hold shares of stock in the federal agricultural mortgage corporation or corporations engaged solely in the pooling of agricultural loans for the federal agricultural mortgage corporation guarantees.

10. Become a member of a bankers' bank.

11. Subject to the prior approval of the superintendent, organize, acquire, or invest in a subsidiary for the purpose of engaging in any of the following:

a. Nondepository activities that a state bank is authorized to engage in directly under this chapter.

b. Activities that a bank service corporation is authorized to engage in under state or federal law or regulation.

c. Activities authorized pursuant to section 524.825.

12. Acquire, hold, and improve real estate for the sole purpose of economic or community development, provided that the state bank's aggregate investment in all acquisitions and improvements of real estate under this subsection shall not exceed fifteen percent of a state bank's aggregate capital and shall be subject to the prior approval of the superintendent.

13. All other powers determined by the superintendent to be appropriate for a state bank.

Sec. 81. Section 524.803, Code 1995, is amended to read as follows:

524.803 BUSINESS PROPERTY OF STATE BANK.

1. A state bank shall have power to do all of the following:

a. Acquire and hold, or lease as lessee, such personal property as is used, or is to be used, in its operations.

b. Subject to the prior approval of the superintendent, acquire and hold, or lease as lessee, only such real property as is used, or is to be used, wholly or substantially, in its operations or acquired for future use.

c. Subject to the prior approval of the superintendent, acquire and hold shares in a corporation engaged solely in holding or operating real property used wholly or substantially

by a state bank in its operations or acquired for its future use ~~and in a corporation organized solely for the purpose of providing data processing services, as such services are defined in the first sentence of section 524.804~~.

d. Subject to the prior approval of the superintendent, ~~invest in a bank service corporation as defined by, and in accordance with, the laws of the United States~~ acquire and hold shares in a corporation organized solely for the purpose of providing data processing services, as such services are defined in section 524.804.

e. Subject to the prior approval of the superintendent, acquire and hold shares in a corporation engaged in providing and operating facilities through which banks and customers may engage, by means of either the direct transmission of electronic impulses to and from a bank or the recording of electronic impulses or other indicia of a transaction for delayed transmission to a bank, in transactions in which such banks are otherwise permitted to engage pursuant to applicable law.

~~f. Organize, acquire, or invest in a subsidiary for the purpose of engaging in any one or more of the following, subject to the prior approval of the superintendent:~~

~~(1) Nondepository activities that a state bank is authorized to engage in directly under this chapter.~~

~~(2) Any activity that a bank service corporation is authorized to engage in under state or federal law or regulation.~~

~~(3) Any activity authorized pursuant to section 524.825.~~

2. The book value of all real and personal property acquired and held pursuant to this section, of all alterations to buildings on real property owned or leased by a state bank, of all shares in corporations acquired pursuant to paragraphs "c", ~~and~~ "d", and "e" of subsection 1 ~~of this section~~, and of any and all obligations of such corporations to the state bank, shall not exceed ~~twenty-five~~ forty percent of the aggregate capital~~, surplus and undivided profits~~ of the state bank or such larger amount as may be approved by the superintendent.

3. Any real property which is held by a state bank pursuant to this section and which it ceases to use for banking purposes, or is acquired for future use but not used within a reasonable period of time, shall be sold or disposed of by the state bank as directed by the superintendent.

Sec. 82. Section 524.804, Code 1995, is amended to read as follows:

524.804 DATA PROCESSING SERVICES.

A state bank which owns or leases equipment to perform such bank services as check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices, and similar items, or other clerical, bookkeeping, accounting, statistical, or other similar functions, may provide similarly related data processing services for others whether or not engaged in the business of banking. If a state bank holds shares in a corporation organized solely for the purpose of providing data processing services, pursuant to the authority granted by ~~paragraph "c" of subsection 1 of~~ section 524.803, subsection 1, paragraph "d", other than a bank service corporation as defined by the laws of the United States, such corporation shall be authorized to perform services for the state bank owning such interest and for others, whether or not engaged in the business of banking.

Sec. 83. Section 524.805, subsections 1 and 4, Code 1995, are amended to read as follows:

1. A state bank may receive money for deposit and may provide, by resolution of the board of directors, for the payment of interest ~~thereon in an amount not inconsistent with the provisions of subsection 2 of this section~~ on such deposit and shall repay ~~such~~ the deposit in accordance with the terms and conditions of its acceptance.

4. A state bank may make such charges for the handling or custody of deposits as may be fixed by its board of directors provided that a schedule of ~~such~~ the charges shall be furnished to the customer at the time of acceptance by the state bank of the initial deposit.

Any change in ~~such~~ the charges shall be furnished to the customer within a reasonable ~~amount~~ period of time before the effective date of ~~such~~ the change.

Sec. 84. Section 524.805, subsection 2, Code 1995, is amended by striking the subsection.

Sec. 85. Section 524.809, subsection 1, Code 1995, is amended to read as follows:

1. A state bank may lease safe deposit boxes for the storage of property on terms and conditions prescribed by ~~it~~ the state bank. ~~Such~~ The terms and conditions shall not bind ~~any~~ a customer or the customer's successors or legal representatives to whom the state bank does not give notice ~~thereof~~ of such terms and conditions by delivery of a lease and agreement in writing containing ~~such~~ the terms and conditions. A state bank may limit its liability provided such limitations are set forth in the lease and agreement in at least the same size and type as the other substantive provisions of the ~~contract~~ lease and agreement.

Sec. 86. Section 524.812, subsection 2, Code 1995, is amended to read as follows:

2. If the rental for the safe deposit box has not been paid ~~after~~ prior to the expiration of the period specified in a notice mailed pursuant to subsection 1 of this section, the state bank may, in the presence of two of its officers, cause the box to be opened and the contents removed. An inventory of the contents of the safe deposit box shall be made by the two officers present and the contents held by the state bank for the account of the customer.

Sec. 87. Section 524.825, Code 1995, is amended to read as follows:

524.825 SECURITIES ACTIVITIES.

Subject to the prior approval of the superintendent and as authorized by rules adopted by the superintendent pursuant to chapter 17A, a state bank or a subsidiary of a state bank organized or acquired pursuant to section ~~524.803~~ 524.802, subsection ~~1~~ 11, ~~paragraph "f"~~ may engage in directly, or may organize, acquire, or invest in a subsidiary for the purpose of engaging in securities activities and any aspect of the securities industry, including, but not limited to, any of the following:

1. Issuing, underwriting, selling, or distributing stocks, bonds, debentures, notes, interest in mutual funds or money-market-type mutual funds, or other securities.
2. Organizing, sponsoring, and operating one or more mutual funds.
3. Acting as a securities broker-dealer licensed under chapter 502. The business relating to securities shall be conducted through, and in the name of, the broker-dealer. The requirements of chapter 502 apply to any business of the broker-dealer transacted in this state.

A subsidiary engaging in activities authorized by this section may also engage in any other authorized activities under section ~~524.803~~ 524.802, subsection ~~1, paragraph "f"~~ 11.

Sec. 88. Section 524.901, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

524.901 INVESTMENTS.

1. For purposes of this section, unless the context otherwise requires:

a. "Investment securities" means marketable obligations in the form of bonds, notes, or debentures which have been publicly offered, are of sound value, or are secured so as to be readily marketable at a fair value, and are within the four highest grades according to a reputable rating service or represent unrated issues of equivalent value. "Investment securities" does not include investments which are predominately speculative in nature.

b. "Shares" means proprietary units of ownership of a corporation.

2. A state bank shall not invest for its own account more than fifteen percent of its aggregate capital in investment securities of any one obligor. Any premium paid by a state bank for any investment securities shall not be included in determining the amount that may be invested under this subsection.

3. Subject only to the exercise of prudent banking judgment, a state bank may invest for its own account without regard to the limitation provided in subsection 2 in any of the following:

a. Investment securities of the United States of which the payment of principal and interest is fully and unconditionally guaranteed by the United States.

b. Investment securities issued, insured, or guaranteed by a department or an agency of the United States government, provided that the securities, insurance, or guarantee commits the full faith and credit of the United States for the repayment of the securities.

c. Investment securities of the federal national mortgage association or the association's successor.

d. Investment securities of the federal home loan mortgage corporation or the corporation's successor.

e. Investment securities of the student loan marketing association or the association's successor.

f. Investment securities of a federal home loan bank.

g. Investment securities of a farm credit bank.

h. Investment securities representing general obligations of the state of Iowa or of political subdivisions of the state.

4. A state bank may invest without limit in the 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 United States investment securities described in subsection 3 or repurchase agreements fully collateralized by United States investment securities described in subsection 3, 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. All other investments by a state bank in the 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 exclusively contain investment securities permissible pursuant to subsections 2 and 3, shall not exceed fifteen percent of the state bank's aggregate capital.

5. To the extent necessary to meet minimum membership or participation criteria, a state bank may invest for its own account in the shares of the appropriate federal reserve bank, the appropriate federal home loan bank, the federal national agricultural mortgage corporation or corporations engaged solely in the pooling of agricultural loans for federal agricultural mortgage corporation guarantees, and other similar investments acceptable to the superintendent and approved in writing by the superintendent. The bank's investment in the shares of each of the organizations is limited to fifteen percent of its aggregate capital or a higher amount as approved by the superintendent. Notwithstanding the specific requirements of this section, any shares of government-sponsored entities held by a state bank on or before July 1, 1995, shall be authorized.

6. A state bank, upon the approval of the superintendent, may acquire and hold the shares of any corporation which a state bank is authorized to acquire and hold pursuant to this chapter.

7. A state bank, upon the approval of the superintendent, may invest up to five percent of its aggregate capital in the shares or equity interests of any of the following:

a. Economic development corporations organized under chapter 496B to the extent authorized by and subject to the limitations of that chapter.

b. Community development corporations or community development projects to the same extent a national bank may invest in such corporations or projects pursuant to 12 U.S.C. § 24.

c. Small business investment companies as defined by the laws of the United States.

d. Venture capital funds which invest an amount equal to at least fifty percent of a state bank's investment in small businesses having their principal offices within this state and

having either more than one-half of their assets within this state or more than one-half of their employees employed within this state.

e. Small businesses having a principal office within this state and having either more than one-half of their assets within this state or more than one-half of their employees employed within this state. An investment by a state bank in a small business under this paragraph shall be included with the obligations of the small business to the state bank that are incurred as a result of the exercise by the state bank of the powers conferred in section 524.902 for the purpose of determining the total obligations of the small business pursuant to section 524.904. A state bank's equity interest investment in a small business, pursuant to this paragraph, shall not exceed a twenty percent ownership interest in the small business.

f. Other entities, acceptable to the superintendent, whose sole purpose is to promote economic or civic developments within a community or this state.

A state bank's total investment in any combination of the shares or equity interests of the entities identified in paragraphs "a" through "f" shall be limited to fifteen percent of its aggregate capital.

For purposes of this subsection, the term "venture capital fund" means a corporation, partnership, proprietorship, or other entity whose principal business is or will be the making of investments in, and the providing of significant managerial assistance to, small businesses. The term "small business" means a corporation, partnership, proprietorship, or other entity which meets the appropriate United States small business administration definition of small business and which is principally engaged in the development or exploitation of inventions, technological improvements, new processes, or other products not previously generally available in this state, or other investments which provide an economic benefit to the state. The term "equity interests" means limited partnership interests and other equity interests in which liability is limited to the amount of the investment, but does not mean general partnership interests or other interests involving general liability.

8. A state bank, in the exercise of the powers granted in this chapter, may purchase cash value life insurance contracts which may include provisions for the lump sum payment of premiums and which may include insurance against the loss of the lump sum payment. The cash value life insurance contracts purchased from any one company shall not exceed fifteen percent of aggregate capital of the state bank, and in the aggregate from all companies, shall not exceed twenty-five percent of aggregate capital of the state bank unless the state bank has obtained the approval of the superintendent prior to the purchase of any cash value life insurance contract in excess of this limitation.

9. A state bank may invest without limitation for its own account in futures, forward, and standby contracts to purchase and sell any of the instruments a state bank is authorized to purchase and sell, subject to the prior approval of the superintendent and pursuant to applicable federal laws and regulations governing such contracts. Purchase and sale of such contracts shall be conducted in accordance with safe and sound banking practices and with the level of the activity being reasonably related to the state bank's business needs and capacity to fulfill its obligations under the contracts.

Sec. 89. Section 524.903, subsections 2 and 3, Code 1995, are amended to read as follows:

2. A state bank shall not accept such drafts in an amount which exceeds at any time in the aggregate for all drawers ~~fifty~~ thirty percent of ~~its~~ the state bank's aggregate capital ~~and surplus~~. The superintendent may authorize a state bank to accept drafts in an amount not exceeding at any time in the aggregate for all drawers ~~one hundred~~ sixty percent of ~~its~~ the state bank's aggregate capital, ~~and surplus~~ but the aggregate of acceptance growing out of domestic transactions shall in no event exceed ~~fifty~~ thirty percent of ~~such~~ aggregate capital ~~and surplus~~.

3. A state bank ~~may~~, with the prior approval of the superintendent, may accept drafts,

having not more than three months after sight to run, drawn upon it by banks or bankers in foreign countries, or in dependencies or insular possessions of the United States, for the purpose of furnishing dollar exchange as required by the usages of trade where the drafts are drawn in an aggregate amount which shall not at any time exceed for all such acceptance on behalf of a single bank or banker ~~ten~~ seven and one-half percent of the state bank's aggregate capital ~~and surplus~~, and for all such acceptances, ~~fifty~~ thirty percent of the state bank's aggregate capital ~~and surplus~~.

Sec. 90. Section 524.904, Code 1995, is amended by striking the subsection* and inserting in lieu thereof the following:

524.904 LOANS AND EXTENSIONS OF CREDIT TO ONE BORROWER.

1. For purposes of this section, "loans and extensions of credit" means a state bank's direct or indirect advance of funds to a borrower based on an obligation of that borrower to repay the funds or repayable from specific property pledged by the borrower and shall include:

a. A contractual commitment to advance funds, as defined in section 524.103.

b. A maker or endorser's obligation arising from a state bank's discount of commercial paper.

c. A state bank's purchase of securities subject to an agreement that the seller will repurchase the securities at the end of a stated period.

d. A state bank's purchase of third-party paper subject to an agreement that the seller will repurchase the paper upon default or at the end of a stated period. The amount of the state bank's loan is the total unpaid balance of the paper owned by the state bank less any applicable dealer reserves retained by the state bank and held by the state bank as collateral security. Where the seller's obligation to repurchase is limited, the state bank's loan is measured by the total amount of the paper the seller may ultimately be obligated to repurchase. A state bank's purchase of third-party paper without direct or indirect recourse to the seller is not a loan or extension of credit to the seller.

e. An overdraft.

f. Amounts paid against uncollected funds.

g. Loans or extensions of credit that have been charged off the books of the state bank in whole or in part, unless the loan or extension of credit has become unenforceable by reason of discharge in bankruptcy; or is no longer legally enforceable because of expiration of the statute of limitations or a judicial decision; or forgiven under an executed written agreement by the state bank and the borrower.

h. The aggregate rentals payable by the borrower under leases of personal property by the state bank as lessor.

i. Loans and extensions of credit to one borrower consisting of investments in which the state bank has invested pursuant to section 524.901.

j. Amounts invested by a state bank for its own account in the shares and obligations of a corporation which is a customer of the state bank.

k. All other loans and extensions of credit to one borrower of the state bank not otherwise excluded by subsection 7, whether directly or indirectly, primarily or secondarily.

2. A state bank's total outstanding loans and extensions of credit to one borrower shall not exceed fifteen percent of the state bank's aggregate capital as defined in section 524.103, unless the additional lending provisions described in subsections 3, 4, and 5 apply.

3. A state bank may grant loans or extensions of credit to one borrower up to twenty-five percent of the state bank's aggregate capital if the amount that exceeds fifteen percent of the state bank's aggregate capital is fully secured by one or any combination of the following:

a. Nonnegotiable bills of lading, warehouse receipts, or other documents transferring or securing title covering readily marketable nonperishable staples when such goods are covered by insurance to the extent that insuring the goods is customary, and when the market value of the goods is not at any time less than one hundred twenty percent of the amount of the loans and extensions of credit.

*The word "section" probably intended

b. Nonnegotiable bills of lading, warehouse receipts, or other documents transferring or securing title covering readily marketable refrigerated or frozen staples when such goods are fully covered by insurance and when the market value of the goods is not at any time less than one hundred twenty percent of the amount of the loans and extensions of credit.

c. Shipping documents or instruments that secure title to or give a first lien on livestock. At inception, the current value of the livestock securing the loans must equal at least one hundred percent of the amount of the outstanding loans and extensions of credit. For purposes of this section, "livestock" includes dairy and beef cattle, hogs, sheep, and poultry, whether or not held for resale. For livestock held for resale, current value means the price listed for livestock in a regularly published listing or actual purchase price established by invoice. For livestock not held for resale, the value shall be determined by the local slaughter price. The bank must maintain in its files evidence of purchase or an inspection and valuation for the livestock pledged that is reasonably current, taking into account the nature and frequency of turnover of the livestock to which the documents relate.

d. Mortgages, deeds of trust, or similar instruments granting a first lien on farm land or on single-family or two-family residences, subject to the provisions of section 524.905, provided the amount loaned shall not exceed fifty percent of the appraised value of such real property.

e. With the prior approval of the superintendent, other readily marketable collateral. The market value of the collateral securing the loans must at all times equal at least one hundred percent of the outstanding loans and extensions of credit.

4. A state bank may grant loans and extensions of credit to a corporate group, including the lending provisions of subsection 3, in an amount not to exceed twenty-five percent of the state bank's aggregate capital. A corporate group includes a person and all corporations in which the person owns or controls fifty percent or more of the shares entitled to vote.

5. A state bank may grant loans or extensions of credit to one borrower not to exceed thirty-five percent of the state bank's aggregate capital if the amount that exceeds the lending provisions provided in subsections 2, 3, and 4 consists of obligations as endorser of negotiable chattel paper negotiated by endorsement with recourse, or as unconditional guarantor of nonnegotiable chattel paper, or as transferor of chattel paper endorsed without recourse subject to a repurchase agreement.

6. For purposes of this section:

a. Loans and extensions of credit to one person will be attributed to another person and will be considered one borrower if either of the following apply:

(1) The proceeds, or assets purchased with the proceeds, benefit another person, other than a bona fide arm's length transaction where the proceeds are used to acquire property, goods, or services.

(2) The expected source of repayment for each loan or extension of credit is the same for each borrower and no borrower has another source of income from which the loan may be fully repaid.

b. Loans and extensions of credit to a partnership, joint venture, or association are deemed to be loans and extensions of credit to each member of the partnership, joint venture, or association. This provision does not apply to limited partners in limited partnerships or to members of joint ventures or associations if the partners or members, by the terms of the partnership or membership agreement or other written agreement, are not to be held generally liable for the debts or actions of the partnership, joint venture, or association, and those provisions are valid under applicable law.

c. Loans and extensions of credit to members of a partnership, joint venture, or association are not attributed to the partnership, joint venture, or association unless loans and extensions of credit are made to the member to purchase an interest in the partnership,

joint venture, or association, or the proceeds are used for a common purpose with the proceeds of loans and extensions of credit to the partnership, joint venture, or association.

d. Loans and extensions of credit to one borrower which are endorsed or guaranteed by another borrower will not be combined with loans and extensions of credit to the endorser or guarantor unless the endorsement or guaranty is relied upon as a basis for the loans and extensions of credit. A state bank shall not be deemed to have violated this section if the endorsement or guaranty is relied upon after inception of loans and extensions of credit, but the state bank shall, if required by the superintendent, dispose of loans and extensions of credit to one borrower in the amount in excess of the limitations of this section within a reasonable time as fixed by the superintendent.

e. When the superintendent determines the interests of a group of more than one borrower, or any combination of the members of the group, are so interrelated that they should be considered a unit for the purpose of applying the limitations of this section, some or all loans and extensions of credit to that group of borrowers existing at any time shall be combined and deemed loans and extensions of credit to one borrower. A state bank shall not be deemed to have violated this section solely by reason of the fact that loans and extensions of credit to a group of borrowers exceed the limitations of this section at the time of a determination by the superintendent that the indebtedness of that group must be combined, but the state bank shall, if required by the superintendent, dispose of loans and extensions of credit to the group in the amount in excess of the limitations of this section within a reasonable time as fixed by the superintendent.

7. Total loans and extensions of credit to one borrower for the purpose of applying the limitations of this section shall not include any of the following:

a. Additional funds advanced for taxes or for insurance if the advance is for the protection of the state bank, and provided that such amounts receive the prior approval of the superintendent.

b. Accrued and discounted interest on existing loans or extensions of credit.

c. Any portion of a loan or extension of credit sold as a participation by a state bank on a nonrecourse basis, provided that the participation results in a pro rata sharing of credit risk proportionate to the respective interests of the originating and participating lenders. Where a participation agreement provides that repayment must be applied first to the portions sold, a pro rata sharing will be deemed to exist only if the agreement also provides that in the event of a default or comparable event defined in the agreement, participants must share in all subsequent repayments and collections in proportion to their percentage participation at the time of the occurrence of the event. If an originating state bank funds the entire loan, it must receive funding from the participants on the same day or the portions funded will be treated as loans by the originating state bank to the borrower.

d. Loans and extensions of credit to one borrower to the extent secured by a segregated deposit account which the state bank may lawfully set off. An amount held in a segregated deposit account in the name of more than one customer shall be counted only once with respect to all borrowers. Where the deposit is eligible for withdrawal before the secured loan matures, the state bank must establish internal procedures to prevent release of the security without the state bank's prior consent.

e. Loans and extensions of credit to one borrower which is a bank.

f. Loans and extensions of credit to one borrower which are fully secured by bonds and securities of the kind in which a state bank is authorized to invest for its own account without limitation under section 524.901, subsection 3.

g. Loans and extensions of credit to a federal reserve bank or to the United States, or of any department, bureau, board, commission, agency, or establishment of the United States, or to any corporation owned directly or indirectly by the United States, or loans and extensions of credit to one borrower to the extent that such loans and extensions of credit are fully secured or guaranteed or covered by unconditional commitments or agreements to

purchase by a federal reserve bank or by the United States, or any department, bureau, board, commission, agency, or establishment of the United States, or any corporation owned directly or indirectly by the United States. Loans and extensions of credit to one borrower secured by a lease on property under the terms of which the United States, or any department, bureau, board, commission, agency, or establishment of the United States, or any corporation owned directly or indirectly by the United States, or the state of Iowa, or any political subdivision of the state, is lessee and under the terms of which the aggregate rentals payable to the borrower will be sufficient to satisfy the amount loaned is considered to be loans and extensions of credit secured or guaranteed as provided for in this paragraph.

h. Loans and extensions of credit to one borrower as the drawer of drafts drawn in good faith against actually existing values in connection with a sale of goods which have been endorsed by the borrower with recourse or which have been accepted.

i. Loans and extensions of credit arising out of the discount of commercial paper actually owned by a borrower negotiating the same and endorsed by a borrower without recourse and which is not subject to repurchase by a borrower.

j. Loans and extensions of credit drawn by a borrower in good faith against actually existing values and secured by nonnegotiable bills of lading for goods in process of shipment.

k. Loans and extensions of credit in the form of acceptances of other banks of the kind described in section 524.903, subsection 3.

l. Loans and extensions of credit of the borrower by reason of acceptances by the state bank for the account of the borrower pursuant to section 524.903, subsection 1.

Sec. 91. Section 524.908, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

524.908 LEASING OF PERSONAL PROPERTY.

A state bank may make leases as authorized by rules adopted by the superintendent under chapter 17A.

Sec. 92. NEW SECTION. 524.1009 SUCCESSION TO FIDUCIARY ACCOUNTS AND APPOINTMENTS - APPLICATION FOR APPOINTMENT OF NEW FIDUCIARY.

1. If a party to a plan of merger was authorized to act in a fiduciary capacity and if the resulting state or national bank is similarly authorized, the resulting state or national bank shall be automatically substituted by reason of the merger as fiduciary of all accounts held in that capacity by such party to the plan, without further action and without any order or decree of any court or public officer, and shall have all the rights and be subject to all the obligations of such party as fiduciary.

2. No designation, nomination, or appointment as fiduciary of a party to a plan of merger shall lapse by reason of the merger. The resulting state or national bank, if authorized to act in a fiduciary capacity, shall be entitled to act as fiduciary pursuant to each designation, nomination, or appointment to the same extent as the party to the plan so named could have acted in the absence of the merger.

3. Any person with an interest in an account held in a fiduciary capacity by a party to a plan of merger may, within sixty days after the effective date of the merger, apply to the district court in the county in which the resulting state or national bank has its principal place of business, for the appointment of a new fiduciary to replace the resulting state or national bank on the ground that the merger will adversely affect the administration of the fiduciary account. The court shall have the discretion to appoint a new fiduciary to replace the resulting state or national bank if it should find, upon hearing after notice to all interested parties, that the merger will adversely affect the administration of the fiduciary account and that the appointment of a new fiduciary will be in the best interests of the beneficiaries of the fiduciary account. This provision is in addition to any other provision of law governing the removal of fiduciaries and is subject to the terms upon which the party to the plan which held the fiduciary account was designated as fiduciary.

Sec. 93. Section 524.1102, Code 1995, is amended to read as follows:

524.1102 LOANS AND OTHER TRANSACTIONS WITH AFFILIATES.

~~No~~ A state bank shall not make any loan or any extension of credit to, or purchase securities under repurchase agreement from, any of its affiliates, or invest any of its funds in the shares, bonds, capital securities, or other obligations of ~~any such~~ an affiliate, or accept the shares, bonds, capital securities, or other obligations of ~~any such~~ an affiliate as collateral security for advances made to any customer, if the aggregate amount of ~~such~~ the loans, extensions of credit, repurchase agreements, investments and advances against such collateral security will exceed:

1. In the case of any one ~~such~~ affiliate, ten percent of the aggregate capital ~~and surplus~~ of the state bank. ~~However, a state bank may invest its funds in shares of a bank service corporation pursuant to section 524.803, subsection 1, paragraph f, in an amount up to twenty percent of the capital and surplus of the state bank.~~

2. In the case of all such affiliates, twenty percent of the aggregate capital ~~and surplus~~ of ~~such~~ the state bank.

Within the foregoing limitations, each loan or extension of credit of any kind or character to an affiliate shall be secured by collateral in the form of shares of stock, bonds, capital securities or other such obligations having a market value at the time of making the loan or extension of credit of at least twenty percent more than the amount of the loan or extension of credit, or of at least ten percent more than the amount of the loan or extension of credit if it is secured by obligations of any state, or of any political subdivision or agency of the state, or of at least one hundred percent of the amount of the loan or extension of credit if it is secured by a segregated~~, earmarked~~ deposit account ~~with~~ which the state bank may set off.

A loan or extension of credit to a director, officer, clerk, or other employee or any representative of any ~~such~~ affiliate ~~shall be~~ is deemed to be a loan to the affiliate to the extent that the proceeds of such loan are used for the benefit of, or transferred to, the affiliate.

The provisions of this section shall not apply to loans or extensions of credit fully secured by obligations of the United States, or the farm credit banks, or the federal home loan banks, or obligations fully guaranteed by the United States as to principal and interest. The provisions of this section shall ~~likewise~~ not apply to indebtedness of any affiliate for unpaid balances due a state bank on assets purchased from ~~such~~ the state bank.

For ~~the~~ purposes of this section, the terms "extension of credit" and "extensions of credit" ~~shall be~~ are deemed to include any purchase of securities under a repurchase agreement, other assets or obligations under a repurchase agreement, and the discount of promissory notes, bills of exchange, conditional sales contracts, or similar paper, whether with or without recourse.

Sec. 94. Section 524.1103, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 7. Which is an operations subsidiary or other subsidiary in which the state bank owns or controls eighty percent or more of the voting shares. However, an operations subsidiary shall not conduct any activity at any location where the state bank itself would not be permitted to conduct that activity without the prior approval of the superintendent.

Sec. 95. Section 524.1202, subsection 2, paragraph d, Code 1995, is amended to read as follows:

d. One such facility ~~that is~~ located ~~on the same property, or that is adjacent to or cornering upon the property on which an office of a bank is located, or that is separated from being adjacent to or cornering upon the property only by a street, alley, or other publicly owned right-of-way, may be found by the superintendent to be an integral part of that office location and not a separate bank office~~ in the proximity of a state bank's office may be found by the superintendent to be an integral part of the bank office and not a bank office within the meaning of this section. This paragraph does not authorize more than one facility to be found to be an integral part of a bank office.

Sec. 96. Section 524.1301, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

524.1301 DISSOLUTION BY INCORPORATORS OR INITIAL DIRECTORS.

A majority of the incorporators or initial directors of a state bank that has not issued shares or has not commenced business may dissolve the state bank by delivering articles of dissolution to the superintendent, together with the applicable filing and recording fees, for filing with the secretary of state that set forth all of the following:

1. The name of the state bank.
2. The date of its incorporation.
3. Either of the following:
a. That the state bank has not issued any shares.
b. That the state bank has not commenced business.
4. That no debt of the state bank remains unpaid.
5. If shares were issued, that the net assets of the state bank remaining after the payment of all necessary expenses have been distributed to the shareholders.
6. That a majority of the incorporators or initial directors authorized the dissolution.

Sec. 97. Section 524.1303, Code 1995, is amended to read as follows:

524.1303 VOLUNTARY DISSOLUTION AFTER COMMENCEMENT OF BUSINESS.

1. A state bank which has commenced business may propose to voluntarily dissolve upon the affirmative vote of the holders of at least ~~three-fourths~~ a majority of the shares entitled to vote ~~thereon~~ on the voluntary dissolution, adopting a plan of dissolution involving both a provision for acquisition of its assets and assumption of its liabilities by another state bank, ~~or~~ national bank, or other financial institution insured by the federal deposit insurance corporation and a provision for continuance of its business if acquisition of its assets and assumption of its liabilities is not effected, or any other plan of dissolution providing for full payment of its liabilities.

2. Upon ~~receipt~~ acceptance for processing of an application for approval of a plan of dissolution on forms prescribed by the superintendent, the superintendent shall conduct such investigation as the superintendent may deem necessary to determine whether the plan adequately protects the interests of depositors, other creditors and shareholders and, if the plan involves an acquisition of assets and assumption of liabilities by another state bank, whether such acquisition and assumption would be consistent with adequate and sound banking and in the public interest, on the basis of factors substantially similar to those set forth in section 524.1403, subsection 1, paragraph "d". ~~Within ninety days after receipt of the application, the superintendent shall approve or disapprove the application on the basis of the superintendent's investigation. Before receiving the decision of the superintendent with respect to the pending application, the applying state bank shall, upon notice, reimburse the superintendent to the extent of the expenses incurred by the superintendent in connection with the application. Thereafter the superintendent shall give to the applying state bank written notice of the superintendent's decision, and in the event of disapproval, a statement of the reasons for the decision. The decision of the superintendent shall be subject to judicial review in accordance with the terms of the Iowa administrative procedure Act.~~

3. ~~When a state bank has proposed to dissolve by adopting a plan of dissolution involving a provision for acquisition of its assets and assumption of its liabilities by another state bank, the dissolving bank shall publish~~ Within thirty days after the application for dissolution involving a provision of acquisition of the state bank's assets and assumption of its liabilities by another state bank is accepted for processing, the dissolving bank shall publish once each week for two consecutive weeks a notice of the proposed transaction. The notice shall be published ~~once each week for two successive weeks~~ in a newspaper of general circulation published in the municipal corporation or unincorporated area in which the dissolving bank has its principal place of business, and in the municipal corporation or unincorporated area in which the acquiring state bank has its principal place of business,

or if there is none, a newspaper of general circulation published in the county or counties, or in a county adjoining the county or counties, in which the dissolving bank and the acquiring bank have their principal place of business. ~~The publication of notice shall be made within thirty days after making application to the superintendent for approval of the plan of dissolution, and proof of publication of the notice shall be delivered to the superintendent. The notice shall set forth the name of the dissolving state bank and of the acquiring state bank, the location and post office address of the principal place of business of the dissolving state bank and of the acquiring state bank and of each office to be maintained by the acquiring state bank and a brief statement of the nature of the proposed transaction. Prior to making a determination on the pending application, the superintendent shall give adequate notice of the pending application, and may afford all interested parties an opportunity for a stenographically reported hearing during which such parties shall be allowed to present evidence in support of, or in opposition to, the pending application.~~ The notice shall be on forms provided by the superintendent, and proof of publication of the notice shall be delivered to the superintendent.

~~The superintendent shall conduct such hearing if any interested person files an objection to the pending application and requests a hearing. If the superintendent finds that the superintendent must act immediately on the pending application in order to protect the interests of depositors or the assets of the dissolving bank, the superintendent may proceed without requiring publication of the notice referred to in this subsection.~~

4. Within thirty days after the date of the second publication of the notice, any interested person may submit to the superintendent written comments and data on the application. The superintendent may extend the thirty-day comment period if, in the superintendent's judgment, extenuating circumstances exist.

5. Within thirty days after the date of the second publication of the notice, any interested person may submit to the superintendent a written request for a hearing on the application. The request shall state the nature of the issues or facts to be presented and the reasons why written submissions would be insufficient to make an adequate presentation to the superintendent. If the reasons are related to factual disputes, the disputes shall be described. Comments challenging the legality of an application shall be submitted separately in writing and shall not be considered at a hearing conducted pursuant to this section. Written requests for hearings shall be evaluated by the superintendent, who may grant or deny such requests in whole or in part. A hearing request shall generally be granted only if it is determined that written submissions would be inadequate or that a hearing would otherwise be beneficial to the decision-making process. A hearing may be limited to issues considered material by the superintendent.

6. If a request for a hearing has been made and denied, the superintendent shall notify the applicant and all interested persons and shall state the reasons for the denial. Interested persons may submit to the superintendent, with simultaneous copies to the applicant, additional written comments or information on the application within fourteen days after the date of the notice of denial. The applicant shall be provided an additional seven days, after the fourteen-day deadline has expired, within which to respond to any comments submitted within the fourteen-day period. The superintendent may waive this seven-day period upon request by the applicant. A copy of any response submitted by the applicant shall also be mailed simultaneously by the applicant to the interested persons.

Sec. 98. Section 524.1304, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

524.1304 VOLUNTARY DISSOLUTION - APPROVAL.

1. Within ninety days after acceptance of the application for processing, the superintendent shall approve or disapprove the application for voluntary dissolution on the basis of the superintendent's investigation. As a condition of receiving the decision of the superintendent with respect to the application, the applying state bank shall reimburse the superintendent for all expenses incurred by the superintendent in connection with the

application. The superintendent shall give to the applying state bank written notice of the superintendent's decision. The decision of the superintendent shall be subject to judicial review pursuant to chapter 17A.

2. Upon approval of the plan of voluntary dissolution by the superintendent, the superintendent shall file with the secretary of state articles of dissolution prepared by the applicant in conformance with section 524.1304A. Upon filing of the articles of dissolution with the secretary of state, the state bank shall cease to accept deposits or carry on its business, except insofar as may be necessary for the proper winding up of the business of the state bank in accordance with the approved plan of dissolution.

3. If applicable state or federal laws require approval by an appropriate state or federal agency, the superintendent may withhold delivery of the approved articles of dissolution until the superintendent receives notice of the decision of such agency. If the final approval of the agency is not given within six months of the superintendent's approval, then the superintendent shall notify the applying state bank that the approval of the superintendent has been rescinded for that reason.

Sec. 99. NEW SECTION. 524.1304A ARTICLES OF DISSOLUTION.

1. At any time after the dissolution of a state bank is authorized, the state bank may dissolve by delivering to the superintendent for filing with the secretary of state articles of dissolution setting forth all of the following:

a. The name of the state bank.

b. The date dissolution was authorized.

c. The number of votes entitled to be cast by the shareholders on the proposal to dissolve.

d. The total number of shareholder votes cast for and against dissolution, or the total number of undisputed votes cast for dissolution and a statement that the number cast for dissolution was sufficient for approval.

e. If voting by voting groups was required, the information required by paragraphs "c" and "d" must be separately provided for each voting group entitled to vote separately on the plan to dissolve.

f. That all debts, obligations, and liabilities of the state bank will be paid or otherwise discharged or that adequate provision will be made for such discharge.

g. That all the remaining property and assets of the state bank will be distributed among its shareholders in accordance with their respective rights and interests.

h. That there are no legal actions pending against the state bank in any court or that adequate provision has been made for the satisfaction of any judgment, order, or decree which may be entered against it in any pending legal action.

2. A state bank is dissolved upon the effective date of its articles of dissolution.

Sec. 100. Section 524.1305, subsections 1, 2, and 3, Code 1995, are amended to read as follows:

1. The board of directors shall have full power to wind up and settle the affairs of a state bank in voluntary dissolution proceedings, including the power to do all of the following:

a. Collecting the assets of the state bank.

b. Disposing of its properties that will not be distributed in kind to its shareholders.

c. Discharging or making provision for discharging its liabilities.

d. Distributing its remaining property among its shareholders according to their interests.

e. Doing every other act necessary to wind up and liquidate its business and affairs.

1A. Dissolution of a state bank does not result in any of the following:

a. Transferring title to the state bank's property.

b. Preventing transfer of its shares or securities, although the authorization to dissolve may provide for closing the state bank's share transfer records.

c. Subjecting its directors or officers to standards of conduct different from those prescribed by this chapter prior to dissolution.

d. Changing quorum or voting requirements for its board of directors or shareholders; changing provisions for selection, resignation, or removal of its directors or officers or both; or changing provisions for amending its bylaws.

e. Preventing commencement of a proceeding by or against the state bank in its name.

f. Abating or suspending a proceeding pending by or against the state bank on the effective date of dissolution.

2. Within thirty days after ~~the issuance by~~ filing of the articles of dissolution with the secretary of state ~~of an approved copy of the statement of intent to dissolve~~, the state bank shall give notice of its dissolution:

a. By mail to each depositor and creditor, ~~(~~except those as to whom the liability of the state bank has been assumed by another ~~state bank or national bank~~ financial institution insured by the federal deposit insurance corporation pursuant to the plan~~)~~, at their last address of record as shown upon the books of the bank, including a statement of the amount shown by the books of the state bank to be due to such depositor or creditor and a demand that any claim for a greater amount be filed with the state bank any time before a specified date at least ninety days after the date of the notice.

b. By mail to each lessee of a safe-deposit box and each customer for whom property is held in safekeeping, ~~(~~except those as to whom the liability of the state bank has been assumed by another ~~state bank or national bank~~ financial institution insured by the federal deposit insurance corporation pursuant to the plan~~)~~, at their last ~~known~~ address of record as shown upon the books of the state bank, including a demand that all property held in a safe-deposit box or held in safekeeping by the state bank be withdrawn by the person entitled ~~thereto~~ to the property before a specified date which is at least ninety days after the date of the notice.

c. By mail to each person, at the person's last known address as shown upon the books of the state bank, interested in funds held in a fiduciary account or other representative capacity.

d. By a conspicuous posting at each office of the state bank.

e. By such publication as the superintendent may prescribe.

3. As soon after the ~~issuance of an approved statement of intent to dissolve~~ approval of the plan of dissolution and the filing of the articles of dissolution as feasible, the state bank shall resign all fiduciary appointments and take such action as may be necessary to settle its fiduciary accounts.

Sec. 101. Section 524.1306, subsection 1, Code 1995, is amended to read as follows:

1. A state bank may, at any time prior to the ~~issuance of the approved copy of the statement of intent to dissolve by~~ filing of the articles of dissolution with the secretary of state, revoke voluntary dissolution proceedings as provided for in section 490.1404.

Sec. 102. NEW SECTION. 524.1308A KNOWN CLAIMS AGAINST DISSOLVED STATE BANK.

1. A dissolved state bank may dispose of the known claims against it pursuant to this section.

2. The dissolved state bank shall notify its known claimants in writing of the dissolution at any time after the effective date of the dissolution. The written notice must include all of the following:

a. A description of information that must be included in a claim.

b. The mailing address where a claim may be sent.

c. The deadline for submitting a claim, which may not be fewer than one hundred twenty days from the effective date of the written notice, by which the dissolved state bank must receive the claim.

d. A statement that the claim will be barred if not received by the deadline.

3. A claim against the dissolved state bank is barred if either of the following occur:

a. A claimant who was given written notice under subsection 2 does not deliver the claim to the dissolved state bank by the deadline.

b. A claimant whose claim was rejected by the dissolved state bank does not commence a proceeding to enforce the claim within ninety days from the effective date of the rejection notice.

4. For purposes of this section, "claim" does not include a contingent liability or a claim based upon an event occurring after the effective date of dissolution.

Sec. 103. NEW SECTION. 524.1308B UNKNOWN CLAIMS AGAINST DISSOLVED STATE BANK.

1. A dissolved state bank may publish notice of its dissolution and request that persons with claims against the state bank present them in accordance with the notice.

2. A notice made pursuant to this section must satisfy all of the following requirements:

a. Be published at least once in a newspaper of general circulation in the county where the dissolved state bank's principal office is located.

b. Include a description of the information that must be included in a claim and provide a mailing address where the claim may be sent.

c. Include a statement that a claim against the state bank will be barred unless a proceeding to enforce the claim is commenced within two years after the publication of the notice.

3. If the dissolved state bank publishes a newspaper notice pursuant to subsection 2, the claim of each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved state bank within two years after the publication date of the newspaper notice:

a. A claimant who did not receive written notice under section 524.1308A.

b. A claimant whose claim was timely sent to the dissolved state bank but not acted on.

c. A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

4. A claim may be enforced under this section as follows:

a. Against the dissolved state bank, to the extent of its undistributed assets.

b. If the assets have been distributed in liquidation, against a shareholder of the dissolved state bank to the extent of the shareholder's pro rata share of the claim or the state bank's assets distributed to the shareholder in liquidation, whichever is less, but a shareholder's total liability for all claims under this section shall not exceed the total amount of assets distributed to the shareholder in liquidation.

Sec. 104. Section 524.1309, unnumbered paragraph 1, Code 1995, is amended to read as follows:

In lieu of the dissolution procedure prescribed in sections 524.1303 to ~~524.1308~~ 524.1306, a state bank may cease to carry on the business of banking and, after compliance with this section, continue as a corporation subject to chapter 490.

Sec. 105. Section 524.1309, subsections 1, 3, 4, 5, and 10, Code 1995, are amended to read as follows:

1. A state bank which has commenced business may propose to voluntarily cease to carry on the business of banking and become a corporation subject to chapter 490 upon the affirmative vote of the holders of at least ~~three-fourths~~ a majority of the shares entitled to vote ~~thereon~~ on such proposal, adopting a plan involving both a provision for acquisition of its assets and assumption of its liabilities by another state bank, ~~or~~ national bank, or other financial institution insured by the federal deposit insurance corporation, and a provision for continuance of its business if acquisition of its assets and assumption of its liabilities is not effected, or any other plan providing for the cessation of banking business and the payment of its liabilities.

3. Immediately upon adoption and approval of a plan to voluntarily cease to carry on the business of banking and become a corporation subject to chapter 490, the state bank shall deliver to the superintendent a ~~statement of its intent~~ plan to cease ~~to carry on~~ the business of banking and become a corporation subject to chapter 490, which shall be

signed by two of its duly authorized officers and shall contain the name of the state bank, the post office address of its principal place of business, the name and address of its officers and directors, the number of shares entitled to vote on the plan and the number of shares voted for or against the plan, respectively, the nature of the business to be conducted by the corporation under chapter 490, and the general nature of the assets to be held by the corporation.

4. ~~If the statement of intent to cease to carry on the business of banking and become a corporation subject to chapter 490 satisfies the requirements of this section, the superintendent shall deliver the statement with written approval to the secretary of state who shall issue to the state bank an approved copy of the statement.~~ Upon ~~the issuance of an approved copy of the statement of intent~~ approval of the plan by the superintendent, the state bank shall immediately surrender to the superintendent its authorization to do business as a bank and shall cease to accept deposits ~~or~~ and carry on the banking business except insofar as may be necessary for it to complete the settlement of its affairs as a state bank in accordance with subsection 5.

5. The board of directors has full power to complete the settlement of the affairs of the state bank. Within thirty days after ~~the issuance of an approved copy of the statement of intent to cease to carry on~~ approval by the superintendent of the plan to cease the business of banking and become a corporation subject to chapter 490, the state bank shall give notice of its intent to persons ~~described in subsection 2 of~~ identified in section 524.1305 ~~and~~, subsection 3, in the manner provided for in that subsection. In completing the settlement of its affairs as a state bank the state bank shall also follow the procedure prescribed in ~~subsections 3, 4 and 5 of~~ section 524.1305, subsections 3, 4, and 5.

10. A state bank ~~may~~, at any time prior to the ~~issuance of the approved copy of the statement of intent to cease to carry on the business of banking and become a corporation~~ approval of the articles of intent to become subject to chapter 490, may revoke the proceedings in the manner prescribed by section 524.1306.

Sec. 106. Section 524.1309, subsection 6, Code 1995, is amended by striking the subsection.

Sec. 107. Section 524.1314, subsection 2, Code 1995, is amended to read as follows:

2. Subsequent to the dissolution of a state bank, other than through the adoption of a plan involving a provision for acquisition of its assets and assumption of its liabilities by another state ~~or~~ bank, national bank, or other financial institution insured by the federal deposit insurance corporation, the superintendent ~~shall~~ may assume custody of the records of the state bank and, if so, shall retain them in accordance with the provisions of section 524.221. The superintendent may make copies of such records in accordance with the provisions of ~~subsection 1 of~~ section 524.221, subsection 1.

Sec. 108. Section 524.1401, Code 1995, is amended to read as follows:

524.1401 AUTHORITY TO MERGE ~~OR CONSOLIDATE~~.

1. Upon compliance with the requirements of this chapter, one or more state banks, ~~or~~ one or more national banks, one or more state associations, one or more federal associations, one or more corporations, or any combination of ~~state and national banks, may merge or consolidate into a national bank or~~ these entities, with the approval of the superintendent, may merge into a state bank ~~or consolidate into a new state bank~~.

2. Upon compliance with the requirements of this chapter, one or more state banks may merge into a national bank. The authority of a state bank to merge ~~or consolidate~~ into a national bank ~~shall be~~ is subject to the condition that at the time of the transaction the laws of the United States shall authorize a national bank located in this state, without approval by the comptroller of the currency of the United States, to merge ~~or consolidate~~ into a state bank under limitations no more restrictive than those contained in this chapter with respect to the merger ~~or consolidation~~ of a state bank into a national bank.

3. Upon compliance with the requirements of this chapter and chapter 534, one or more state banks may merge with one or more state associations or federal associations.

The authority of a state bank to merge into a state or federal association is subject to the conditions the laws of the United States authorize at the time of the transaction.

4. As used in this section, the term "merger" or "merge" means any plan by which the assets and liabilities of an entity are combined with those of one or more other entities, including transactions in which one of the corporate entities survives and transactions in which a new corporate entity is created.

Sec. 109. Section 524.1402, Code 1995, is amended to read as follows:

524.1402 REQUIREMENTS FOR A MERGER ~~OR CONSOLIDATION~~.

The requirements for a merger ~~or consolidation~~ which must be satisfied by the parties ~~thereto~~ to the merger are as follows:

1. The parties shall adopt a plan stating all of the following:

a. The names of the ~~banks~~ parties proposing to merge ~~or consolidate~~ and the name of the bank into which they propose to merge, which is the "resulting bank".

b. The terms and conditions of the proposed merger ~~or consolidation~~.

c. The manner and basis of ~~the~~ converting ~~of~~ the shares of each ~~bank~~ party into shares, obligations, or other securities of the resulting bank or of any other corporation, or, in whole or in part, into cash or other property.

d. The rights of the shareholders of each of the parties.

e. An agreement concerning the merger ~~or consolidation~~.

f. Such other provisions with respect to the proposed merger ~~or consolidation~~ which are deemed necessary or desirable.

2. In the case of a state bank which is a party to the plan, if the proposed merger ~~or consolidation~~ will result in a state bank subject to this chapter, adoption of the plan by such state bank ~~shall require~~ requires the affirmative vote of at least a majority of the directors and approval by the shareholders, in the manner and according to the procedures prescribed in section 490.1103, at a meeting called in accordance with the terms of that section. In the case of a national bank, or if the proposed merger ~~or consolidation~~ will result in a national bank, adoption of the plan by each party ~~thereto~~ to the merger shall require the affirmative vote of at least such directors and shareholders whose affirmative vote ~~thereon~~ on the plan is required under the laws of the United States. Subject to applicable requirements of the laws of the United States in a case in which a national bank is a party to a plan, any modification of a plan which has been adopted shall be made by any method provided ~~therein~~ in the plan, or in the absence of such provision, by the same vote as required for adoption.

3. If a proposed merger ~~or consolidation~~ will result in a state bank, application for the required approval by the superintendent shall be made in the manner prescribed by the superintendent. There shall also be delivered to the superintendent, when available, the following:

a. Articles of merger ~~or consolidation~~.

b. Applicable fees payable to the secretary of state, as specified in section 490.122, for the filing and recording of the articles of merger ~~or consolidation~~.

c. If there is any modification of the plan at any time prior to the approval by the superintendent under section 524.1403, an amendment of the application and, if necessary, of the articles of merger ~~or consolidation~~, signed in the same manner as the originals, setting forth the modification of the plan, the method by which ~~such~~ the modification was adopted and any related change in the provisions of the articles of merger ~~or consolidation~~.

d. Proof of publication of the notice required by subsection 4 ~~of this section~~.

4. If a proposed merger ~~or consolidation~~ will result in a state bank, within thirty days after the application for merger is accepted for processing, the parties to the plan shall publish, once each week for two consecutive weeks, a notice of the proposed transaction. The notices shall be published in a newspaper of general circulation published in ~~a~~ the municipal corporation or unincorporated area in which each party to the plan has its principal place of business, ~~and in the case of a consolidation, in which the resulting state bank~~

~~is to have its principal place of business,~~ or if there is none, in a newspaper of general circulation published in the county, or in a county adjoining the county, in which each party to the plan has its principal place of business ~~and, in the case of a consolidation, in which the resulting state bank is to have its principal place of business. The notice shall be published once each week for two successive weeks, within thirty days after making application to the superintendent for approval of the plan.~~ The notice shall be on forms prescribed by the superintendent and shall set forth the names of the parties to the plan and the resulting state bank, the location and post office address of the principal place of business of the resulting state bank and of each office to be maintained by the resulting state bank, and the purpose or purposes of the resulting state bank~~, and the date of delivery of the articles of merger and consolidation to the superintendent~~.

4A. Within thirty days after the date of the second publication of the notice required under subsection 4, any interested person may submit to the superintendent written comments and data on the application. Comments challenging the legality of an application shall be submitted separately in writing. The superintendent may extend the thirty-day comment period if, in the superintendent's judgment, extenuating circumstances exist.

4B. Within thirty days after the date of the second publication of the notice required under subsection 4, any interested person may submit to the superintendent a written request for a hearing on the application. The request shall state the nature of the issues or facts to be presented and the reasons why written submissions would be insufficient to make an adequate presentation to the superintendent. If the reasons are related to factual disputes, the disputes shall be described. Written requests for hearings shall be evaluated by the superintendent, who may grant or deny such requests in whole or in part. A hearing request shall generally be granted only if it is determined that written submissions would be inadequate or that a hearing would otherwise be beneficial to the decision-making process. A hearing may be limited to issues considered material by the superintendent.

4C. If a request for a hearing is denied, the superintendent shall notify the applicant and all interested persons and shall state the reasons for the denial. Interested persons may submit to the superintendent, with simultaneous copies to the applicant, additional written comments or data on the application within fourteen days after the date of the notice of denial. The applicant shall be provided an additional seven days, after the fourteen-day deadline has expired, within which to respond to any comments submitted within the fourteen-day period. The superintendent may waive this seven-day period upon request by the applicant. A copy of any response submitted by the applicant shall also be mailed simultaneously by the applicant to the interested persons.

5. The articles of merger ~~or consolidation~~ shall be signed by two duly authorized officers of each party to the plan and shall contain all of the following:

a. The names of the parties to the plan, and of the resulting state bank.

b. The location and the post office address of the principal place of business of each party to the plan, and of each additional office maintained by the parties to the plan, and the location and post office address of the principal place of business of the resulting state bank, and of each additional office to be maintained by the resulting state bank.

c. The votes by which the plan was adopted, and the ~~time~~ date and place of each meeting in connection with such adoption.

d. The number of directors constituting the board of directors, and the names and addresses of the individuals who are to serve as directors until the next annual meeting of the shareholders or until their successors be elected and qualify.

e. ~~In the case of a merger, any~~ Any amendment of the articles of incorporation of the resulting state bank.

~~f. In the case of a consolidation, the provisions required in the articles of incorporation of a state bank by section 524.302, subsections 3 to 7.~~

~~g.~~ f. The plan of merger ~~or consolidation~~.

6. If a proposed merger ~~or consolidation~~ will result in a national bank, a state bank which is a party to the plan shall do all of the following:

a. Notify the superintendent of the proposed merger ~~or consolidation~~.

b. Provide such evidence of the adoption of the plan as the superintendent may request.

c. Notify the superintendent of any abandonment or disapproval of the plan.

d. File with the superintendent and with the secretary of state ~~a certificate~~ evidence of approval of the merger ~~or consolidation~~ by the comptroller of the currency of the United States.

e. Notify the superintendent of the date upon which ~~such~~ the merger ~~or consolidation~~ is to become effective.

Sec. 110. Section 524.1403, Code 1995, is amended to read as follows:

524.1403 APPROVAL OF MERGER ~~OR CONSOLIDATION~~ BY SUPERINTENDENT.

1. Upon receipt of an application for approval of a merger ~~or consolidation~~ and of the supporting items required by section 524.1402, subsection 3, the superintendent shall conduct such investigation as the superintendent deems necessary to ascertain ~~whether~~ the following:

a. The articles of merger ~~or consolidation~~ and supporting items satisfy the requirements of this chapter.

b. The plan and any modification ~~thereof~~ of the plan adequately protects the interests of depositors, other creditors and shareholders.

c. The requirements for a merger ~~or consolidation~~ under all applicable laws have been satisfied and the resulting state bank would satisfy the requirements of this chapter with respect to it.

d. The merger ~~or consolidation~~ would be consistent with adequate and sound banking and in the public interest on the basis of the financial history and condition of the parties to the plan, including the adequacy of the capital structure of the resulting state bank, the character of the management of the resulting state bank, the potential effect of the merger ~~or consolidation~~ on competition, and the convenience and needs of the area primarily to be served by the resulting state bank.

2. Within one hundred eighty days after ~~receipt~~ acceptance of the application for processing, or within an additional period of not more than sixty days after receipt of an amendment of the application, the superintendent shall ~~determine whether to~~ approve or disapprove the application on the basis of the investigation. The plan shall not be modified at any time after approval of the application by the superintendent. ~~Prior to making a determination on the pending application the superintendent shall give adequate notice of the pending application, and may afford all interested persons an opportunity for a stenographically reported hearing during which such persons shall be allowed to present evidence in support of, or in opposition to, the pending application.~~

~~The superintendent shall conduct such hearing if any interested person files an objection to the pending application and requests a hearing.~~ If the superintendent finds that the superintendent must act immediately on the pending application in order to protect the interests of depositors or the assets of any party to the plan, the superintendent may proceed without requiring publication of the notice ~~referred to in this subsection~~ required under section 524.1402, subsection 4. ~~Before~~ As a condition of receiving the decision of the superintendent with respect to the pending application, the parties to the plan shall~~, upon notice,~~ reimburse the superintendent ~~to the extent of~~ for all the expenses incurred in connection with the application. ~~Thereafter the~~ The superintendent shall give to the parties to the plan written notice of the decision and, in the event of disapproval, a statement of the reasons for the decision. The decision of the superintendent shall be subject to judicial review ~~in accordance with~~ pursuant to chapter 17A.

Sec. 111. Section 524.1404, Code 1995, is amended to read as follows:

524.1404 PROCEDURE AFTER APPROVAL BY THE SUPERINTENDENT – ISSUANCE OF CERTIFICATE OF MERGER ~~OR CONSOLIDATION~~.

If ~~the~~ applicable state or federal laws ~~of the United States~~ require the approval of the merger ~~or consolidation~~ by ~~any~~ a federal or state agency, the superintendent ~~shall, after the superintendent's approval, retain the~~ may withhold delivery of the approved articles of merger ~~or consolidation~~ until the superintendent receives notice of the decision of such agency. If the final approval of the agency is not given within six months of the superintendent's approval, the superintendent shall notify the parties to the plan that the approval of the superintendent has been rescinded for that reason. If such agency gives its approval, the superintendent shall deliver the articles of merger ~~or consolidation~~, with the superintendent's approval indicated ~~thereon~~ on the articles, to the secretary of state, and shall notify the parties to the plan. The receipt of the approved articles of merger ~~or consolidation~~ by the secretary of state ~~shall constitute~~ constitutes filing ~~thereof~~ of the articles of merger with that office. The secretary of state shall record the articles of merger ~~or consolidation in the secretary of state's office~~, and the ~~same~~ articles shall be filed and recorded in the office of the county recorder in each county in which the parties to the plan had previously maintained a principal place of business ~~and, in the case of a consolidation, in the county in which the new state bank is to maintain its principal place of business~~. On the date upon which the merger ~~or consolidation~~ is effective the secretary of state shall issue a certificate of merger ~~or consolidation~~ and send the same to the resulting state bank and a copy ~~thereof~~ of the certificate of merger to the superintendent.

Sec. 112. Section 524.1405, subsection 1, Code 1995, is amended to read as follows:

1. The merger ~~or consolidation shall be~~ is effective upon the filing of the articles of merger ~~or consolidation~~ with the secretary of state, or at any later date and time as specified ~~by the superintendent~~ in ~~writing on~~ the articles of merger ~~or consolidation~~. The certificate of merger ~~or consolidation shall be~~ is conclusive evidence of the performance of all conditions precedent to the merger ~~or consolidation~~, and of the existence or creation of the resulting state bank, except as against the state.

Sec. 113. Section 524.1405, subsections 2 and 3, Code 1995, are amended by striking the subsections and inserting in lieu thereof the following:

2. When a merger takes effect all of the following apply:

a. Every other financial institution to the merger merges into the surviving financial institution and the separate existence of every party except the surviving financial institution ceases.

b. The title to all real estate and other property owned by each party to the merger is vested in the surviving party without reversion or impairment.

c. The surviving party has all liabilities of each party to the merger.

d. A proceeding pending against any party to the merger may be continued as if the merger did not occur or the surviving party may be substituted in the proceeding for the party whose existence ceased.

e. The articles of incorporation of the surviving party are amended to the extent provided in the articles of merger.

f. The shares of each party to the merger that are to be converted into shares, obligations, or other securities of the surviving party or any other corporation or into cash or other property are converted, and the former holders of the shares are entitled only to the rights provided in the articles of merger or to their rights under division XIII of this chapter.

Sec. 114. Section 524.1406, Code 1995, is amended to read as follows:

524.1406 RIGHTS OF DISSENTING SHAREHOLDERS.

1. A shareholder of a state bank, which is a party to a proposed merger ~~or consolidation~~ plan which will result in a state bank subject to this chapter, who objects to the plan is entitled to the rights and remedies of a dissenting shareholder as provided in chapter 490, division XIII. ~~Shares acquired by a state bank pursuant to payment of their agreed value or~~

~~to payment of the judgment entered therefor, pursuant to chapter 490, division XIII, shall be sold at public or private sale, within one year from the time of their purchase or acquisition, unless the time is extended by the superintendent.~~

2. If a shareholder of a national bank which is a party to a proposed merger ~~or consolidation~~ plan which will result in a state bank, or a shareholder of a state bank which is a party to a plan which will result in a national bank, ~~shall object~~ objects to the plan and ~~shall comply~~ complies with the requirements of the applicable laws of the United States, the resulting state bank or national bank, as the case may be, ~~shall be~~ is liable for the value of the shareholder's shares as determined in accordance with such laws of the United States. ~~Shares acquired by a state bank pursuant to this subsection shall be sold at public or private sale within one year from the time of their purchase or acquisition, unless the time is extended by the superintendent.~~

Sec. 115. Section 524.1408, Code 1995, is amended to read as follows:

524.1408 MERGER OF CORPORATION SUBSTANTIALLY OWNED BY A STATE BANK.

A state bank owning at least ~~ninety-five~~ ninety percent of the outstanding shares, of each class, of another corporation which it is authorized to own under this chapter, may merge the other corporation into itself without approval by a vote of the shareholders of either the state bank or the subsidiary corporation. The board of directors of the state bank shall approve a plan of merger, mail to shareholders of record of the subsidiary corporation, and prepare and execute articles of merger in the manner provided for in section 490.1104. The articles of merger, together with the applicable filing and recording fees, shall be delivered to the superintendent who shall, if the superintendent approves of the proposed merger and if the superintendent finds the articles of merger satisfy the requirements of this section, deliver them to the secretary of state for filing and recording in the secretary of state's office, and they shall be filed in the office of the county recorder. The secretary of state upon filing the articles of merger shall issue a certificate of merger and send the certificate to the state bank and a copy of it to the superintendent.

Sec. 116. Section 524.1411, subsections 3 and 5, Code 1995, are amended to read as follows:

3. The votes by which the plan of conversion was adopted and the ~~time~~ date and place of each meeting in connection with the adoption.

5. The provisions required in the articles of incorporation by ~~subsections 3, 4, 5, 6, and 7 of~~ section 524.302, subsection 1, paragraphs "c" and "d", and subsection 2, paragraph "b".

Sec. 117. Section 524.1412, Code 1995, is amended to read as follows:

524.1412 PUBLICATION OF NOTICE.

~~The~~ Within thirty days after the application for conversion has been accepted for processing, the national bank shall publish a notice of ~~its intention to deliver, or~~ the delivery of~~,~~ the articles of conversion to the superintendent~~,~~ once each week for two successive weeks in a newspaper of general circulation published in the municipal corporation or unincorporated area in which the national bank has its principal place of business, or if there is none, a newspaper of general circulation published in the county, or in a county adjoining the county, in which the national bank has its principal place of business. The notice shall ~~appear prior to, or within seven days after, the date of delivery of the articles of conversion to the superintendent and shall~~ set forth all of the following:

1. The name of the national bank and the name of the resulting state bank.
2. The location and post office address of its principal place of business.
3. A statement that articles of conversion ~~are to be, or~~ have been delivered to the superintendent.
4. The purpose or purposes of the resulting state bank.
5. The date of delivery of the articles of conversion to the superintendent.

Sec. 118. Section 524.1413, Code 1995, is amended to read as follows:

524.1413 APPROVAL OF CONVERSION BY SUPERINTENDENT.

Upon ~~receipt~~ acceptance for processing of an application for approval of a conversion, the superintendent shall conduct such investigation as the superintendent ~~may deem~~ deems necessary to ascertain ~~whether~~ the following:

1. The articles of conversion and supporting items satisfy the requirements of this chapter.
2. The plan adequately protects the interests of depositors.
3. The requirements for a conversion under all applicable laws have been satisfied and the resulting state bank would satisfy the requirements of this chapter applicable to it.
4. The resulting state bank will possess an adequate capital structure.

Within ninety days after ~~receipt of~~ the application has been accepted for processing, the superintendent shall ~~make a determination whether to~~ approve or disapprove the ~~pending~~ application on the basis of the investigation. ~~Before~~ As a condition of receiving the decision of the superintendent with respect to the ~~pending~~ application, the national bank shall~~, upon notice,~~ reimburse the superintendent ~~to the extent of the~~ for all expenses incurred in connection with the application. ~~Thereafter, the~~ The superintendent shall give the national bank written notice of the decision and, in the event of disapproval, a statement of the reasons for the decision. If the superintendent approves the ~~pending~~ application, the superintendent shall deliver the articles of conversion, with the superintendent's approval indicated ~~thereon~~ on the articles of conversion, to the secretary of state. The decision of the superintendent shall be subject to judicial review ~~in accordance with the terms of the Iowa administrative procedure Act~~ pursuant to chapter 17A. Notwithstanding the terms of ~~said~~ the Iowa administrative procedure Act, ~~such~~ chapter 17A, a petition for judicial review must be filed within thirty days after the superintendent notifies the national bank of the superintendent's decision.

Sec. 119. Section 524.1414, Code 1995, is amended to read as follows:

524.1414 ISSUANCE OF CERTIFICATE OF CONVERSION.

The receipt of the approved articles of conversion by the secretary of state ~~shall constitute~~ constitutes filing ~~thereof~~ of the articles of conversion with that office. The secretary of state shall record the articles of conversion ~~in the secretary's office,~~ and the ~~same~~ articles shall be filed and recorded in the office of the county recorder in the county in which the resulting state bank has its principal place of business. ~~On the date upon which the conversion is effective, the secretary of state shall issue a certificate of conversion and send the same to the resulting state bank and a copy thereof to the superintendent and the superintendent shall issue to the resulting state bank an authorization to do business.~~

Sec. 120. Section 524.1415, subsection 1, Code 1995, is amended to read as follows:

1. The conversion ~~shall be~~ is effective upon the filing of the articles of conversion with the secretary of state, or at any later date and time as specified ~~by the superintendent~~ in ~~writing on~~ the articles of conversion. The certificate of conversion ~~shall be~~ is conclusive evidence of the performance of all conditions required by this chapter for conversion of a national bank into a state bank, except as against the state.

Sec. 121. Section 524.1415, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The title to all real estate and other property owned by the converting national bank is vested in the resulting state bank without reversion or impairment.

Sec. 122. Section 524.1417, subsection 1, Code 1995, is amended by striking the subsection and inserting in lieu thereof the following:

1. A shareholder of a state bank which converts into a national bank who objects to the plan of conversion is entitled to the rights and remedies of a dissenting shareholder as provided in chapter 490, division XIII.

Sec. 123. Section 524.1417, subsection 2, Code 1995, is amended to read as follows:

2. If a shareholder of a national bank, which converts into a state bank, ~~shall object~~ objects to the plan of conversion and ~~shall comply~~ complies with the requirements of applicable laws of the United States, the resulting state bank ~~shall be~~ is liable for the value of the shareholder's shares as determined in accordance with such laws of the United States. ~~Shares acquired by a state bank pursuant to this subsection shall be sold at public or private sale, within one year from the time of purchase or acquisition, unless the time is extended by the superintendent.~~

Sec. 124. Section 524.1418, Code 1995, is amended to read as follows:

524.1418 SUCCESSION TO FIDUCIARY ACCOUNTS AND APPOINTMENTS - APPLICATION FOR APPOINTMENT OF NEW FIDUCIARY.

The provisions of section ~~524.1407 shall~~ 524.1009 apply to a resulting state or national bank after a conversion with the same effect as though ~~such~~ the state or national bank were a party to a plan of merger ~~or consolidation~~, and the conversion were a merger ~~or consolidation~~, within the provisions of that section.

Sec. 125. Section 524.1419, Code 1995, is amended to read as follows:

524.1419 OFFICES OF A RESULTING STATE BANK.

If a merger~~, consolidation~~ or conversion results in a state bank subject to the provisions of this chapter, the resulting state bank ~~shall~~, after the effective date of the merger~~, consolidation~~ or conversion, shall be subject to ~~all~~ the provisions of sections 524.1201, 524.1202, and 524.1203 relating to the bank offices.

Sec. 126. Section 524.1420, Code 1995, is amended to read as follows:

524.1420 NONCONFORMING ASSETS OF RESULTING STATE BANK.

If a merger~~, consolidation~~ or conversion results in a state bank subject to the provisions of this chapter, and the resulting state bank has assets which do not conform with the provisions of this chapter, the superintendent may allow the resulting state bank a reasonable time to conform with state law.

Sec. 127. Section 524.1501, Code 1995, is amended to read as follows:

524.1501 ~~RIGHT~~ AUTHORITY TO AMEND.

A state bank ~~may~~, with the approval of the superintendent and in the manner provided in this chapter, may amend its articles of incorporation in order to make any change ~~therein~~ in the articles of incorporation so long as ~~its~~ the articles of incorporation as amended contain only ~~such~~ provisions as might be lawfully contained in the original articles of incorporation at the time of making ~~such~~ the amendment.

Sec. 128. Section 524.1503, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

524.1503 VOTING ON AMENDMENTS BY VOTING GROUPS.

1. The holders of the outstanding shares of a class are entitled to vote as a separate voting group on a proposed amendment if the amendment does any of the following:

a. Increases or decreases the aggregate number of authorized shares of the class.

b. Increases or decreases the par value of the shares of the class.

c. Effects an exchange or reclassification of all or part of the shares of the class into shares of another class or effects a cancellation of all or part of the shares of the class.

d. Effects an exchange or reclassification, or creates the right of exchange, of all or part of the shares of another class into shares of that class.

e. Changes the designation, rights, preferences, or limitations of all or part of the shares of the class.

f. Changes the shares of all or part of the class into a different number of shares of the same class.

g. Creates a new class of shares having rights or preferences with respect to distributions or to dissolution that are prior, superior, or substantially equal to the shares of the class.

h. Increases the rights, preferences, or number of authorized shares of any class that, after giving effect to the amendment, have rights or preferences with respect to distributions or to dissolution that are prior, superior, or substantially equal to the shares of the class.

i. Limits or denies an existing preemptive right of all or part of the shares of the class.

j. Cancels or otherwise affects rights to distributions or dividends that have accumulated but not yet been declared on all or part of the shares of the class.

2. If a proposed amendment would affect a series of a class of shares in one or more of the ways described in subsection 1, the shares of that series are entitled to vote as a separate voting group on the proposed amendment.

3. If a proposed amendment that entitles two or more series of shares to vote as separate voting groups under this section would affect those two or more series in the same or a substantially similar way, the shares of all the series so affected must vote together as a single voting group on the proposed amendment.

4. A class or series of shares is entitled to the voting rights granted by this section although the articles of incorporation provide that the shares are nonvoting shares.

Sec. 129. Section 524.1504, subsection 1, paragraph d, Code 1995, is amended to read as follows:

d. The place~~,~~ and date ~~and hour~~ of the meeting of shareholders at which the amendment was adopted, and the kind and period of notice given to the shareholders.

Sec. 130. Section 524.1506, Code 1995, is amended to read as follows:

524.1506 CERTIFICATE OF AMENDMENT ~~—EFFECT~~.

1. The secretary of state shall record the articles of amendment ~~in the secretary's office~~, and the ~~same~~ articles of amendment shall be filed ~~and recorded~~ in the office of the county recorder in the county in which the state bank has its principal place of business. The secretary of state upon the filing of the articles of amendment shall issue a certificate of amendment and send the same to the state bank.

2. Upon the issuance of the certificate of amendment by the secretary of state, the amendment ~~shall become~~ becomes effective and the articles of incorporation ~~shall be~~ are deemed to be amended accordingly. ~~No amendment shall affect the existing rights of persons other than shareholders, or any existing cause of action in favor of or against such state bank, or any pending suit to which such state bank shall be a party, and, in the event the name of the state bank shall be changed by amendment, no suit brought by or against such state bank under its former name shall abate for that reason.~~

Sec. 131. Section 524.1508, Code 1995, is amended to read as follows:

524.1508 ~~RESTATEMENT OF~~ RESTATED ARTICLES OF INCORPORATION.

A state bank may at any time restate its articles of incorporation, which may be amended by ~~such~~ the restatement, so long as its articles of incorporation as ~~so~~ restated contain only such provisions as might be lawfully contained in original articles of incorporation at the time of making ~~such~~ the restatement~~, by the adoption of restated~~. Restated articles of incorporation~~, including any amendments to its articles of incorporation to be made thereby,~~ shall be adopted in the following manner:

1. The board of directors shall adopt a resolution setting forth the proposed restated articles of incorporation, which may include an amendment or amendments to the articles of incorporation of the state bank to be made thereby, and directing that ~~such~~ the restated articles, including such amendment or amendments, be submitted to a vote at a meeting of shareholders, which may be either an annual meeting or a special meeting.

2. Written or printed notice setting forth the proposed restated articles or a summary of the provisions ~~thereof~~ of the proposed restated articles shall be given to each shareholder of record entitled to vote ~~thereon~~ on the proposed restated articles within the time and in the manner provided in section 524.509. If the meeting be an annual meeting, the proposed

restated articles may be included in the notice of such annual meeting. If the restated articles include an amendment or amendments to the articles of incorporation ~~to be made thereby~~, the notice shall separately set forth such amendment or amendments or a summary of the changes to be effected ~~thereby~~ by the amendment or amendments.

3. At ~~such~~ the meeting a vote of the shareholders entitled to vote ~~thereon~~ on the proposed restated articles shall be taken on the proposed restated articles. The proposed restated articles shall be adopted upon receiving the affirmative vote of the holders of a majority of the shares entitled to vote ~~thereon~~, unless such restated articles include an amendment to the articles of incorporation ~~to be made thereby~~ which, if contained in a proposed amendment to articles of incorporation to be made without restatement of the articles of incorporation, would entitle a class of shares to vote as a class ~~thereon~~ on the proposed restated articles, in which event the proposed restated articles shall be adopted upon receiving the affirmative vote of the holders of a majority of the shares of each class of shares entitled to vote ~~thereon~~ on the proposed restated articles as a class, and of the total shares entitled to vote ~~thereon~~ on the proposed restated articles.

Upon ~~such~~ approval, restated articles of incorporation shall be executed by the state bank by its president or vice president and by its cashier or an assistant cashier, and verified by one of the officers signing the ~~same~~ restated articles, and shall set forth, as then stated in the articles of incorporation of the state bank and, if the restated articles of incorporation included an amendment or amendments to the articles of incorporation ~~to be made thereby~~, as so amended, the material and contents described in section 524.302.

The restated articles of incorporation shall set forth also a statement that they correctly set forth the provisions of the articles of incorporation as ~~theretofore or thereby~~ amended, that they have been duly adopted as required by law and that they supersede the original articles of incorporation and all amendments ~~thereto~~ to the original articles of incorporation.

The restated articles of incorporation shall be delivered to the superintendent together with the applicable fees for the filing and recording of the restated articles of incorporation. The superintendent shall conduct such investigation and give approval or disapproval, ~~all~~ as ~~in the manner~~ provided ~~for~~ in section 524.1505. If the superintendent ~~shall approve~~ approves the restated articles of incorporation, the superintendent shall deliver them with the written approval on the restated articles of incorporation to the secretary of state for filing, ~~and recording in the secretary's office~~ and the ~~same~~ restated articles of incorporation shall be filed ~~and recorded~~ in the office of the county recorder. The secretary of state upon filing the restated articles of incorporation shall issue a restated certificate of incorporation and send the ~~same~~ certificate to the state bank or its representative.

Upon the issuance of the restated certificate of incorporation by the secretary of state, the restated articles of incorporation including any amendment or amendments to the articles of incorporation ~~made thereby, shall become~~ are effective and ~~shall~~ supersede the original articles of incorporation and all amendments ~~thereto~~ to the original articles of incorporation.

~~No amendment shall affect the existing rights of persons other than shareholders, or any existing cause of action in favor of or against such state bank, or any pending suit to which such state bank shall be a party; and, in the event the corporate name shall be changed by amendment, no suit brought by or against such state bank under its former name shall abate for that reason.~~

Sec. 132. NEW SECTION. 524.1509 REVERSE STOCK SPLIT.

A state bank may effect a reverse stock split or similar change in capital structure by renewal, amendment, or restatement of existing articles of incorporation, provided the requirements of the superintendent are satisfied.

Sec. 133. NEW SECTION. 524.1510 EFFECT OF AMENDMENT.

An amendment to the articles of incorporation does not affect a cause of action existing

against or in favor of the state bank, a proceeding to which the state bank is a party, or the existing rights of persons other than shareholders of the state bank. An amendment changing the state bank's name does not abate a proceeding brought by or against the state bank in its former name.

Sec. 134. Section 524.1806, Code 1995, is amended to read as follows:

524.1806 BANKS OWNED OR CONTROLLED - OFFICERS AND DIRECTORS.

~~If any~~ An individual who is a director or an officer~~, or both,~~ of a bank holding company, ~~or of a bank which is owned or controlled by a bank holding company in any manner, and to the extent,~~ as specified by section 524.1801, ~~such individual shall also be~~ is deemed to be a director or an officer, or both, as the case may be, of each bank so owned or controlled by that bank holding company, for the purposes of sections 524.612, 524.613 and 524.706.

Sec. 135. Sections 524.106, 524.402, 524.403, 524.518, 524.704, 524.1307, 524.1308, 524.1407, 524.1507, 524.1701, 524.1702, and 524.1703, Code 1995, are repealed.

Approved May 3, 1995

CHAPTER 149

REGULATION OF CEMETERIES AND FUNERAL AND CEMETERY MERCHANDISE AND SERVICES

H.F. 486

†**AN ACT** relating to the regulation of cemetery operators and the regulation of perpetual care cemeteries and nonperpetual care cemeteries, establishing requirements related to the sale of preneed funeral contracts and the sale of funeral and cemetery merchandise, establishing fees and use of those fees, and providing penalties.

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

Section 1. Section 523A.1, unnumbered paragraphs 1 and 4, Code 1995, are amended to read as follows:

1. Whenever an agreement is made by any person, firm, or corporation to furnish, upon the future death of a person named or implied in the agreement, funeral services or funeral merchandise, a minimum of eighty percent of all payments made under the agreement shall be and remain trust funds until occurrence of the death of the person for whose benefit the funds were paid, unless the funds are sooner released to the person making the payment by mutual consent of the parties. Payments otherwise subject to this section are not exempt merely because they are held in certificates of deposit. The commissioner may adopt rules to prohibit the commingling of trust funds with other funds of the seller.

This section does not apply to payments for merchandise delivered to the purchaser. ~~Delivery~~ Except for caskets and other types of inner burial containers or concrete burial vaults sold after July 1, 1995, delivery includes storage in a warehouse under the control of the seller or any other warehouse or storage facility approved by the commissioner when a receipt of ownership in the name of the purchaser is delivered to the purchaser, the merchandise is insured against loss, the merchandise is protected against damage, title has been transferred to the purchaser, the merchandise is appropriately identified and described in a manner that it can be distinguished from other similar items of merchandise, the method of storage allows for visual audits of the merchandise, and the annual reporting requirements of section 523A.2, subsection 1, are satisfied.

Sec. 2. Section 523A.1, Code 1995, is amended by adding the following new subsection:

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

NEW SUBSECTION. 2. An agreement may be funded by insurance proceeds derived from a policy issued by an insurance company authorized to conduct business in this state. Such funding may be in lieu of a trust fund if the payments are made directly to the insurance company by the purchaser of the agreement.

Sec. 3. Section 523A.2, subsection 1, paragraphs a and c, Code 1995, are amended to read as follows:

a. All funds held in trust under section 523A.1 shall be deposited in a state or federally insured bank, savings and loan association, or credit union authorized to conduct business in this state, or trust department ~~thereof~~ of such bank, savings and loan association, or credit union, or in a trust company authorized to conduct business in this state, within fifteen days after the close of the month of receipt of the funds and shall be held as provided in paragraph "g" for the designated beneficiary until released pursuant to section 523A.1.

c. The seller under an agreement referred to in section 523A.1 shall file with the commissioner not later than March 1 of each year a report including the following information:

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

(2) ~~The name of the purchaser, beneficiary, and the amount of each agreement under section 523A.1 made in the preceding year and the date on which it was made.~~ The balance of each trust account as of the end of the preceding calendar year, identified by the name of the purchaser or the beneficiary, and a report of any amounts withdrawn from trust and the reason for each withdrawal.

(3) ~~The total value of agreements subject to section 523A.1 entered into, the total amount paid pursuant to those agreements, and the total amount deposited in trust as required under section 523A.1, during the preceding year.~~ A description of insurance funding outstanding at the end of the preceding calendar year, identified by the name of the purchaser or the beneficiary, and a report of any insurance payments received by the seller.

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

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

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

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

~~(8)~~ (4) ~~The~~ A complete inventory of funeral merchandise ~~and its location in the seller's possession that has been~~ delivered in lieu of trusting pursuant to section 523A.1.

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

~~The information required by subparagraphs (7) and (8) shall include~~, including the location of the merchandise, serial numbers or warehouse receipt numbers, identified by the name of the purchaser or the beneficiary, and a verified statement of a certified public accountant that the certified public accountant has conducted a physical inventory of the funeral merchandise ~~specified in subparagraph (8)~~ and that each item of that merchandise is in the seller's possession at the specified location. The statement shall be on a form prescribed by the commissioner.

(5) The name of the purchaser, beneficiary, and the amount of each agreement re-

ferred to in section 523A.1 made in the preceding year and the date on which it was made.

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

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

Sec. 4. Section 523A.2, subsection 7, Code 1995, is amended to read as follows:

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

Sec. 5. Section 523A.8, subsection 1, paragraphs e, h, and j, Code 1995, are amended to read as follows:

e. State clearly whether the agreement is a guaranteed price contract or a nonguaranteed price contract. Each nonguaranteed price contract shall contain in twelve point bold type, an explanation of the consequences in substantially the following language:

THE PRICES OF MERCHANDISE AND SERVICES UNDER THIS AGREEMENT ARE SUBJECT TO CHANGE IN THE FUTURE. ANY FUNDS PAID UNDER THIS CONTRACT ARE ONLY A DEPOSIT TO BE APPLIED, TOGETHER WITH ACCRUED INCOME, TOWARD THE FINAL COSTS OF THE MERCHANDISE OR SERVICES CONTRACTED FOR. ADDITIONAL CHARGES MAY BE REQUIRED.

h. Explain the disposition of the ~~interest and disclose what fees and expenses may be charged if incurred~~ income generated from investments, include a statement of fees, expenses, and taxes which may be deducted, and include a statement of the buyer's responsibility for income taxes owed on the income, if applicable.

j. ~~State the name and address of the commissioner.~~ Include an explanation of regulatory oversight by the insurance division in twelve point bold type, in substantially the following language:

THIS CONTRACT MUST BE REPORTED TO THE IOWA INSURANCE DIVISION BY THE FIRST DAY OF MARCH OF THE FOLLOWING YEAR. YOU MAY CALL THE INSURANCE DIVISION AT (INSERT TELEPHONE NUMBER) TO CONFIRM THAT YOUR CONTRACT HAS BEEN REPORTED. WRITTEN INQUIRIES OR COMPLAINTS SHOULD BE MAILED TO THE FOLLOWING ADDRESS: IOWA SECURITIES BUREAU, (INSERT ADDRESS).

Sec. 6. Section 523A.8, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. The commissioner may adopt rules establishing disclosure and format requirements to promote consumers' understanding of the merchandise and services purchased and the available funding mechanisms under an agreement pursuant to this chapter.

Sec. 7. Section 523A.8, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The seller shall disclose at the time an application is made by an individual and prior to accepting the applicant's initial premium or deposit for a preneed funeral contract or prearrangement subject to section 523A.1 which is funded by a life insurance policy, the following information:

a. That a life insurance policy is involved or being used to fund an agreement.

b. The nature of the relationship among the soliciting agent or agents, the provider of the funeral or cemetery merchandise or services, the administrator, and any other person.

c. The relationship of the life insurance policy to the funding of the prearrangement

and the nature and existence of any guarantees relating to the prearrangement.

d. The impact on the prearrangement of the following:

(1) Changes in the life insurance policy including, but not limited to, changes in the assignment, beneficiary designation, or use of proceeds.

(2) Any penalties to be incurred by the policyholder as a result of the failure to make premium payments.

(3) Penalties to be incurred or cash to be received as a result of the cancellation or surrender of the life insurance policy.

e. A list of merchandise and services which are applied or contracted for in the prearrangement and all relevant information concerning the price of the funeral services, including an indication that the purchase price is either guaranteed at the time of purchase or to be determined at the time of need.

f. All relevant information concerning what occurs and whether any entitlements or obligations arise if there is a difference between the proceeds of the life insurance policy and the amount actually needed to fund the agreement.

g. Any penalties or restrictions, including but not limited to, geographic restrictions or the inability of the provider to perform, on the delivery of merchandise, services, or the prearrangement guarantee.

h. That a sales commission or other form of compensation is being paid and, if so, the identity of the individuals or entities to whom it is paid.

Sec. 8. Section 523A.20, Code 1995, is amended to read as follows:

523A.20 INSURANCE DIVISION'S REGULATORY FUND.

The insurance division may authorize the creation of a special revenue fund in the state treasury, to be known as the insurance division regulatory fund. ~~Commencing July 1, 1990, and annually thereafter, the~~ The commissioner shall allocate annually from the fees paid pursuant to section 523A.2, ~~one dollar~~ two dollars for each agreement reported on an establishment permit holder's annual report for deposit to the regulatory fund. The remainder of the fees collected pursuant to section 523A.2 shall be deposited into the general fund of the state. ~~However, if the balance of the regulatory fund on that July 1 exceeds two hundred thousand dollars, the allocation to the regulatory fund shall not be made and the total sum of the fees paid pursuant to section 523A.2 shall be deposited in the general fund of the state.~~ In addition, on May 1 of ~~1994~~ 1996 and ~~1995~~ 1997, the commissioner, to the extent necessary to fund consumer education, audits, investigations, payments under contract with licensed establishments to provide funeral merchandise or services in the event of statutory noncompliance by the initial seller, liquidations, and receiverships, shall assess establishment permit holders ~~five~~ two dollars for each agreement reported on the establishment permit holder's annual report of sales executed during the preceding year, which shall be deposited in the insurance division regulatory fund. The moneys in the regulatory fund shall be retained in the fund. The moneys are appropriated and, subject to authorization by the commissioner, may be used to pay auditors, audit expenses, investigative expenses, and the expenses of receiverships established pursuant to section 523A.19. An annual assessment shall not be imposed if the current balance of the fund exceeds two hundred thousand dollars.

Sec. 9. NEW SECTION. 523A.21 LICENSE REVOCATION - RECOMMENDATION BY COMMISSIONER TO BOARD OF MORTUARY SCIENCE EXAMINERS.

Upon a determination by the commissioner that grounds exist for an administrative license revocation or suspension action by the board of mortuary science examiners under chapter 156, the commissioner may forward to the board the grounds for the determination, including all evidence in the possession of the commissioner, so that the board may proceed with the matter as deemed appropriate.

Sec. 10. NEW SECTION. 523A.22 LIQUIDATION.

1. GROUNDS FOR LIQUIDATION. Upon receipt of a written request from the board

of mortuary science examiners, the commissioner may petition the district court for an order directing the commissioner to liquidate a funeral establishment on any of the following grounds:

a. The funeral establishment did not deposit funds pursuant to section 523A.1 or withdrew funds in a manner inconsistent with this chapter and is insolvent.

b. The funeral establishment did not deposit funds pursuant to section 523A.1 or withdrew funds in a manner inconsistent with this chapter and the condition of the funeral establishment is such that the further transaction of business would be hazardous, financially or otherwise, to its preneed funeral customers or the public.

2. LIQUIDATION ORDER.

a. An order to liquidate the business of a funeral establishment shall appoint the commissioner as liquidator and shall direct the liquidator to immediately take possession of the assets of the funeral establishment and to administer them under the general supervision of the court. The liquidator is vested with the title to the property, contracts, and rights of action and the books and records of the funeral establishment ordered liquidated, wherever located, as of the entry of the final order of liquidation. The filing or recording of the order with the clerk of court and the recorder of deeds of the county in which its principal office or place of business is located, or, in the case of real estate with the recorder of deeds of the county where the property is located, is notice as a deed, bill of sale, or other evidence of title duly filed or recorded with the recorder of deeds.

b. Upon issuance of an order, the rights and liabilities of a funeral establishment and of the funeral establishment's creditors, preneed and at-need funeral customers, owners, and other persons interested in the funeral establishment's estate shall become fixed as of the date of the entry of the order of liquidation, except as provided in subsection 14.

c. At the time of petitioning for an order of liquidation, or at any time after the time of petitioning, the commissioner, after making appropriate findings of a funeral establishment's insolvency, may petition the court for a declaration of insolvency. After providing notice and hearing as it deems proper, the court may make the declaration.

d. An order issued under this section shall require accounting to the court by the liquidator. Accountings, at a minimum, must include all funds received or disbursed by the liquidator during the current period. An accounting shall be filed within one year of the liquidation order and at such other times as the court may require.

e. Within five days after the initiation of an appeal of an order of liquidation, which order has not been stayed, the commissioner shall present for the court's approval a plan for the continued performance of the funeral establishment's obligations during the pendency of an appeal. The plan shall provide for the continued performance of preneed and at-need funeral contracts in the normal course of events, notwithstanding the grounds alleged in support of the order of liquidation including the ground of insolvency. If the defendant funeral establishment's financial condition, in the judgment of the commissioner, will not support the full performance of all obligations during the appeal pendency period, the plan may prefer the claims of certain at-need and preneed funeral customers and claimants over creditors and interested parties as well as other at-need and preneed funeral customers and claimants, as the commissioner finds to be fair and equitable considering the relative circumstances of such at-need and preneed funeral customers and claimants. The court shall examine the plan submitted by the commissioner and if it finds the plan to be in the best interests of the parties, the court shall approve the plan. An action shall not lie against the commissioner or any of the commissioner's deputies, agents, clerks, assistants, or attorneys by any party based on preference in an appeal pendency plan approved by the court.

3. POWERS OF LIQUIDATOR.

a. The liquidator may do any of the following:

(1) Appoint a special deputy to act for the liquidator under this chapter, and determine the special deputy's reasonable compensation. The special deputy shall have all the powers of the liquidator granted by this section. The special deputy shall serve at the pleasure of

the liquidator.

(2) Hire employees and agents, legal counsel, accountants, appraisers, consultants, and other personnel as the commissioner may deem necessary to assist in the liquidation.

(3) With the approval of the court fix reasonable compensation of employees and agents, legal counsel, accountants, appraisers, and consultants.

(4) Pay reasonable compensation to persons appointed and defray from the funds or assets of the funeral establishment all expenses of taking possession of, conserving, conducting, liquidating, disposing of, or otherwise dealing with the business and property of the funeral establishment. If the property of the funeral establishment does not contain sufficient cash or liquid assets to defray the costs incurred, the commissioner may advance the costs so incurred out of the insurance division regulatory fund. Amounts so advanced for expenses of administration shall be repaid to the insurance division regulatory fund for the use of the division out of the first available moneys of the funeral establishment.

(5) Hold hearings, subpoena witnesses, and compel their attendance, administer oaths, examine a person under oath, and compel a person to subscribe to the person's testimony after it has been correctly reduced to writing, and in connection to the proceedings require the production of books, papers, records, or other documents which the liquidator deems relevant to the inquiry.

(6) Collect debts and moneys due and claims belonging to the funeral establishment, wherever located. Pursuant to this subparagraph, the liquidator may do any of the following:

(a) Institute timely action in other jurisdictions to forestall garnishment and attachment proceedings against debts.

(b) Perform acts as are necessary or expedient to collect, conserve, or protect its assets or property, including the power to sell, compound, compromise, or assign debts for purposes of collection upon terms and conditions as the liquidator deems best.

(c) Pursue any creditor's remedies available to enforce claims.

(7) Conduct public and private sales of the property of the funeral establishment.

(8) Use assets of the funeral establishment under a liquidation order to transfer obligations of preneed funeral contracts to a solvent funeral establishment, if the transfer can be accomplished without prejudice to applicable priorities under subsection 18.

(9) Acquire, hypothecate, encumber, lease, improve, sell, transfer, abandon, or otherwise dispose of or deal with property of the funeral establishment at its market value or upon terms and conditions as are fair and reasonable. The liquidator shall also have power to execute, acknowledge, and deliver deeds, assignments, releases, and other instruments necessary to effectuate a sale of property or other transaction in connection with the liquidation.

(10) Borrow money on the security of the funeral establishment's assets or without security and execute and deliver documents necessary to that transaction for the purpose of facilitating the liquidation. Money borrowed pursuant to this subparagraph shall be repaid as an administrative expense and shall have priority over any other class 1 claims under the priority of distribution established in subsection 18.

(11) Enter into contracts as necessary to carry out the order to liquidate and affirm or disavow contracts to which the funeral establishment is a party.

(12) Continue to prosecute and to institute in the name of the funeral establishment or in the liquidator's own name any and all suits and other legal proceedings, in this state or elsewhere, and to abandon the prosecution of claims the liquidator deems unprofitable to pursue further.

(13) Prosecute an action on behalf of the creditors, at-need funeral customers, preneed funeral customers, or owners against an officer of the funeral establishment or any other person.

(14) Remove records and property of the funeral establishment to the offices of the

commissioner or to other places as may be convenient for the purposes of efficient and orderly execution of the liquidation.

(15) Deposit in one or more banks in this state sums as are required for meeting current administration expenses and distributions.

(16) Unless the court orders otherwise, invest funds not currently needed.

(17) File necessary documents for recording in the office of a recorder of deeds or record office in this state or elsewhere where property of the funeral establishment is located.

(18) Assert defenses available to the funeral establishment as against third persons including statutes of limitations, statutes of fraud, and the defense of usury. A waiver of a defense by the funeral establishment after a petition in liquidation has been filed shall not bind the liquidator.

(19) Exercise and enforce the rights, remedies, and powers of a creditor, at-need funeral customer, preneed funeral customer, or owner, including the power to avoid transfer or lien that may be given by the general law and that is not included within subsections 7 through 9.

(20) Intervene in a proceeding wherever instituted that might lead to the appointment of a receiver or trustee, and act as the receiver or trustee whenever the appointment is offered.

(21) Exercise powers now held or later conferred upon receivers by the laws of this state which are not inconsistent with this chapter.

b. This subsection does not limit the liquidator or exclude the liquidator from exercising a power not listed in paragraph "a" that may be necessary or appropriate to accomplish the purposes of this chapter.

4. NOTICE TO CREDITORS AND OTHERS.

a. Unless the court otherwise directs, the liquidator shall give notice of the liquidation order as soon as possible by doing all of the following:

(1) By first class mail to all persons known or reasonably expected to have claims against the funeral establishment, including at-need and preneed funeral customers, by mailing a notice to their last known address as indicated by the records of the funeral establishment.

(2) By publication in a newspaper of general circulation in the county in which the funeral establishment has its principal place of business and in other locations as the liquidator deems appropriate.

b. Notice to potential claimants under paragraph "a" shall require claimants to file with the liquidator their claims together with proper proofs of the claim under subsection 13 on or before a date the liquidator shall specify in the notice. Claimants shall keep the liquidator informed of their changes of address, if any.

c. If notice is given pursuant to this section, the distribution of assets of the funeral establishment under this chapter shall be conclusive with respect to claimants, whether or not a claimant actually received notice.

5. ACTIONS BY AND AGAINST LIQUIDATOR.

a. After the issuance of an order appointing a liquidator of a funeral establishment, an action at law or equity shall not be brought against the funeral establishment in this state or elsewhere, and existing actions shall not be maintained or further presented after issuance of the order. Whenever in the liquidator's judgment, protection of the estate of the funeral establishment necessitates intervention in an action against the funeral establishment that is pending outside this state, the liquidator may intervene in the action. The liquidator may defend, at the expense of the estate of the funeral establishment, an action in which the liquidator intervenes under this section.

b. Within two years or such additional time as applicable law may permit, the liquidator, after the issuance of an order for liquidation, may institute an action or proceeding on behalf of the estate of the funeral establishment upon any cause of action against which the period of limitation fixed by applicable law has not expired at the time of the filing of

the petition upon which the order is entered. If a period of limitation is fixed by agreement for instituting a suit or proceeding upon a claim, or for filing a claim, proof of claim, proof of loss, demand, notice, or the like, or if in a proceeding, judicial or otherwise, a period of limitation is fixed in the proceeding or pursuant to applicable law for taking an action, filing a claim or pleading, or doing an act, and if the period had not expired at the date of the filing of the petition, the liquidator may, for the benefit of the estate, take any action or do any act, required of or permitted to the funeral establishment, within a period of one hundred eighty days subsequent to the entry of an order for liquidation, or within a further period as is shown to the satisfaction of the court not to be unfairly prejudicial to the other party.

c. A statute of limitation or defense of laches shall not run with respect to an action against a funeral establishment between the filing of a petition for liquidation against the funeral establishment and the denial of the petition. An action against the funeral establishment that might have been commenced when the petition was filed may be commenced for at least sixty days after the petition is denied.

6. COLLECTION AND LIST OF ASSETS.

a. As soon as practicable after the liquidation order but not later than one hundred twenty days after such order, the liquidator shall prepare in duplicate a list of the funeral establishment's assets. The list shall be amended or supplemented as the liquidator may determine. One copy shall be filed in the office of the clerk of court and one copy shall be retained for the liquidator's files. Amendments and supplements shall be similarly filed.

b. The liquidator shall reduce the assets to a degree of liquidity that is consistent with the effective execution of the liquidation.

c. A submission to the court for distribution of assets in accordance with subsection 11 fulfills the requirements of paragraph "a".

7. FRAUDULENT TRANSFERS PRIOR TO PETITION.

a. A transfer made and an obligation incurred by a funeral establishment within one year prior to the filing of a successful petition for liquidation under this chapter is fraudulent as to then existing and future creditors if made or incurred without fair consideration, or with actual intent to hinder, delay, or defraud either existing or future creditors. A fraudulent transfer made or an obligation incurred by a funeral establishment ordered to be liquidated under this chapter may be avoided by the receiver, except as to a person who in good faith is a purchaser, lienor, or obligee for a present fair equivalent value. A purchaser, lienor, or obligee, who in good faith has given a consideration less than fair for such transfer, lien, or obligation, may retain the property, lien, or obligation as security for repayment. The court may, on due notice, order any such transfer or obligation to be preserved for the benefit of the estate, and in that event, the receiver shall succeed to and may enforce the rights of the purchaser, lienor, or obligee.

b. (1) A transfer of property other than real property is made when it becomes perfected so that a subsequent lien obtainable by legal or equitable proceedings on a simple contract could not become superior to the rights of the transferee under subsection 9, paragraph "c".

(2) A transfer of real property is made when it becomes perfected so that a subsequent bona fide purchaser from the funeral establishment could not obtain rights superior to the rights of the transferee.

(3) A transfer which creates an equitable lien is not perfected if there are available means by which a legal lien could be created.

(4) A transfer not perfected prior to the filing of a petition for liquidation is deemed to be made immediately before the filing of the successful petition.

(5) This subsection applies whether or not there are or were creditors who might have obtained a lien or persons who might have become bona fide purchasers.

8. FRAUDULENT TRANSFER AFTER PETITION.

a. After a petition for liquidation has been filed a transfer of real property of the funeral

establishment made to a person acting in good faith is valid against the liquidator if made for a present fair equivalent value. If the transfer was not made for a present fair equivalent value, then the transfer is valid to the extent of the present consideration actually paid for which amount the transferee shall have a lien on the property transferred. The commencement of a proceeding in liquidation is constructive notice upon the recording of a copy of the petition for or order of liquidation with the recorder of deeds in the county where any real property in question is located. The exercise by a court of the United States or a state or jurisdiction to authorize a judicial sale of real property of the funeral establishment within a county in a state shall not be impaired by the pendency of a proceeding unless the copy is recorded in the county prior to the consummation of the judicial sale.

b. After a petition for liquidation has been filed and before either the receiver takes possession of the property of the funeral establishment or an order of liquidation is granted:

(1) A transfer of the property, other than real property, of the funeral establishment made to a person acting in good faith is valid against the receiver if made for a present fair equivalent value. If the transfer was not made for a present fair equivalent value, then the transfer is valid to the extent of the present consideration actually paid for which amount the transferee shall have a lien on the property transferred.

(2) If acting in good faith, a person indebted to the funeral establishment or holding property of the funeral establishment may pay the debt or deliver the property, or any part of the property, to the funeral establishment or upon the funeral establishment's order as if the petition were not pending.

(3) A person having actual knowledge of the pending liquidation is not acting in good faith.

(4) A person asserting the validity of a transfer under this subsection has the burden of proof. Except as provided in this subsection, a transfer by or on behalf of the funeral establishment after the date of the petition for liquidation by any person other than the liquidator is not valid against the liquidator.

c. A person receiving any property from the funeral establishment or any benefit of the property of the funeral establishment which is a fraudulent transfer under paragraph "a" is personally liable for the property or benefit and shall account to the liquidator.

d. This chapter does not impair the negotiability of currency or negotiable instruments.

9. VOIDABLE PREFERENCES AND LIENS.

a. (1) A preference is a transfer of the property of a funeral establishment to or for the benefit of a creditor for an antecedent debt made or suffered by the funeral establishment within one year before the filing of a successful petition for liquidation under this chapter, the effect of which transfer may be to enable the creditor to obtain a greater percentage of this debt than another creditor of the same class would receive. If a liquidation order is entered while the funeral establishment is already subject to a receivership, then the transfers are preferences if made or suffered within one year before the filing of the successful petition for the receivership, or within two years before the filing of the successful petition for liquidation, whichever time is shorter.

(2) A preference may be avoided by the liquidator if any of the following exist:

(a) The funeral establishment was insolvent at the time of the transfer.

(b) The transfer was made within four months before the filing of the petition.

(c) At the time the transfer was made, the creditor receiving it or to be benefited by the transfer or the creditor's agent acting with reference to the transfer had reasonable cause to believe that the funeral establishment was insolvent or was about to become insolvent.

(d) The creditor receiving the transfer was an officer, or an employee, attorney, or other person who was in fact in a position of comparable influence in the funeral establishment to an officer whether or not the person held the position of an officer, owner, or other person, firm, corporation, association, or aggregation of persons with whom the funeral establishment did not deal at arm's length.

(3) Where the preference is voidable, the liquidator may recover the property. If the

property has been converted, the liquidator may recover its value from a person who has received or converted the property. However, if a bona fide purchaser or lienor has given less than fair equivalent value, the purchaser or lienor shall have a lien upon the property to the extent of the consideration actually given. Where a preference by way of lien or security interest is voidable, the court may on due notice order the lien or security interest to be preserved for the benefit of the estate, in which event the lien or title shall pass to the liquidator.

b. (1) A transfer of property other than real property is made when it becomes perfected so that a subsequent lien obtainable by legal or equitable proceedings on a simple contract could not become superior to the rights of the transferee.

(2) A transfer of real property is made when it becomes perfected so that a subsequent bona fide purchaser from the funeral establishment could not obtain rights superior to the rights of the transferee.

(3) A transfer which creates an equitable lien is not perfected if there are available means by which a legal lien could be created.

(4) A transfer not perfected prior to the filing of a petition for liquidation is deemed to be made immediately before the filing of the successful petition.

(5) This subsection applies whether or not there are or were creditors who might have obtained liens or persons who might have become bona fide purchasers.

c. (1) A lien obtainable by legal or equitable proceedings upon a simple contract is one arising in the ordinary course of the proceedings upon the entry or docketing of a judgment or decree, or upon attachment, garnishment, execution, or like process, whether before, upon, or after judgment or decree and whether before or upon levy. It does not include liens which under applicable law are given a special priority over other liens which are prior in time.

(2) A lien obtainable by legal or equitable proceedings could become superior to the rights of a transferee, or a purchaser could obtain rights superior to the rights of a transferee within the meaning of paragraph "b", if such consequences would follow only from the lien or purchase itself, or from the lien or purchase followed by a step wholly within the control of the respective lienholder or purchaser, with or without the aid of ministerial action by public officials. However, a lien could not become superior and a purchase could not create superior rights for the purpose of paragraph "b" through an act subsequent to the obtaining of a lien or subsequent to a purchase which requires the agreement or concurrence of any third party or which requires further judicial action or ruling.

d. A transfer of property for or on account of a new and contemporaneous consideration, which is under paragraph "b" made or suffered after the transfer because of delay in perfecting it, does not become a transfer for or on account of an antecedent debt if any acts required by the applicable law to be performed in order to perfect the transfer as against liens or a bona fide purchaser's rights are performed within twenty-one days or any period expressly allowed by the law, whichever is less. A transfer to secure a future loan, if a loan is actually made, or a transfer which becomes security for a future loan, shall have the same effect as a transfer for or on account of a new and contemporaneous consideration.

e. If a lien voidable under paragraph "a", subparagraph (2), has been dissolved by the furnishing of a bond or other obligation, the surety on which has been indemnified directly or indirectly by the transfer or the creation of a lien upon property of a funeral establishment before the filing of a petition under this chapter which results in a liquidation order, the indemnifying transfer or lien is also voidable.

f. The property affected by a lien voidable under paragraphs "a" and "e" is discharged from the lien. The property and any of the indemnifying property transferred to or for the benefit of a surety shall pass to the liquidator. However, the court may on due notice order a lien to be preserved for the benefit of the estate and the court may direct that the conveyance be executed to evidence the title of the liquidator.

g. The court shall have summary jurisdiction of a proceeding by the liquidator to hear

and determine the rights of the parties under this section. Reasonable notice of hearing in the proceeding shall be given to all parties in interest, including the obligee of a releasing bond or other like obligation. Where an order is entered for the recovery of indemnifying property in kind or for the avoidance of an indemnifying lien, upon application of any party in interest, the court shall in the same proceeding ascertain the value of the property or lien. If the value is less than the amount for which the property is indemnified or less than the amount of the lien, the transferee or lienholder may elect to retain the property or lien upon payment of its value, as ascertained by the court, to the liquidator within the time as fixed by the court.

h. The liability of a surety under a releasing bond or other like obligation is discharged to the extent of the value of the indemnifying property recovered or the indemnifying lien nullified and avoided by the liquidator. Where the property is retained under paragraph "g", the liability of the surety is discharged to the extent of the amount paid to the liquidator.

i. If a creditor has been preferred for property which becomes a part of the funeral establishment's estate, and afterward in good faith gives the funeral establishment further credit without security of any kind, the amount of the new credit remaining unpaid at the time of the petition may be set off against the preference which would otherwise be recoverable from the creditor.

j. If within four months before the filing of a successful petition for liquidation under this chapter, or at any time in contemplation of a proceeding to liquidate, a funeral establishment, directly or indirectly, pays money or transfers property to an attorney for services rendered or to be rendered, the transaction may be examined by the court on its own motion or shall be examined by the court on petition of the liquidator. The payment or transfer shall be held valid only to the extent of a reasonable amount to be determined by the court. The excess may be recovered by the liquidator for the benefit of the estate. However, where the attorney is in a position of influence in the funeral establishment or an affiliate, payment of any money or the transfer of any property to the attorney for services rendered or to be rendered shall be governed by the provision of paragraph "a", subparagraph (2), subparagraph subdivision (d).

k. (1) An officer, manager, employee, shareholder, subscriber, attorney, or any other person acting on behalf of the funeral establishment who knowingly participates in giving any preference when the person has reasonable cause to believe the funeral establishment is or is about to become insolvent at the time of the preference is personally liable to the liquidator for the amount of the preference. There is an inference that reasonable cause exists if the transfer was made within four months before the date of filing of this successful petition for liquidation.

(2) A person receiving property from the funeral establishment or the benefit of the property of the funeral establishment as a preference voidable under paragraph "a" is personally liable for the property and shall account to the liquidator.

(3) This subsection shall not prejudice any other claim by the liquidator against any person.

10. CLAIMS OF HOLDER OF VOID OR VOIDABLE RIGHTS.

a. A claim of a creditor who has received or acquired a preference, lien, conveyance, transfer, assignment, or encumbrance, voidable under this chapter, shall not be allowed unless the creditor surrenders the preference, lien, conveyance, transfer, assignment, or encumbrance. If the avoidance is effected by a proceeding in which a final judgment has been entered, the claim shall not be allowed unless the money is paid or the property is delivered to the liquidator within thirty days from the date of the entering of the final judgment. However, the court having jurisdiction over the liquidation may allow further time if there is an appeal or other continuation of the proceeding.

b. A claim allowable under paragraph "a" by reason of a voluntary or involuntary avoidance, preference, lien, conveyance, transfer, assignment, or encumbrance may be filed as an excused late filing under subsection 12, if filed within thirty days from the date of the

avoidance or within the further time allowed by the court under paragraph "a".

11. LIQUIDATOR'S PROPOSAL TO DISTRIBUTE ASSETS.

a. From time to time as assets become available, the liquidator shall make application to the court for approval of a proposal to disburse assets out of marshaled assets.

b. The proposal shall at least include provisions for all of the following:

(1) Reserving amounts for the payment of all the following:

(a) Expenses of administration.

(b) To the extent of the value of the security held, the payment of claims of secured creditors.

(c) Claims falling within the priorities established in subsection 18, paragraphs "a" and "b".

(2) Disbursement of the assets marshaled to date and subsequent disbursement of assets as they become available.

c. Action on the application may be taken by the court provided that the liquidator's proposal complies with paragraph "b".

12. FILING OF CLAIMS.

a. Proof of all claims shall be filed with the liquidator in the form required by subsection 13 on or before the last day for filing specified in the notice required under subsection 4.

b. The liquidator may permit a claimant making a late filing to share in distributions, whether past or future, as if the claimant were not late, to the extent that the payment will not prejudice the orderly administration of the liquidation under any of the following circumstances:

(1) The existence of the claim was not known to the claimant and that the claimant filed the claim as promptly as reasonably possible after learning of it.

(2) A transfer to a creditor was avoided under subsections 7 through 9, or was voluntarily surrendered under subsection 10, and that the filing satisfies the conditions of subsection 10.

(3) The valuation under subsection 17 of security held by a secured creditor shows a deficiency, which is filed within thirty days after the valuation.

c. The liquidator may consider any claim filed late and permit the claimant to receive distributions which are subsequently declared on any claims of the same or lower priority if the payment does not prejudice the orderly administration of the liquidation. The late-filing claimant shall receive at each distribution the same percentage of the amount allowed on the claim as is then being paid to claimants of any lower priority. This shall continue until the claim has been paid in full.

13. PROOF OF CLAIM.

a. Proof of claim shall consist of a statement signed by the claimant that includes all of the following that are applicable:

(1) The particulars of the claim, including the consideration given for it.

(2) The identity and amount of the security on the claim.

(3) The payments, if any, made on the debt.

(4) A statement that the sum claimed is justly owing and that there is no setoff, counterclaim, or defense to the claim.

(5) Any right of priority of payment or other specific right asserted by the claimant.

(6) A copy of the written instrument which is the foundation of the claim.

(7) The name and address of the claimant and the attorney who represents the claimant, if any.

b. A claim need not be considered or allowed if it does not contain all the information identified in paragraph "a" which is applicable. The liquidator may require that a prescribed form be used and may require that other information and documents be included.

c. At any time the liquidator may request the claimant to present information or evidence supplementary to that required under paragraph "a", and may take testimony under oath, require production of affidavits or depositions, or otherwise obtain additional infor-

mation or evidence.

d. A judgment or order against a funeral establishment entered after the date of filing of a successful petition for liquidation, or a judgment or order against the funeral establishment entered at any time by default or by collusion need not be considered as evidence of liability or of the amount of damages. A judgment or order against a funeral establishment before the filing of the petition need not be considered as evidence of liability or of the amount of damages.

14. SPECIAL CLAIMS.

a. A claim may be allowed even if contingent, if it is filed pursuant to subsection 12. The claim may be allowed and the claimant may participate in all distributions declared after it is filed to the extent that it does not prejudice the orderly administration of the liquidation.

b. Claims that are due except for the passage of time shall be treated as absolute claims are treated. However, the claims may be discounted at the legal rate of interest.

c. Claims made under employment contracts by directors, principal officers, or persons in fact performing similar functions or having similar powers are limited to payment for services rendered prior to the issuance of an order of liquidation under subsection 2.

15. DISPUTED CLAIMS.

a. If a claim is denied in whole or in part by the liquidator, written notice of the determination shall be given to the claimant or the claimant's attorney by first class mail at the address shown in the proof of claim. Within sixty days from the mailing of the notice, the claimant may file objections with the liquidator. Unless a filing is made, the claimant shall not further object to the determination.

b. If objections are filed with the liquidator and the liquidator does not alter the denial of the claim as a result of the objections, the liquidator shall ask the court for a hearing as soon as practicable and give notice of the hearing by first class mail to the claimant or the claimant's attorney and to any other persons directly affected. The notice shall be given not less than ten nor more than thirty days before the date of the hearing. The matter shall be heard by the court or by a court-appointed referee. The referee shall submit findings of fact along with a recommendation.

16. CLAIMS OF OTHER PERSON. If a creditor, whose claim against a funeral establishment is secured in whole or in part by the undertaking of another person, fails to prove and file that claim, then the other person may do so in the creditor's name and shall be subrogated to the rights of the creditor, whether the claim has been filed by the creditor or by the other person in the creditor's name to the extent that the other person discharges the undertaking. However, in the absence of an agreement with the creditor to the contrary, the other person is not entitled to any distribution until the amount paid to the creditor on the undertaking plus the distributions paid on the claim from the funeral establishment's estate to the creditor equal the amount of the entire claim of the creditor. An excess received by the creditor shall be held by the creditor in trust for the other person.

17. SECURED CREDITOR'S CLAIMS.

a. The value of security held by a secured creditor shall be determined in one of the following ways, as the court may direct:

(1) By converting the security into money according to the terms of the agreement pursuant to which the security was delivered to the creditors.

(2) By agreement, arbitration, compromise, or litigation between the creditor and the liquidator.

b. The determination shall be under the supervision and control of the court with due regard for the recommendation of the liquidator. The amount so determined shall be credited upon the secured claim. A deficiency shall be treated as an unsecured claim. If the claimant surrenders the security to the liquidator, the entire claim shall be allowed as if unsecured.

18. PRIORITY OF DISTRIBUTION. The priority of distribution of claims from the funeral establishment's estate shall be in accordance with the order in which each class of claims is set forth. Claims in each class shall be paid in full or adequate funds retained for

the payment before the members of the next class receive any payment. Subclasses shall not be established within a class. The order of distribution of claims is as follows:

a. CLASS 1. The costs and expenses of administration, including but not limited to the following:

(1) The actual and necessary costs of preserving or recovering the assets of the funeral establishment.

(2) Compensation for all authorized services rendered in the liquidation.

(3) Necessary filing fees.

(4) The fees and mileage payable to witnesses.

(5) Authorized reasonable attorney's fees and other professional services rendered in the liquidation.

b. CLASS 2. Reasonable compensation to employees for services performed to the extent that they do not exceed two months of monetary compensation and represent payment for services performed within one year before the filing of the petition for liquidation. Officers and directors are not entitled to the benefit of this priority. The priority is in lieu of other similar priority which may be authorized by law as to wages or compensation of employees.

c. CLASS 3. Claims under at-need and preneed funeral contracts.

d. CLASS 4. Claims of general creditors.

e. CLASS 5. Claims of the federal or any state or local government. Claims, including those of a governmental body for a penalty or forfeiture, are allowed in this class only to the extent of the pecuniary loss sustained from the act, transaction, or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs incurred. The remainder of such claims shall be postponed to the class of claims under paragraph "g".

f. CLASS 6. Claims filed late or any other claims other than claims under paragraph "g".

g. CLASS 7. The claims of shareholders or other owners.

19. LIQUIDATOR'S RECOMMENDATIONS TO THE COURT.

a. The liquidator shall review claims duly filed in the liquidation and shall make further investigation as necessary. The liquidator may compound, compromise, or in any other manner negotiate the amount for which claims will be recommended to the court except where the liquidator is required by law to accept claims as settled by a person or organization. Unresolved disputes shall be determined under subsection 15. As soon as practicable, the liquidator shall present to the court a report of the claims against the funeral establishment with the liquidator's recommendations. The report shall include the name and address of each claimant and the amount of the claim finally recommended.

b. The court may approve, disapprove, or modify the report on claims by the liquidator. Reports not modified by the court within sixty days following submission by the liquidator shall be treated by the liquidator as allowed claims, subject to later modification or to rulings made by the court pursuant to subsection 15. A claim under a policy of insurance shall not be allowed for an amount in excess of the applicable policy limits.

20. DISTRIBUTION OF ASSETS. Under the direction of the court, the liquidator shall pay distributions in a manner that will assure the proper recognition of priorities and a reasonable balance between the expeditious completion of the liquidation and the protection of unliquidated and undetermined claims, including third-party claims. Distribution of assets in kind may be made at valuations set by agreement between the liquidator and the creditor and approved by the court.

21. UNCLAIMED AND WITHHELD FUNDS.

a. Unclaimed funds subject to distribution remaining in the liquidator's hands when the liquidator is ready to apply to the court for discharge, including the amount distributable to a creditor, owner, or other person who is unknown or cannot be found, shall be deposited with the treasurer of state, and shall be paid without interest, except as provided in subsection 18, to the person entitled or the person's legal representative upon proof sat-

isfactory to the treasurer of state of the right to the funds. An amount on deposit not claimed within six years from the discharge of the liquidator is deemed to have been abandoned and shall become the property of the state without formal escheat proceedings and be transferred to the insurance division regulatory fund.

b. Funds withheld under subsection 14 and not distributed shall upon discharge of the liquidator be deposited with the treasurer of state and paid pursuant to subsection 18. Sums remaining which under subsection 18 would revert to the undistributed assets of the funeral establishment shall be transferred to the insurance division regulatory fund and become the property of the state as provided under paragraph "a", unless the commissioner in the commissioner's discretion petitions the court to reopen the liquidation pursuant to subsection 23.

c. Notwithstanding any other provision of this chapter, funds as identified in paragraph "a", with the approval of the court, shall be made available to the commissioner for use in the detection and prevention of future insolvencies. The commissioner shall hold these funds in the insurance division regulatory fund and shall pay without interest, except as provided in subsection 18, to the person entitled to the funds or the person's legal representative upon proof satisfactory to the commissioner of the person's right to the funds. The funds shall be held by the commissioner for a period of two years at which time the rights and duties to the unclaimed funds shall vest in the commissioner.

22. TERMINATION OF PROCEEDINGS.

a. When all assets justifying the expense of collection and distribution have been collected and distributed under this chapter, the liquidator shall apply to the court for discharge. The court may grant the discharge and make any other orders, including an order to transfer remaining funds that are uneconomical to distribute, as appropriate.

b. Any other person may apply to the court at any time for an order under paragraph "a". If the application is denied, the applicant shall pay the costs and expenses of the liquidator in resisting the application, including a reasonable attorney's fee.

23. REOPENING LIQUIDATION. At any time after the liquidation proceeding has been terminated and the liquidator discharged, the commissioner or other interested party may petition the court to reopen the proceedings for good cause including the discovery of additional assets. The court shall order the proceeding reopened if it is satisfied that there is justification for the reopening.

24. DISPOSITION OF RECORDS DURING AND AFTER TERMINATION OF LIQUIDATION. If it appears to the commissioner that the records of a funeral establishment in process of liquidation or completely liquidated are no longer useful, the commissioner may recommend to the court and the court shall direct what records shall be retained for future reference and what records shall be destroyed.

25. EXTERNAL AUDIT OF RECEIVER'S BOOKS. The court may order audits to be made of the books of the commissioner relating to a receivership established under this chapter, and a report of each audit shall be filed with the commissioner and with the court. The books, records, and other documents of the receivership shall be made available to the auditor at any time without notice. The expense of an audit shall be considered a cost of administration of the receivership.

Sec. 11. NEW SECTION. 523A.23 MINIMUM FIDELITY BOND OR INSURANCE POLICY.

The seller, in connection with an offer or sale of an agreement referred to in section 523A.1, shall obtain and maintain at all times a fidelity bond or insurance policy covering losses resulting from dishonest or fraudulent acts committed by employees of the seller which cause a loss, theft, or misappropriation of cash, property, or a negotiable instrument submitted to the seller pursuant to the agreement. The fidelity bond or insurance policy must be maintained in an amount not less than fifty thousand dollars.

Sec. 12. Section 523E.1, subsection 1, Code 1995, is amended to read as follows:

1. If an agreement is made by a person to furnish, upon the future death of a person named or implied in the agreement, cemetery merchandise, a minimum of one hundred

twenty-five percent of the wholesale cost of the cemetery merchandise, based upon the current advertised prices available from a manufacturer or wholesaler who has delivered the same or substantially the same type of merchandise to the seller during the last twelve months, shall be and remain trust funds until purchase of the merchandise or the occurrence of the death of the person for whose benefit the funds were paid, unless the funds are sooner released to the person making the payment by mutual consent of the parties. Payments otherwise subject to this section are not exempt merely because they are held in certificates of deposit. The commissioner may adopt rules to prohibit the commingling of trust funds with other funds of the seller.

Sec. 13. Section 523E.1, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 5. An agreement may be funded by insurance proceeds derived from a policy issued by an insurance company authorized to conduct business in this state. Such funding may be in lieu of a trust fund if the payments are made directly to the insurance company by the purchaser of the agreement.

Sec. 14. Section 523E.2, subsection 1, paragraphs a and c, Code 1995, are amended to read as follows:

a. All funds held in trust under section 523E.1 shall be deposited in a state or federally insured bank, savings and loan association, or credit union authorized to conduct business in this state, or trust department ~~thereof~~ of such bank, savings and loan association, or credit union, or in a trust company authorized to conduct business in this state, within fifteen days after the close of the month of receipt of the funds and shall be held as provided in paragraph "g" for the designated beneficiary until released pursuant to section 523E.1.

c. The seller under an agreement referred to in section 523E.1 shall file with the commissioner not later than March 1 of each year a report including the following information:

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

(2) ~~The name of the purchaser, beneficiary, and the amount of each agreement under section 523E.1 made in the preceding year and the date on which it was made.~~ The balance of each trust account as of the end of the immediately preceding calendar year, identified by the name of the purchaser or the beneficiary, and a report of any amounts withdrawn from trust and the reason for each withdrawal.

(3) ~~The total value of agreements subject to section 523E.1 entered into, the total amount paid pursuant to those agreements, and the total amount deposited in trust as required under section 523E.1, during the preceding year.~~ A description of insurance funding outstanding at the end of the immediately preceding calendar year, identified by the name of the purchaser or the beneficiary, and a report of any insurance payments received by the seller.

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

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

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

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

~~(8)~~ (4) ~~The~~ A complete inventory of cemetery merchandise ~~and its location in the seller's~~

~~possession that has been~~ delivered in lieu of trusting pursuant to section 523E.1.

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

~~The information required by subparagraphs (7) and (8) shall include~~, including the location of the merchandise, serial numbers or warehouse receipt numbers, identified by the name of the purchaser or the beneficiary, and a verified statement of a certified public accountant that the certified public accountant has conducted a physical inventory of the cemetery merchandise ~~specified in subparagraph (8)~~ and that each item of that merchandise is in the seller's possession at the specified location. The statement shall be on a form prescribed by the commissioner. ~~The commissioner shall permit the filing of a unified annual report by a seller subject to both chapter 523A and this chapter.~~

(5) The name of the purchaser, beneficiary, and the amount of each agreement referred to in section 523E.1 made in the preceding year and the date on which it was made.

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

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

Sec. 15. Section 523E.2, subsection 6, Code 1995, is amended to read as follows:

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

Sec. 16. Section 523E.8, subsection 1, paragraphs e, h, and j, Code 1995, are amended to read as follows:

e. State clearly whether the agreement is a guaranteed price contract or a nonguaranteed price contract. Each nonguaranteed price contract shall contain in twelve point bold type, an explanation of the consequences in substantially the following language:

THE PRICES OF MERCHANDISE AND SERVICES UNDER THIS CONTRACT ARE SUBJECT TO CHANGE IN THE FUTURE. ANY FUNDS PAID UNDER THIS CONTRACT ARE ONLY A DEPOSIT TO BE APPLIED, TOGETHER WITH ACCRUED INCOME, TOWARD THE FINAL COSTS OF THE MERCHANDISE OR SERVICES CONTRACTED FOR. ADDITIONAL CHARGES MAY BE REQUIRED.

h. Explain the disposition of the ~~interest and disclose what fees and expenses may be charged if incurred~~ income generated from investments, include a statement of fees, expenses, and taxes which may be deducted, and include a statement of the buyer's responsibility for income taxes owed on the income, if applicable.

j. ~~State the name and address of the commissioner.~~ Include an explanation of regulatory oversight by the insurance division in twelve point bold type, in substantially the following language:

THIS CONTRACT MUST BE REPORTED TO THE IOWA INSURANCE DIVISION BY THE FIRST DAY OF MARCH OF THE FOLLOWING YEAR. YOU MAY CALL THE INSURANCE DIVISION AT (INSERT TELEPHONE NUMBER) TO CONFIRM THAT YOUR CONTRACT HAS BEEN REPORTED. WRITTEN INQUIRIES OR COMPLAINTS SHOULD BE MAILED TO THE FOLLOWING ADDRESS: IOWA SECURITIES BUREAU (INSERT ADDRESS).

Sec. 17. Section 523E.8, subsection 1, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. The commissioner may adopt rules establishing disclosure and format requirements to promote consumers' understanding of the cemetery merchandise purchased and the available funding mechanisms under an agreement for

cemetery merchandise under this chapter.

Sec. 18. Section 523E.8, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The seller shall disclose at the time an application is made by an individual and prior to accepting the applicant's initial premium or deposit for a preneed funeral contract or prearrangement subject to section 523E.1 which is funded by a life insurance policy, the following information:

a. That a life insurance policy is involved or being used to fund an agreement.

b. The nature of the relationship among the soliciting agent or agents, the provider of the funeral or cemetery merchandise or services, the administrator, and any other person.

c. The relationship of the life insurance policy to the funding of the prearrangement and the nature and existence of any guarantees relating to the prearrangement.

d. The impact on the prearrangement of the following:

(1) Changes in the life insurance policy including, but not limited to, changes in the assignment, beneficiary designation, or use of proceeds.

(2) Any penalties to be incurred by the policyholder as a result of the failure to make premium payments.

(3) Penalties to be incurred or cash to be received as a result of the cancellation or surrender of the life insurance policy.

e. A list of merchandise and services which are applied or contracted for in the prearrangement and all relevant information concerning the price of the merchandise and services, including an indication that the purchase price is either guaranteed at the time of purchase or to be determined at the time of need.

f. All relevant information concerning what occurs and whether any entitlements or obligations arise if there is a difference between the proceeds of the life insurance policy and the amount actually needed to fund the agreement.

g. Any penalties or restrictions, including but not limited to, geographic restrictions or the inability of the provider to perform, on the delivery of merchandise, services, or the prearrangement guarantee.

h. That a sales commission or other form of compensation is being paid and, if so, the identity of the individuals or entities to whom it is paid.

Sec. 19. Section 523E.20, Code 1995, is amended to read as follows:

523E.20 INSURANCE DIVISION'S REGULATORY FUND.

The insurance division may authorize the creation of a special revenue fund in the state treasury, to be known as the insurance division regulatory fund. ~~Commencing July 1, 1990, and annually thereafter, the~~ The commissioner shall allocate annually from the fees paid pursuant to section 523E.2, ~~one dollar~~ two dollars for each agreement reported on an establishment permit holder's annual report for deposit to the regulatory fund. The remainder of the fees collected pursuant to section 523E.2 shall be deposited into the general fund of the state. In addition, on May 1 of ~~1994~~ 1996 and ~~1995~~ 1997, the commissioner, to the extent necessary to fund consumer education, audits, investigations, payments under contract with licensed establishments to provide funeral and cemetery merchandise or services in the event of statutory noncompliance by the initial seller, liquidations, and receiverships, shall assess establishment permit holders ~~five~~ two dollars for each agreement reported on the establishment permit holder's annual report of sales executed during the preceding year, which shall be deposited in the insurance division regulatory fund. ~~However, if the balance of the regulatory fund on that July 1 exceeds two hundred thousand dollars, the allocation to the regulatory fund shall not be made and the total sum of the fees paid pursuant to section 523E.2 shall be deposited in the general fund of the state.~~ The moneys in the regulatory fund shall be retained in the fund. The moneys are appropriated and, subject to authorization by the commissioner, may be used to pay auditors, audit expenses, investigative expenses, and the expenses of receiverships established pursuant to section 523E.19. An annual assessment shall not be imposed if the current balance of the fund exceeds two hundred thousand dollars.

Sec. 20. NEW SECTION. 523E.21 LICENSE REVOCATION – RECOMMENDATION BY COMMISSIONER TO BOARD OF MORTUARY SCIENCE EXAMINERS.

Upon a determination by the commissioner that grounds exist for an administrative license revocation action by the board of mortuary science examiners under chapter 156, the commissioner may forward to the board the grounds for the determination, including all evidence in the possession of the commissioner, so that the board may proceed with the matter as deemed appropriate.

Sec. 21. NEW SECTION. 523E.22 MINIMUM FIDELITY BOND OR INSURANCE POLICY.

The seller, in connection with an offer or sale of an agreement referred to in section 523E.1, shall obtain and maintain at all times a fidelity bond or insurance policy covering losses resulting from dishonest or fraudulent acts committed by employees of the seller which cause a loss, theft, or misappropriation of cash, property, or a negotiable instrument submitted to the seller pursuant to the agreement. The fidelity bond or insurance policy must be maintained in an amount not less than fifty thousand dollars.

Sec. 22. NEW SECTION. 523J.1 DEFINITIONS.

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

1. "Abandoned cemetery" means any cemetery where there has been a failure to cut grass or weeds or care for graves, grave markers, walls, fences, driveways, and buildings, or for which proper records have not been maintained.

2. "Cemetery" means a cemetery, mausoleum, columbarium, or other space held for the purpose of burial, entombment, or inurnment of human remains, and which is subject to this chapter.

3. "Commissioner" means the commissioner of insurance or the deputy appointed under section 502.601.

4. "Interment rights" means a right of use conveyed by contract or property ownership to inter human rights* in a columbarium, grave, mausoleum, lawn crypt, or undeveloped space.

5. "Perpetual care cemetery" means a cemetery which has established a perpetual care fund for the maintenance, repair, and care of all interment spaces subject to perpetual care within the cemetery in compliance with section 566A.3 or 566A.4.

Sec. 23. NEW SECTION. 523J.2 CEMETERIES COMMENCING BUSINESS AFTER JULY 1, 1995.

A cemetery which is organized or commences business in this state on or after July 1, 1995, shall operate as a perpetual care cemetery and is subject to this chapter and other applicable law.

Sec. 24. NEW SECTION. 523J.3 PERMIT REQUIREMENTS.

1. A perpetual care cemetery shall not sell or offer interment rights to the public without a permit as provided for in this section.

2. Applications for a permit shall be made to and filed with the commissioner on forms approved by the commissioner and accompanied by a filing fee of twenty dollars. If the application contains the following information, the commissioner shall issue the license:

(a) The name and principal address of the applicant.

(b) The identity of the applicant's owner or owners.

(c) Evidence of a trust fund for cemetery maintenance and care in compliance with section 566A.3 or 566A.4.

3. Each permit issued under this chapter shall expire on June 30 of the year following the date of issuance.

Sec. 25. NEW SECTION. 523J.4 DENIAL, SUSPENSION, OR REVOCATION OF PERMIT.

The commissioner, pursuant to chapter 17A, may deny, suspend, or revoke any permit to operate a cemetery if the commissioner finds any of the following:

1. The cemetery has committed a fraudulent practice, or the cemetery's trust assets,

*The term "human remains" probably intended

warehoused merchandise, surety bonds, or insurance funding are in material noncompliance with chapter 523A or 523E or section 566A.3 or 566A.4.

2. An owner or officer of the cemetery has been convicted of a felony related to the sale of interment rights or the sale of funeral services, funeral merchandise, or cemetery merchandise, as defined in section 523A.5, subsection 2, paragraphs "a" and "b", and section 523E.5, subsection 2, paragraph "a".

Sec. 26. NEW SECTION. 523J.5 LIQUIDATION.

1. GROUNDS FOR LIQUIDATION. The commissioner may petition the district court for an order directing the commissioner to liquidate a perpetual care cemetery on any of the following grounds:

a. The cemetery's trust fund is in material noncompliance with the requirements of section 566A.3 or 566A.4 and is insolvent.

b. The cemetery's trust fund is in material noncompliance with the requirements of section 566A.3 or 566A.4 and the condition of the cemetery is such that the further transaction of business would be hazardous, financially or otherwise, to its customers or the public.

c. The cemetery has been abandoned.

2. LIQUIDATION ORDER.

a. An order to liquidate the business of a perpetual care cemetery shall appoint the commissioner as liquidator and shall direct the liquidator to immediately take possession of the assets of the cemetery and to administer them under the general supervision of the court. The liquidator is vested with the title to the property, contracts, and rights of action and the books and records of the cemetery ordered liquidated, wherever located, as of the entry of the final order of liquidation. The filing or recording of the order with the clerk of court and the recorder of deeds of the county in which its principal office or place of business is located, or, in the case of real estate with the recorder of deeds of the county where the property is located, is notice as a deed, bill of sale, or other evidence of title duly filed or recorded with the recorder of deeds.

b. Upon issuance of an order, the rights and liabilities of a cemetery and of the cemetery's creditors, customers, owners, and other persons interested in the cemetery's estate shall become fixed as of the date of the entry of the order of liquidation, except as provided in subsection 14.

c. At the time of petitioning for an order of liquidation, or at any time after the time of petitioning, the commissioner, after making appropriate findings of a cemetery's insolvency, may petition the court for a declaration of insolvency. After providing notice and hearing as it deems proper, the court may make the declaration.

d. An order issued under this section shall require accounting to the court by the liquidator. Accountings, at a minimum, must include all funds received or disbursed by the liquidator during the current period. An accounting shall be filed within one year of the liquidation order and at such other times as the court may require.

e. Within five days after the initiation of an appeal of an order of liquidation, which order has not been stayed, the commissioner shall present for the court's approval a plan for the continued performance of the cemetery's obligations during the pendency of an appeal. The plan shall provide for the continued performance of interment rights contracts in the normal course of events, notwithstanding the grounds alleged in support of the order of liquidation including the ground of insolvency. If the defendant cemetery's financial condition, in the judgment of the commissioner, will not support the full performance of all obligations during the appeal pendency period, the plan may prefer the claims of certain customers and claimants over creditors and interested parties as well as other customers and claimants, as the commissioner finds to be fair and equitable considering the relative circumstances of such customers and claimants. The court shall examine the plan submitted by the commissioner and if it finds the plan to be in the best interests of the parties, the court shall approve the plan. An action shall not lie against the commissioner

or any of the commissioner's deputies, agents, clerks, assistants, or attorneys by any party based on preference in an appeal pendency plan approved by the court.

3. POWERS OF LIQUIDATOR.

a. The liquidator may do any of the following:

(1) Appoint a special deputy to act for the liquidator under this chapter, and determine the special deputy's reasonable compensation. The special deputy shall have all the powers of the liquidator granted by this section. The special deputy shall serve at the pleasure of the liquidator.

(2) Hire employees and agents, legal counsel, accountants, appraisers, consultants, and other personnel as the commissioner may deem necessary to assist in the liquidation.

(3) With the approval of the court fix reasonable compensation of employees and agents, legal counsel, accountants, appraisers and consultants.

(4) Pay reasonable compensation to persons appointed and defray from the funds or assets of the cemetery all expenses of taking possession of, conserving, conducting, liquidating, disposing of, or otherwise dealing with the business and property of the cemetery. If the property of the cemetery does not contain sufficient cash or liquid assets to defray the costs incurred, the commissioner may advance the costs so incurred out of the insurance division cemetery fund. Amounts so advanced for expenses of administration shall be repaid to the insurance division cemetery fund for the use of the division out of the first available moneys of the cemetery.

(5) Hold hearings, subpoena witnesses, and compel their attendance, administer oaths, examine a person under oath, and compel a person to subscribe to the person's testimony after it has been correctly reduced to writing, and in connection to the proceedings require the production of books, papers, records, or other documents which the liquidator deems relevant to the inquiry.

(6) Collect debts and moneys due and claims belonging to the cemetery, wherever located. Pursuant to this subparagraph, the liquidator may do any of the following:

(a) Institute timely action in other jurisdictions to forestall garnishment and attachment proceedings against debts.

(b) Perform acts as are necessary or expedient to collect, conserve, or protect its assets or property, including the power to sell, compound, compromise, or assign debts for purposes of collection upon terms and conditions as the liquidator deems best.

(c) Pursue any creditor's remedies available to enforce claims.

(7) Conduct public and private sales of the property of the cemetery.

(8) Use assets of the cemetery under a liquidation order to transfer obligations of preneed funeral contracts to a solvent cemetery, if the transfer can be accomplished without prejudice to applicable priorities under subsection 18.

(9) Acquire, hypothecate, encumber, lease, improve, sell, transfer, abandon, or otherwise dispose of or deal with property of the cemetery at its market value or upon terms and conditions as are fair and reasonable. The liquidator shall also have power to execute, acknowledge, and deliver deeds, assignments, releases, and other instruments necessary to effectuate a sale of property or other transaction in connection with the liquidation.

(10) Borrow money on the security of the cemetery's assets or without security and execute and deliver documents necessary to that transaction for the purpose of facilitating the liquidation. Money borrowed pursuant to this subparagraph shall be repaid as an administrative expense and have priority over any other class 1 claims under the priority of distribution established in subsection 18.

(11) Enter into contracts as necessary to carry out the order to liquidate and affirm or disavow contracts to which the cemetery is a party.

(12) Continue to prosecute and to institute in the name of the cemetery or in the liquidator's own name any and all suits and other legal proceedings, in this state or elsewhere, and to abandon the prosecution of claims the liquidator deems unprofitable to pursue further.

(13) Prosecute an action on behalf of the creditors, customers, or owners against an officer of the cemetery or any other person.

(14) Remove records and property of the cemetery to the offices of the commissioner or to other places as may be convenient for the purposes of efficient and orderly execution of the liquidation.

(15) Deposit in one or more banks in this state sums as are required for meeting current administration expenses and distributions.

(16) Unless the court orders otherwise, invest funds not currently needed.

(17) File necessary documents for recording in the office of a recorder of deeds or record office in this state or elsewhere where property of the cemetery is located.

(18) Assert defenses available to the cemetery as against third persons including statutes of limitations, statutes of fraud, and the defense of usury. A waiver of a defense by the cemetery after a petition in liquidation has been filed shall not bind the liquidator.

(19) Exercise and enforce the rights, remedies, and powers of a creditor, customer, or owner, including the power to avoid transfer or lien that may be given by the general law and that is not included within subsections 7 through 9.

(20) Intervene in a proceeding wherever instituted that might lead to the appointment of a receiver or trustee, and act as the receiver or trustee whenever the appointment is offered.

(21) Exercise powers now held or later conferred upon receivers by the laws of this state which are not inconsistent with this chapter.

b. This subsection does not limit the liquidator or exclude the liquidator from exercising a power not listed in paragraph "a" that may be necessary or appropriate to accomplish the purposes of this chapter.

4. NOTICE TO CREDITORS AND OTHERS.

a. Unless the court otherwise directs, the liquidator shall give notice of the liquidation order as soon as possible by doing all of the following:

(1) By first class mail to all persons known or reasonably expected to have claims against the cemetery by mailing a notice to their last known address as indicated by the records of the cemetery.

(2) By publication in a newspaper of general circulation in the county in which the cemetery has its principal place of business and in other locations as the liquidator deems appropriate.

b. Notice to potential claimants under paragraph "a" shall require claimants to file with the liquidator their claims together with proper proofs of the claim under subsection 13 on or before a date the liquidator shall specify in the notice. Claimants shall keep the liquidator informed of their changes of address, if any.

c. If notice is given pursuant to this section, the distribution of assets of the cemetery under this chapter shall be conclusive with respect to claimants, whether or not a claimant actually received notice.

5. ACTIONS BY AND AGAINST LIQUIDATOR.

a. After the issuance of an order appointing a liquidator of a cemetery, an action at law or equity shall not be brought against the cemetery in this state or elsewhere, and existing actions shall not be maintained or further presented after issuance of the order. Whenever in the liquidator's judgment, protection of the estate of the cemetery necessitates intervention in an action against the cemetery that is pending outside this state, the liquidator may intervene in the action. The liquidator may defend, at the expense of the estate of the cemetery, an action in which the liquidator intervenes under this section.

b. Within two years or such additional time as applicable law may permit, the liquidator, after the issuance of an order for liquidation, may institute an action or proceeding on behalf of the estate of the cemetery upon any cause of action against which the period of limitation fixed by applicable law has not expired at the time of the filing of the petition upon which the order is entered. If a period of limitation is fixed by agreement for instituting a suit or proceeding upon a claim, or for filing a claim, proof of claim, proof of loss, demand, notice, or the like, or if in a proceeding, judicial or otherwise, a period of limitation

is fixed in the proceeding or pursuant to applicable law for taking an action, filing a claim or pleading, or doing an act, and if the period had not expired at the date of the filing of the petition, the liquidator, for the benefit of the estate, may take any action or do any act, required of or permitted to the cemetery, within a period of one hundred eighty days subsequent to the entry of an order for liquidation, or within a further period as is shown to the satisfaction of the court not to be unfairly prejudicial to the other party.

c. A statute of limitation or defense of laches shall not run with respect to an action against a cemetery between the filing of a petition for liquidation against the cemetery and the denial of the petition. An action against the cemetery that might have been commenced when the petition was filed may be commenced for at least sixty days after the petition is denied.

6. COLLECTION AND LIST OF ASSETS.

a. As soon as practicable after the liquidation order but not later than one hundred twenty days after such order, the liquidator shall prepare in duplicate a list of the cemetery's assets. The list shall be amended or supplemented as the liquidator may determine. One copy shall be filed in the office of the clerk of court and one copy shall be retained for the liquidator's files. Amendments and supplements shall be similarly filed.

b. The liquidator shall reduce the assets to a degree of liquidity that is consistent with the effective execution of the liquidation.

c. A submission to the court for distribution of assets in accordance with subsection 11 fulfills the requirements of paragraph "a".

7. FRAUDULENT TRANSFERS PRIOR TO PETITION.

a. A transfer made and an obligation incurred by a cemetery within one year prior to the filing of a successful petition for liquidation under this chapter is fraudulent as to then existing and future creditors if made or incurred without fair consideration, or with actual intent to hinder, delay, or defraud either existing or future creditors. A fraudulent transfer made or an obligation incurred by a cemetery ordered to be liquidated under this chapter may be avoided by the receiver, except as to a person who in good faith is a purchaser, lienor, or obligee for a present fair equivalent value. A purchaser, lienor, or obligee, who in good faith has given a consideration less than fair for such transfer, lien, or obligation, may retain the property, lien, or obligation as security for repayment. The court, on due notice, may order any such transfer or obligation to be preserved for the benefit of the estate, and in that event, the receiver shall succeed to and may enforce the rights of the purchaser, lienor, or obligee.

b. (1) A transfer of property other than real property is made when it becomes perfected so that a subsequent lien obtainable by legal or equitable proceedings on a simple contract could not become superior to the rights of the transferee under subsection 9, paragraph "c".

(2) A transfer of real property is made when it becomes perfected so that a subsequent bona fide purchaser from the cemetery could not obtain rights superior to the rights of the transferee.

(3) A transfer which creates an equitable lien is not perfected if there are available means by which a legal lien could be created.

(4) A transfer not perfected prior to the filing of a petition for liquidation is deemed to be made immediately before the filing of the successful petition.

(5) This subsection applies whether or not there are or were creditors who might have obtained a lien or persons who might have become bona fide purchasers.

8. FRAUDULENT TRANSFER AFTER PETITION.

a. After a petition for liquidation has been filed a transfer of real property of the cemetery made to a person acting in good faith is valid against the receiver if made for a present fair equivalent value. If the transfer was not made for a present fair equivalent value, then the transfer is valid to the extent of the present consideration actually paid for which amount the transferee shall have a lien on the property transferred. The

commencement of a proceeding in liquidation is constructive notice upon the recording of a copy of the petition for or order of liquidation with the recorder of deeds in the county where any real property in question is located. The exercise by a court of the United States or a state or jurisdiction to authorize a judicial sale of real property of the cemetery within a county in a state shall not be impaired by the pendency of a proceeding unless the copy is recorded in the county prior to the consummation of the judicial sale.

b. After a petition for liquidation has been filed and before either the receiver takes possession of the property of the cemetery or an order of liquidation is granted:

(1) A transfer of the property, other than real property, of the cemetery made to a person acting in good faith is valid against the receiver if made for a present fair equivalent value. If the transfer was not made for a present fair equivalent value, then the transfer is valid to the extent of the present consideration actually paid for which amount the transferee shall have a lien on the property transferred.

(2) If acting in good faith, a person indebted to the cemetery or holding property of the cemetery may pay the debt or deliver the property, or any part of the property, to the cemetery or upon the cemetery's order as if the petition were not pending.

(3) A person having actual knowledge of the pending liquidation is not acting in good faith.

(4) A person asserting the validity of a transfer under this subsection has the burden of proof. Except as provided in this subsection, a transfer by or on behalf of the cemetery after the date of the petition for liquidation by any person other than the liquidator is not valid against the liquidator.

c. A person receiving any property from the cemetery or any benefit of the property of the cemetery which is a fraudulent transfer under paragraph "a" is personally liable for the property or benefit and shall account to the liquidator.

d. This chapter does not impair the negotiability of currency or negotiable instruments.

9. VOIDABLE PREFERENCES AND LIENS.

a. (1) A preference is a transfer of the property of a cemetery to or for the benefit of a creditor for an antecedent debt made or suffered by the cemetery within one year before the filing of a successful petition for liquidation under this chapter, the effect of which transfer may be to enable the creditor to obtain a greater percentage of this debt than another creditor of the same class would receive. If a liquidation order is entered while the cemetery is already subject to a receivership, then the transfers are preferences if made or suffered within one year before the filing of the successful petition for the receivership, or within two years before the filing of the successful petition for liquidation, whichever time is shorter.

(2) A preference may be avoided by the liquidator if any of the following exist:

(a) The cemetery was insolvent at the time of the transfer.

(b) The transfer was made within four months before the filing of the petition.

(c) At the time the transfer was made, the creditor receiving it or to be benefited by the transfer or the creditor's agent acting with reference to the transfer had reasonable cause to believe that the cemetery was insolvent or was about to become insolvent.

(d) The creditor receiving the transfer was an officer, or an employee, attorney, or other person who was in fact in a position of comparable influence in the cemetery to an officer whether or not the person held the position of an officer, owner, or other person, firm, corporation, association, or aggregation of persons with whom the cemetery did not deal at arm's length.

(3) Where the preference is voidable, the liquidator may recover the property. If the property has been converted, the liquidator may recover its value from a person who has received or converted the property. However, if a bona fide purchaser or lienor has given less than fair equivalent value, the purchaser or lienor shall have a lien upon the property to the extent of the consideration actually given. Where a preference by way of lien or security interest is voidable, the court may on due notice order the lien or security interest

to be preserved for the benefit of the estate, in which event the lien or title shall pass to the liquidator.

b. (1) A transfer of property other than real property is made when it becomes perfected so that a subsequent lien obtainable by legal or equitable proceedings on a simple contract could not become superior to the rights of the transferee.

(2) A transfer of real property is made when it becomes perfected so that a subsequent bona fide purchaser from the cemetery could not obtain rights superior to the rights of the transferee.

(3) A transfer which creates an equitable lien is not perfected if there are available means by which a legal lien could be created.

(4) A transfer not perfected prior to the filing of a petition for liquidation is deemed to be made immediately before the filing of the successful petition.

(5) This subsection applies whether or not there are or were creditors who might have obtained liens or persons who might have become bona fide purchasers.

c. (1) A lien obtainable by legal or equitable proceedings upon a simple contract is one arising in the ordinary course of the proceedings upon the entry or docketing of a judgment or decree, or upon attachment, garnishment, execution, or like process, whether before, upon, or after judgment or decree and whether before or upon levy. It does not include liens which under applicable law are given a special priority over other liens which are prior in time.

(2) A lien obtainable by legal or equitable proceedings could become superior to the rights of a transferee, or a purchaser could obtain rights superior to the rights of a transferee within the meaning of paragraph "b", if such consequences would follow only from the lien or purchase itself, or from the lien or purchase followed by a step wholly within the control of the respective lienholder or purchaser, with or without the aid of ministerial action by public officials. However, a lien could not become superior and a purchase could not create superior rights for the purpose of paragraph "b" through an act subsequent to the obtaining of a lien or subsequent to a purchase which requires the agreement or concurrence of any third party or which requires further judicial action or ruling.

d. A transfer of property for or on account of a new and contemporaneous consideration, which is under paragraph "b" made or suffered after the transfer because of delay in perfecting it, does not become a transfer for or on account of an antecedent debt if any acts required by the applicable law to be performed in order to perfect the transfer as against liens or a bona fide purchaser's rights are performed within twenty-one days or any period expressly allowed by the law, whichever is less. A transfer to secure a future loan, if a loan is actually made, or a transfer which becomes security for a future loan, shall have the same effect as a transfer for or on account of a new and contemporaneous consideration.

e. If a lien voidable under paragraph "a", subparagraph (2) has been dissolved by the furnishing of a bond or other obligation, the surety on which has been indemnified directly or indirectly by the transfer or the creation of a lien upon property of a cemetery before the filing of a petition under this chapter which results in a liquidation order, the indemnifying transfer or lien is also voidable.

f. The property affected by a lien voidable under paragraphs "a" and "e" is discharged from the lien. The property and any of the indemnifying property transferred to or for the benefit of a surety shall pass to the liquidator. However, the court may on due notice order a lien to be preserved for the benefit of the estate and the court may direct that the conveyance be executed to evidence the title of the liquidator.

g. The court shall have summary jurisdiction of a proceeding by the liquidator to hear and determine the rights of the parties under this section. Reasonable notice of hearing in the proceeding shall be given to all parties in interest, including the obligee of a releasing bond or other like obligation. Where an order is entered for the recovery of indemnifying property in kind or for the avoidance of an indemnifying lien, upon application of any party in interest, the court shall in the same proceeding ascertain the value of the property

or lien. If the value is less than the amount for which the property is indemnified or less than the amount of the lien, the transferee or lienholder may elect to retain the property or lien upon payment of its value, as ascertained by the court, to the liquidator within the time as fixed by the court.

h. The liability of a surety under a releasing bond or other like obligation is discharged to the extent of the value of the indemnifying property recovered or the indemnifying lien nullified and avoided by the liquidator. Where the property is retained under paragraph "g", the liability of the surety is discharged to the extent of the amount paid to the liquidator.

i. If a creditor has been preferred for property which becomes a part of the cemetery's estate, and afterward in good faith gives the cemetery further credit without security of any kind, the amount of the new credit remaining unpaid at the time of the petition may be set off against the preference which would otherwise be recoverable from the creditor.

j. If within four months before the filing of a successful petition for liquidation under this chapter, or at any time in contemplation of a proceeding to liquidate, a cemetery, directly or indirectly, pays money or transfers property to an attorney for services rendered or to be rendered, the transaction may be examined by the court on its own motion or shall be examined by the court on petition of the liquidator. The payment or transfer shall be held valid only to the extent of a reasonable amount to be determined by the court. The excess may be recovered by the liquidator for the benefit of the estate. However, where the attorney is in a position of influence in the cemetery or an affiliate, payment of any money or the transfer of any property to the attorney for services rendered or to be rendered is governed by the provision of paragraph "a", subparagraph (2), subparagraph subdivision (d).

k. (1) An officer, manager, employee, shareholder, subscriber, attorney, or any other person acting on behalf of the cemetery who knowingly participates in giving any preference when the person has reasonable cause to believe the cemetery is or is about to become insolvent at the time of the preference is personally liable to the liquidator for the amount of the preference. There is an inference that reasonable cause exists if the transfer was made within four months before the date of filing of this successful petition for liquidation.

(2) A person receiving property from the cemetery or the benefit of the property of the cemetery as a preference voidable under paragraph "a" is personally liable for the property and shall account to the liquidator.

(3) This subsection shall not prejudice any other claim by the liquidator against any person.

10. CLAIMS OF HOLDER OF VOID OR VOIDABLE RIGHTS.

a. A claim of a creditor who has received or acquired a preference, lien, conveyance, transfer, assignment, or encumbrance, voidable under this chapter shall not be allowed unless the creditor surrenders the preference, lien, conveyance, transfer, assignment, or encumbrance. If the avoidance is effected by a proceeding in which a final judgment has been entered, the claim shall not be allowed unless the money is paid or the property is delivered to the liquidator within thirty days from the date of the entering of the final judgment. However, the court having jurisdiction over the liquidation may allow further time if there is an appeal or other continuation of the proceeding.

b. A claim allowable under paragraph "a" by reason of a voluntary or involuntary avoidance, preference, lien, conveyance, transfer, assignment, or encumbrance may be filed as an excused late filing under subsection 12, if filed within thirty days from the date of the avoidance or within the further time allowed by the court under paragraph "a".

11. LIQUIDATOR'S PROPOSAL TO DISTRIBUTE ASSETS.

a. From time to time as assets become available, the liquidator shall make application to the court for approval of a proposal to disburse assets out of marshaled assets.

b. The proposal shall at least include provisions for all of the following:

(1) Reserving amounts for the payment of all the following:

(a) Expenses of administration.

(b) To the extent of the value of the security held, the payment of claims of secured creditors.

(c) Claims falling within the priorities established in subsection 18, paragraphs "a" and "b".

(2) Disbursement of the assets marshaled to date and subsequent disbursement of assets as they become available.

c. Action on the application may be taken by the court provided that the liquidator's proposal complies with paragraph "b".

12. FILING OF CLAIMS.

a. Proof of all claims shall be filed with the liquidator in the form required by subsection 13 on or before the last day for filing specified in the notice required under subsection 4.

b. The liquidator may permit a claimant making a late filing to share in distributions, whether past or future, as if the claimant were not late, to the extent that the payment will not prejudice the orderly administration of the liquidation under any of the following circumstances:

(1) The existence of the claim was not known to the claimant and that the claimant filed the claim as promptly as reasonably possible after learning of it.

(2) A transfer to a creditor was avoided under subsections 7 through 9, or was voluntarily surrendered under subsection 10, and that the filing satisfies the conditions of subsection 10.

(3) The valuation under subsection 17 of security held by a secured creditor shows a deficiency, which is filed within thirty days after the valuation.

c. The liquidator may consider any claim filed late and permit the claimant to receive distributions which are subsequently declared on any claims of the same or lower priority if the payment does not prejudice the orderly administration of the liquidation. The late-filing claimant shall receive at each distribution the same percentage of the amount allowed on the claim as is then being paid to claimants of any lower priority. This shall continue until the claim has been paid in full.

13. PROOF OF CLAIM.

a. Proof of claim shall consist of a statement signed by the claimant that includes all of the following that are applicable:

(1) The particulars of the claim including the consideration given for it.

(2) The identity and amount of the security on the claim.

(3) The payments, if any, made on the debt.

(4) A statement that the sum claimed is justly owing and that there is no setoff, counterclaim, or defense to the claim.

(5) Any right of priority of payment or other specific right asserted by the claimant.

(6) A copy of the written instrument which is the foundation of the claim.

(7) The name and address of the claimant and the attorney who represents the claimant, if any.

b. A claim need not be considered or allowed if it does not contain all the information identified in paragraph "a" which is applicable. The liquidator may require that a prescribed form be used and may require that other information and documents be included.

c. At any time the liquidator may request the claimant to present information or evidence supplementary to that required under paragraph "a" and may take testimony under oath, require production of affidavits or depositions, or otherwise obtain additional information or evidence.

d. A judgment or order against a cemetery entered after the date of filing of a successful petition for liquidation, or a judgment or order against the cemetery entered at any time by default or by collusion need not be considered as evidence of liability or of the amount of damages. A judgment or order against a cemetery before the filing of the petition need not be considered as evidence of liability or of the amount of damages.

14. SPECIAL CLAIMS.

a. A claim may be allowed even if contingent, if it is filed pursuant to subsection 12. The claim may be allowed and the claimant may participate in all distributions declared after it is filed to the extent that it does not prejudice the orderly administration of the liquidation.

b. Claims that are due except for the passage of time shall be treated as absolute claims are treated. However, the claims may be discounted at the legal rate of interest.

c. Claims made under employment contracts by directors, principal officers, or persons in fact performing similar functions or having similar powers are limited to payment for services rendered prior to the issuance of an order of liquidation under subsection 2.

15. DISPUTED CLAIMS.

a. If a claim is denied in whole or in part by the liquidator, written notice of the determination shall be given to the claimant or the claimant's attorney by first class mail at the address shown in the proof of claim. Within sixty days from the mailing of the notice, the claimant may file objections with the liquidator. Unless a filing is made, the claimant shall not further object to the determination.

b. If objections are filed with the liquidator and the liquidator does not alter the denial of the claim as a result of the objections, the liquidator shall ask the court for a hearing as soon as practicable and give notice of the hearing by first class mail to the claimant or the claimant's attorney and to any other persons directly affected. The notice shall be given not less than ten nor more than thirty days before the date of the hearing. The matter shall be heard by the court or by a court-appointed referee. The referee shall submit findings of fact along with a recommendation.

16. CLAIMS OF OTHER PERSON. If a creditor, whose claim against a cemetery is secured in whole or in part by the undertaking of another person, fails to prove and file that claim, then the other person may do so in the creditor's name and shall be subrogated to the rights of the creditor, whether the claim has been filed by the creditor or by the other person in the creditor's name to the extent that the other person discharges the undertaking. However, in the absence of an agreement with the creditor to the contrary, the other person is not entitled to any distribution until the amount paid to the creditor on the undertaking plus the distributions paid on the claim from the cemetery's estate to the creditor equal the amount of the entire claim of the creditor. An excess received by the creditor shall be held by the creditor in trust for the other person.

17. SECURED CREDITOR'S CLAIMS.

a. The value of security held by a secured creditor shall be determined in one of the following ways, as the court may direct:

(1) By converting the security into money according to the terms of the agreement pursuant to which the security was delivered to the creditors.

(2) By agreement, arbitration, compromise, or litigation between the creditor and the liquidator.

b. The determination shall be under the supervision and control of the court with due regard for the recommendation of the liquidator. The amount determined shall be credited upon the secured claim. A deficiency shall be treated as an unsecured claim. If the claimant surrenders the security to the liquidator, the entire claim shall be allowed as if unsecured.

18. PRIORITY OF DISTRIBUTION.

The priority of distribution of claims from the cemetery's estate shall be in accordance with the order in which each class of claims is set forth. Claims in each class shall be paid in full or adequate funds retained for the payment before the members of the next class receive any payment. Subclasses shall not be established within a class. The order of distribution of claims is as follows:

a. CLASS 1. The costs and expenses of administration, including but not limited to the following:

(1) The actual and necessary costs of preserving or recovering the assets of the cemetery.

(2) Compensation for all authorized services rendered in the liquidation.

(3) Necessary filing fees.

(4) The fees and mileage payable to witnesses.

(5) Authorized reasonable attorney's fees and other professional services rendered in the liquidation.

b. CLASS 2. Reasonable compensation to employees for services performed to the extent that they do not exceed two months of monetary compensation and represent payment for services performed within one year before the filing of the petition for liquidation. Officers and directors are not entitled to the benefit of this priority. The priority is in lieu of other similar priority which may be authorized by law as to wages or compensation of employees.

c. CLASS 3. Claims under interment rights contracts.

d. CLASS 4. Claims of general creditors.

e. CLASS 5. Claims of the federal or any state or local government. Claims, including those of a governmental body for a penalty or forfeiture, are allowed in this class only to the extent of the pecuniary loss sustained from the act, transaction, or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs incurred. The remainder of such claims shall be postponed to the class of claims under paragraph "g".

f. CLASS 6. Claims filed late or any other claims other than claims under paragraph "g".

g. CLASS 7. The claims of shareholders or other owners.

19. LIQUIDATOR'S RECOMMENDATIONS TO THE COURT.

a. The liquidator shall review claims duly filed in the liquidation and shall make further investigation as necessary. The liquidator may compound, compromise or in any other manner negotiate the amount for which claims will be recommended to the court except where the liquidator is required by law to accept claims as settled by a person or organization. Unresolved disputes shall be determined under subsection 15. As soon as practicable, the liquidator shall present to the court a report of the claims against the cemetery with the liquidator's recommendations. The report shall include the name and address of each claimant and the amount of the claim finally recommended.

b. The court may approve, disapprove, or modify the report on claims by the liquidator. Reports not modified by the court within sixty days following submission by the liquidator shall be treated by the liquidator as allowed claims, subject to later modification or to rulings made by the court pursuant to subsection 15. A claim under a policy of insurance shall not be allowed for an amount in excess of the applicable policy limits.

20. DISTRIBUTION OF ASSETS. Under the direction of the court, the liquidator shall pay distributions in a manner that will assure the proper recognition of priorities and a reasonable balance between the expeditious completion of the liquidation and the protection of unliquidated and undetermined claims, including third-party claims. Distribution of assets in kind may be made at valuations set by agreement between the liquidator and the creditor and approved by the court.

21. UNCLAIMED AND WITHHELD FUNDS.

a. Unclaimed funds subject to distribution remaining in the liquidator's hands when the liquidator is ready to apply to the court for discharge, including the amount distributable to a creditor, owner, or other person who is unknown or cannot be found, shall be deposited with the treasurer of state, and shall be paid without interest, except as provided in subsection 18, to the person entitled or the person's legal representative upon proof satisfactory to the treasurer of state of the right to the funds. An amount on deposit not claimed within six years from the discharge of the liquidator is deemed to have been abandoned and shall become the property of the state without formal escheat proceedings and be transferred to the insurance division regulatory fund.

b. Funds withheld under subsection 14 and not distributed shall upon discharge of the liquidator be deposited with the treasurer of state and paid pursuant to subsection 18.

Sums remaining which under subsection 18 would revert to the undistributed assets of the cemetery shall be transferred to the insurance division regulatory fund and become the property of the state as provided under paragraph "a", unless the commissioner in the commissioner's discretion petitions the court to reopen the liquidation pursuant to subsection 23.

c. Notwithstanding any other provision of this chapter, funds as identified in paragraph "a", with the approval of the court, shall be made available to the commissioner for use in the detection and prevention of future insolvencies. The commissioner shall hold these funds in the insurance division regulatory fund and shall pay without interest, except as provided in subsection 18, to the person entitled to the funds or the person's legal representative upon proof satisfactory to the commissioner of the person's right to the funds. The funds shall be held by the commissioner for a period of two years at which time the rights and duties to the unclaimed funds shall vest in the commissioner.

22. TERMINATION OF PROCEEDINGS.

a. When all assets justifying the expense of collection and distribution have been collected and distributed under this chapter, the liquidator shall apply to the court for discharge. The court may grant the discharge and make any other orders, including an order to transfer remaining funds that are uneconomical to distribute, as appropriate.

b. Any other person may apply to the court at any time for an order under paragraph "a". If the application is denied, the applicant shall pay the costs and expenses of the liquidator in resisting the application, including a reasonable attorney's fee.

23. REOPENING LIQUIDATION. At any time after the liquidation proceeding has been terminated and the liquidator discharged, the commissioner or other interested party may petition the court to reopen the proceedings for good cause including the discovery of additional assets. The court shall order the proceeding reopened if it is satisfied that there is justification for the reopening.

24. DISPOSITION OF RECORDS DURING AND AFTER TERMINATION OF LIQUIDATION. If it appears to the commissioner that the records of a cemetery in process of liquidation or completely liquidated are no longer useful, the commissioner may recommend to the court and the court shall direct what records shall be retained for future reference and what records shall be destroyed.

25. EXTERNAL AUDIT OF RECEIVER'S BOOKS. The court may order audits to be made of the books of the commissioner relating to a receivership established under this chapter, and a report of each audit shall be filed with the commissioner and with the court. The books, records, and other documents of the receivership shall be made available to the auditor at any time without notice. The expense of an audit shall be considered a cost of administration of the receivership.

Sec. 27. NEW SECTION. 523J.6 POWERS AND DUTIES OF PERPETUAL CARE CEMETERIES.

1. Within the boundaries of the cemetery lands that the cemetery owns, a cemetery may perform the following functions:

a. The exclusive care and maintenance of the cemetery.

b. The exclusive interment, entombment, or inurnment of human remains, including the exclusive right to open, prepare for interment, and close all ground, mausoleum, and urn burials. Each preneed contract for burial rights or services shall disclose, pursuant to the cemetery's bylaws, rules, and regulations, whether opening and closing of the burial space is included in the contract, and, if not, the current prices for opening and closing and a statement that these prices are subject to change. Each cemetery which sells preneed contracts must offer opening and closing as part of a preneed contract.

c. The exclusive initial preneed and at-need sale of interment or burial rights in earth, mausoleum, crypt, niche, or columbarium interment. However, this chapter does not limit the right of a person owning interment or burial rights to sell those rights to third parties subject to transfer of title by the cemetery.

d. The adoption of bylaws regulating the activities conducted within the cemetery's boundaries, provided that a licensed funeral director shall not be denied access by any cemetery to conduct a funeral for or supervise a disinterment of human remains. The cemetery shall not approve any bylaw which unreasonably restricts competition, or which unreasonably increases the cost to the owner of interment or burial rights in utilizing these rights.

e. The nonexclusive preneed and at-need sale of monuments, memorials, markers, burial vaults, urns, flower vases, floral arrangements, and other similar merchandise for use within the cemetery.

f. The entry into sales or management contracts with other persons. The cemetery shall be responsible for the deposit of all moneys required to be placed in a trust fund.

2. A full disclosure shall be made of all fees required for interment, entombment, or inurnment of human remains.

3. A cemetery may adopt bylaws establishing minimum standards for burial merchandise or the installation of such merchandise.

Sec. 28. NEW SECTION. 523J.7 INVESTIGATIONS.

The commissioner or the attorney general, for the purpose of discovering violations of this chapter, may do any of the following:

1. Investigate the cemetery and examine records as necessary to verify compliance with this chapter.

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

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

Sec. 29. Section 566A.1, subsection 1, Code 1995, is amended to read as follows:

1. A corporation or other form of organization engaging in the business of the ownership, maintenance, or operation of a cemetery, which provides lots or other interment space for the remains of human bodies is subject to this chapter. However, a ~~church,~~ religious ~~organization, or established fraternal society~~ cemetery is subject only to subsection 2 ~~of this section~~, and sections 566A.2A and 566A.2B. A cemetery with average retail sales equal to or less than five thousand dollars for the previous three calendar years is exempt from section 566A.2D. Political subdivisions of the state which are counties are exempt from this chapter. Political subdivisions of the state other than counties are subject only to sections 566A.1A, 566A.2A, 566A.2B, and 566A.2E.

Sec. 30. NEW SECTION. 566A.1A DEFINITIONS.

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

1. "Agent" means a person authorized by a cemetery or a cemetery operator to represent the cemetery in dealing with the public.

2. "Cemetery" means a cemetery, mausoleum, columbarium, or other space held for the purpose of burial, entombment, or inurnment of human remains and where such space is offered for sale to the public.

3. "Cemetery operator" means a person who owns, controls, operates, or manages a cemetery, who is responsible for the cemetery's care and maintenance, and who controls the opening and closing of all graves, crypts, and niches.

4. "Columbarium" means a structure or room or other space in a building or structure used or intended to be used for the inurnment or deposit of cremated human remains.

5. "Commissioner" means the commissioner of insurance or the deputy appointed under section 502.601.

6. "Deed" means the assignment or conveyance of interment rights.

7. "Grave" means a piece of land that is used or intended to be used for the underground burial of human remains, other than an underground mausoleum or columbarium space.

8. "Human remains" means the body of a deceased individual that is in any stage of decomposition or has been cremated.

9. "Interment" means the disposition of human remains by earth burial, entombment, or inurnment.

10. "Interment rights" means a right of use conveyed by contract or property ownership to inter human remains in a columbarium, grave, mausoleum, lawn crypt, or undeveloped space.

11. "Lawn crypt" means an outer enclosure, for a casket or similar inner burial container which is permanently installed below ground prior to the time of actual interment. A lawn crypt may permit single or multiple interments in a grave space.

12. "Mausoleum" means a building, structure, or part of a building or structure that is used or intended to be used for the entombment of human remains.

13. "Mausoleum space" means a niche, crypt, or specific place in a mausoleum that contains or is intended to contain human remains.

14. "Niche" means a recess in the wall of a mausoleum or columbarium for the deposit of human remains.

15. "Perpetual care" means maintenance, repair, and care of all interment spaces, features, buildings, roadways, parking lots, water supply, and other existing cemetery structures subject to the provisions of section 566A.3 and includes the general overhead expenses needed to accomplish such maintenance, repair, and care.

16. "Perpetual care cemetery" means a cemetery which has established a perpetual care fund for the maintenance, repair, and care of all interment spaces subject to perpetual care within the cemetery in compliance with section 566A.3.

17. "Religious cemetery" means a cemetery that is owned, operated, or controlled by a recognized church, religious society, association, or denomination.

18. "Sale" means a transfer for consideration of any interest in ownership, title, or right of use.

19. "Undeveloped space" means a mausoleum, columbarium space, or lawn crypt that is not ready for the burial of human remains on the date of the sale of the space.

Sec. 31. NEW SECTION. 566A.2A PERPETUAL CARE CEMETERY REGISTRY.

A perpetual care cemetery shall maintain a registry of individuals who have purchased items subject to the perpetual care requirements of this chapter including the amount deposited in trust for each individual. The registry shall include all transactions entered into on or after July 1, 1995.

Sec. 32. NEW SECTION. 566A.2B INTERMENT RIGHTS AGREEMENT - REQUIREMENTS - CONTENTS.

1. An agreement for interment rights under this chapter must be written in clear, understandable language and do all of the following:

a. Identify the seller and purchaser.

b. Identify the salesperson.

c. Specify the interment rights to be provided and the cost of each item.

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

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

f. State clearly whether the agreement is a revocable or irrevocable contract, and, if revocable, which parties have the authority to revoke the agreement.

g. State the amount or percentage of money to be placed in the cemetery's perpetual care and maintenance guarantee fund.

h. Set forth an explanation that the perpetual care and maintenance guarantee fund is an irrevocable trust, that deposits cannot be withdrawn even in the event of cancellation,

and that the trust's income shall be used by the cemetery for its maintenance, repair, and care.

i. Set forth an explanation of any fees or expenses that may be charged.

j. Set forth an explanation of whether amounts for perpetual care will be deposited in trust upon payment in full or on an allocable basis as payments are made.

k. Set forth an explanation of whether initial payments on agreements for multiple items of funeral and cemetery merchandise or services, or both, will be allocated first to the purchase of a grave, niche, columbarium space, or mausoleum space. If such an allocation is to be made, the agreement shall provide for the immediate transfer of such interment rights upon payment in full and prominently state that any applicable trust deposits under chapters 523A and 523E will not be made until the cemetery has received payment in full for the interment rights. The transfer of an undeveloped space may be deferred until such space is ready for burial.

l. If the transfer of an undeveloped space will be deferred until the space is ready for burial as permitted in paragraph "l",* the agreement shall provide for some form of written acknowledgment upon payment in full, specify a reasonable time period for development of the space, describe what happens in the event of a death prior to development of the space, and provide for the immediate transfer of the interment rights when development of the space is complete.

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

n. State the name and address of the commissioner.

Sec. 33. NEW SECTION. 566A.2D ANNUAL REPORT BY NONPERPETUAL CARE CEMETERIES.

1. A nonperpetual care cemetery shall file a written report with the insurance division within four months following the end of the cemetery's fiscal year. The report shall include all of the following:

a. The name and address of the cemetery.

b. An affidavit that the cemetery is a nonperpetual care cemetery in compliance with section 566A.5.

c. Copies of all sales agreement forms used by the cemetery.

2. The commissioner shall permit the filing of a unified annual report in the event of commonly owned or affiliated cemeteries. A political subdivision subject to this section may commingle perpetual care funds for purposes of investment and administration and may file a single report, if each cemetery is appropriately identified and separate records are maintained for each cemetery.

3. The report shall be made under oath.

4. Notwithstanding chapter 22, all records maintained by the commissioner under this section are confidential and shall not be made available for inspection or copying except upon the approval of the commissioner or attorney general.

Sec. 34. NEW SECTION. 566A.2E ANNUAL REPORT BY PERPETUAL CARE CEMETERIES.

1. A perpetual care cemetery shall file a written report as of the end of each fiscal year of the cemetery including the following:

a. The name and address of the cemetery.

b. The name and address of any trustee holding perpetual care and maintenance guarantee fund moneys.

c. The name and address of any depository holding perpetual care and maintenance guarantee fund moneys.

d. An affidavit that the cemetery is a perpetual care cemetery in compliance with section 566A.3.

e. Copies of all sales agreement forms used by the cemetery.

f. The amount of the principal of the cemetery's perpetual care funds at the end of the fiscal year.

*Paragraph "k" probably intended

g. The number of interments made and the number of deeds issued during the cemetery's preceding fiscal year.

2. The report shall be filed with the insurance division within four months following the end of the cemetery's fiscal year in the form required by the commissioner.

3. The commissioner shall permit the filing of a unified annual report in the event of commonly owned or affiliated cemeteries. A political subdivision subject to this section may commingle perpetual care funds for purposes of investment and administration and may file a single report, if each cemetery is appropriately identified and separate records are maintained for each cemetery.

4. The commissioner shall establish by rule an audit fee to be filed with the annual report. The audit report fee shall be based on the number of deeds issued by the cemetery during the reporting period. The audit fee shall apply only to perpetual care cemeteries and shall be based on the approximate cost of regulation.

5. Notwithstanding chapter 22, all records maintained by the commissioner under this subsection are confidential and shall not be made available for inspection or copying except upon approval of the commissioner or attorney general.

Sec. 35. Section 566A.3, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A perpetual care cemetery may require a contribution to the cemetery's perpetual care guarantee fund for each grave marker, tombstone, monument, or item of ornamental merchandise installed in the cemetery from the purchaser of such merchandise. A cemetery may establish a separate perpetual care fund for this purpose. The contribution, if required by the cemetery, shall be uniformly charged on every installation and shall be set aside and deposited in the perpetual care trust fund. The contributions shall be nonrefundable and shall not be withdrawn from the trust fund once deposited.

Sec. 36. Section 566A.5, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

566A.5 NONPERPETUAL CARE CEMETERIES.

1. Each nonperpetual care cemetery shall post a legible sign in a conspicuous place in the office or offices where sales are conducted, and at or near the entrance of the cemetery or its administration building and readily accessible to the public stating: "This is a nonperpetual care cemetery". The lettering of these signs shall be of a size and style as approved by the commissioner by rule or order so that the signs can be read at a reasonable distance.

2. Each nonperpetual care cemetery shall also have printed or stamped at the head of all of its contracts, deeds, statements, letterheads, and advertising material, the legend: "This is a nonperpetual care cemetery", and shall not sell any lot or interment space in the cemetery unless the purchaser of the lot or interment space is informed that the cemetery is a nonperpetual care cemetery.

3. A nonperpetual care cemetery or cemetery operator or employee or agent of a nonperpetual care cemetery shall not advertise or represent that the cemetery is a perpetual care cemetery or use any similar title, description, or term indicating that the cemetery provides guaranteed or permanent maintenance and care or that the cemetery has a trust fund or endowment fund to pay for the expenses of such care.

Sec. 37. Section 566A.12, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

566A.12 ANNUAL REPORTS AND ADMINISTRATION.

1. CEMETERY REGISTRY. The commissioner shall establish and maintain a public registry of perpetual care cemeteries.

2. INVESTIGATIONS AND AUDITS. The commissioner or the attorney general, for the purpose of discovering violations of this chapter or rules adopted pursuant to this chapter, may do any of the following:

a. Audit any cemetery, for cause or on a random basis, to determine compliance with this chapter. A cemetery shall make available to the commissioner or attorney general the cemetery's deed registry and those books, accounts, records, and files related to the sale of interment rights. Notwithstanding chapter 22, all business records and files acquired by the commissioner or attorney general pursuant to an audit under this subsection are confidential and shall not be made available for inspection or copying unless ordered by a court for good cause shown. If it is determined pursuant to an audit that a material violation of this chapter or rules adopted pursuant to this chapter has occurred, the cost of the audit may be assessed to the cemetery.

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

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

3. CEASE AND DESIST ORDERS. If an audit or investigation provides reasonable evidence that a person has violated this chapter, or any rule adopted pursuant to this chapter, the commissioner may issue an order directed at the person to cease and desist from engaging in such act or practice.

4. RECEIVERSHIPS.

a. The commissioner shall notify the attorney general if the commissioner finds that a perpetual care cemetery subject to regulation under this chapter meets one or more of the following grounds for the establishment of a receivership:

(1) Is insolvent.

(2) Has utilized trust funds for personal or business purposes in a manner inconsistent with the requirements of this chapter, and the amount of funds currently held in the trust is less than the amount required by this chapter.

b. The attorney general may apply to the district court in any county of the state for a receivership. Upon proof of any of the grounds for a receivership described in this section the court may grant a receivership.

5. INJUNCTIONS. The attorney general may apply to the district court for an injunction to restrain any cemetery subject to this chapter and any agents, employees, trustees, or associates of the cemetery from engaging in conduct or practices deemed a violation of this chapter or rules adopted pursuant to this chapter. Upon proof of any violation of this chapter described in the petition for injunction, the court may grant the injunction. Failure to obey a court order under this subsection constitutes contempt of court.

Sec. 38. Section 566A.13, Code 1995, is amended to read as follows:

566A.13 VIOLATIONS AND PENALTIES.

A violation of this chapter or rules adopted by the ~~attorney general~~ commissioner 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, provisions relating to injunctive relief and penalties, apply to a violation of this chapter.

Sec. 39. NEW SECTION. 566A.14 RULES.

The division of insurance may adopt rules pursuant to chapter 17A as necessary and appropriate to administer this chapter.

Sec. 40. NEW SECTION. 566A.15 CEMETERY FUND.

A special revenue fund is created in the state treasury, under the control of the commissioner, to be known as the insurance division cemetery fund. Commencing July 1, 1995,

filing fees received pursuant to section 566A.2D and one dollar from the audit fee for each deed reported on the annual report required by section 566A.2E, executed during the preceding fiscal year, shall be deposited in the insurance division cemetery fund by the commissioner. However, if the balance of the fund on July 1 of any year exceeds two hundred thousand dollars, the allocation to the fund shall not be made, and the total sum of the fees paid pursuant to section 566A.2E shall be deposited in the general fund of the state. Notwithstanding section 8.33, moneys in the fund shall not revert to the general fund but shall remain in the cemetery fund. Moneys in the cemetery fund are appropriated to the insurance division and, subject to authorization by the commissioner, may be used to pay the expenses of that office incurred in the administration of the audit, investigative, and enforcement duties and obligations imposed under this chapter, and the expenses of receiverships established pursuant to section 566A.12.

Sec. 41. CONDITION TO ENACTMENT OF CERTAIN PROVISIONS. The section of this Act which amends Code section 566A.12 shall only be implemented if the general assembly makes an appropriation of at least fifty thousand dollars and provides for the employment of one full-time employee devoted to the insurance division for the implementation of this Act.

Approved May 3, 1995

CHAPTER 150

SALES, SERVICES, AND USE TAX EXEMPTION - STATEWIDE NOTIFICATION CENTER

H.F. 550

AN ACT relating to the exemption of the statewide notification center and its vendors from sales, services, and use taxes and providing for the Act's effectiveness and retroactive applicability.

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

Section 1. Section 422.45, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 49. The gross receipts from services rendered, furnished, or performed, by the notification center established pursuant to section 480.3, and the vendor selected pursuant to section 480.3 to provide the notification service.

Sec. 2. EFFECTIVE DATE AND APPLICABILITY. This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to tax years beginning on or after January 1, 1995.

Approved May 3, 1995

CHAPTER 151

NOTIFICATION OF TAX SUSPENSION – PUBLIC ASSISTANCE RECIPIENTS
S.F. 223

AN ACT providing for notification of certain persons receiving public assistance of tax suspension provisions.

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

Section 1. Section 427.9, Code 1995, is amended to read as follows:

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

If a person is a recipient of federal supplementary security income or state supplementary assistance, as defined in section 249.1, or is a resident of a health care facility, as defined by section 135C.1, which is receiving payment from the department of human services for the person's care, the person shall be deemed to be unable to contribute to the public revenue. The director of human services shall notify ~~the board of supervisors of the county in which the assisted person owns parcels, as defined in section 445.1, of the fact, giving a statement of~~ a person receiving such assistance of the tax suspension provision and shall provide the person with evidence to present to the appropriate county board of supervisors which shows the person's eligibility for tax suspension on parcels owned, possessed, or upon which the person is paying taxes as a purchaser under contract. The board of supervisors so notified, without the filing of a petition and statement as specified in section 427.8, shall order the county treasurer to suspend the collection of all the taxes, special assessments, and rates or charges, including interest, fees, and costs, assessed against the parcels and remaining unpaid by the person or contractually payable by the person, for such time as the person remains the owner or contractually prospective owner of the parcels, and during the period the person receives assistance as described in this section. The director of human services shall advise the person that the person may apply for an additional property tax credit pursuant to sections 425.16 to 425.39 which shall be credited against the amount of the taxes suspended.

Approved May 4, 1995

CHAPTER 152

INTERNAL REVENUE CODE REFERENCES AND INCOME TAX PROVISIONS
S.F. 201

AN ACT updating the Iowa Code references to the Internal Revenue Code, allowing a deduction for the employer social security credit, and providing retroactive applicability and effective dates.

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

Section 1. Section 15A.9, subsection 8, unnumbered paragraph 2, Code 1995, is amended to read as follows:

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~~ 1995. The credit authorized in this subsection is in lieu of the credit authorized in section 422.33, subsection 5.

Sec. 2. Section 422.3, subsection 4, Code 1995, 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, 1994~~ April 15, 1995, whichever is applicable.

Sec. 3. Section 422.7, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 33. Subtract the amount of the employer social security credit allowable for the tax year under section 45B of the Internal Revenue Code to the extent that the credit increases federal adjusted gross income.

Sec. 4. Section 422.10, unnumbered paragraph 1, Code 1995, 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, ~~1994~~ 1995.

Sec. 5. Section 422.33, subsection 5, unnumbered paragraph 1, Code 1995, 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, ~~1994~~ 1995.

Sec. 6. Section 422.35, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 17. Subtract the amount of the employer social security credit allowable for the tax year under section 45B of the Internal Revenue Code to the extent that the credit increases federal adjusted gross income.

Sec. 7. This Act applies retroactively to January 1, 1994, for tax years beginning on or after that date.

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

Approved May 4, 1995

CHAPTER 153

REFUND OF ERRONEOUSLY PAID PROPERTY TAXES

S.F. 473

AN ACT relating to the refund of property taxes paid erroneously and providing effective and retroactive applicability dates.

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

Section 1. REFUND OF PROPERTY TAXES ERRONEOUSLY ASSESSED. Notwithstanding section 445.60, the board of supervisors of a county having a population of more than twenty-five thousand but not more than twenty-six thousand may refund the property taxes erroneously paid by a taxpayer with all interest, fees, and costs actually paid by the taxpayer. The refund shall apply only to property taxes erroneously paid by a taxpayer which resulted from an overassessment of the taxpayer's property for property taxes payable in the fiscal year beginning July 1, 1986, and for subsequent fiscal years through the fiscal year beginning July 1, 1992.

Sec. 2. EFFECTIVE AND APPLICABILITY DATES. This Act, being deemed of immediate importance, takes effect upon enactment, and applies retroactively to property taxes payable in the fiscal period beginning July 1, 1986, and ending June 30, 1993.

Sec. 3. REPEAL. This Act is repealed effective June 15, 1995.

Approved May 4, 1995

CHAPTER 154

SALES, SERVICES, AND USE TAX EXEMPTION - PRINTERS AND PUBLISHERS

H.F. 185

AN ACT relating to the sales, services, and use tax exemption for items used by printers and publishers, limiting the amount of refunds, and providing retroactive and applicability date provisions.

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

Section 1. Section 422.45, subsection 21, Code 1995, is amended by striking the subsection and inserting in lieu thereof the following:

21. The gross receipts from sales or rentals to a printer or publisher of the following: acetate; anti-halation backing; anti-static spray; back lining; base material used as a carrier for light sensitive emulsions; blankets; blow-ups; bronze powder; carbon tissue; codas; color filters; color separations; contacts; continuous tone separations; creative art; custom dies and die cutting materials; dampener sleeves; dampening solution; design and styling; diazo coating; dot etching; dot etching solutions; drawings; drawsheets; driers; duplicate films or prints; electronically digitized images; electrotypes; end product of image modulation; engravings; etch solutions; film; finished art or final art; fix; fixative spray; flats; flying pasters; foils; goldenrod paper; gum; halftones; illustrations; ink; ink paste; keylines; lacquer; lasering images; layouts; lettering; line negatives and positives; linotypes; lithographic offset plates; magnesium and zinc etchings; masking paper; masks; masters; mats; mat service; metal toner; models, modeling; mylar; negatives; nonoffset spray; opaque film process paper; opaquing; padding compound; paper stock; photographic materials:

acids, plastic film, desensitizer emulsion, exposure chemicals, fix, developers, paper; photography, day rate; photopolymer coating; photographs; photostats; photo-display tape; phototypesetter materials; ph-indicator sticks; positives; press pack; printing cylinders; printing plates, all types; process lettering; proof paper; proofs and proof processes, all types; pumice powder; purchased author alterations; purchased composition; purchased phototypesetting; purchased stripping and paste-ups; red litho tape; reducers; roller covering; screen tints; sketches; stepped plates; stereotypes; strip types; substrate; tints; tissue overlays; toners; transparencies; tympan; typesetting; typography; varnishes; veloxes; wood mounts; and any other items used in a like capacity to any of the above enumerated items by the printer or publisher to complete a finished product for sale at retail. Expendable tools and supplies which are not enumerated in this subsection are excluded from the exemption. "Printer" means that portion of a person's business engaged in printing that completes a finished product for ultimate sale at retail or means that portion of a person's business used to complete a finished printed packaging material used to package a product for ultimate sale at retail. "Printer" does not mean an in-house printer who prints or copyrights its own materials.

Sec. 2. Refunds of taxes, interests, or penalties which arise from claims resulting from the enactment of the amendment to section 422.45, subsection 21, of this Act, for sales and rentals occurring between July 1, 1983, and June 30, 1995, shall be limited to twenty-five thousand dollars in the aggregate and shall not be allowed unless refund claims are filed prior to October 1, 1995, notwithstanding any other provision of law. If the amount of claims totals more than twenty-five thousand dollars in the aggregate, the department of revenue and finance shall prorate the twenty-five thousand dollars among all claimants in relation to the amounts of the claimants' valid claims.

Sec. 3. This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 1983, for sales and rentals made on or after that date.

Approved May 4, 1995

CHAPTER 155

MOTOR FUEL AND SPECIAL FUEL TAXATION AND REGULATION

H.F. 552

AN ACT relating to changing the point of taxation of motor vehicle fuel by requiring supplier's, restrictive supplier's, importer's, exporter's, dealer's, user's, or blender's licenses, changing reporting periods, and adding penalties and providing an effective date.

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

Section 1. Section 323.1, subsection 4, Code 1995, is amended to read as follows:

4. "Distributor" means a person ~~who holds a motor fuel distributor's license or a special fuel distributor's license issued as provided~~ as defined in chapter 452A.

Sec. 2. Section 323.2, Code 1995, is amended to read as follows:

323.2 DISCONTINUING DISTRIBUTOR FRANCHISE.

Notwithstanding the terms, provisions or conditions of any distributor franchise, a franchiser shall not terminate or refuse to renew a distributor franchise except as provided in this chapter. A franchiser shall not terminate or refuse to renew a distributor

franchise unless the franchiser gives to the distributor thirty days' written notice of franchiser's intent to terminate or not renew. Notice shall be given by restricted certified mail, as defined in section 618.15. If a distributor, within thirty days after the date of delivery of the notice from the franchiser, applies to the department for a hearing under this chapter, the distributor franchise shall remain in effect pending a final order by the department. The application filed by the distributor shall state, under oath, ~~that the distributor's license as a motor fuel or special fuel distributor, as the case may be, has not been canceled pursuant to the provisions of chapter 452A,~~ that the distributor has not filed a petition in bankruptcy or been declared bankrupt within six months preceding the filing of the application, that the franchiser has not withdrawn entirely from the sale for resale of motor fuel and special fuel in this state, that there are no past due sums owing by the distributor to the franchiser, and that the distributor has not consented in writing to the termination or nonrenewal of the distributor franchise.

Sec. 3. Section 323.6, subsection 3, Code 1995, is amended to read as follows:

3. The sale or change of ownership of the distributor's business~~, unless the transfer of the distributor's license pursuant to chapter 452A is denied or the new owner is unable to obtain a license under chapter 452A.~~

Sec. 4. Section 327A.1, subsection 4, Code 1995, is amended to read as follows:

4. "Transportation for compensation" shall~~, in addition to~~ include all public transportation, ~~also include~~ and transportation primarily for others ~~by a person, not a distributor licensed~~, but does not include a distributor as defined under chapter 452A, even though as an incident thereto the person buys the liquids at the point where the transportation originates and sells it at a delivered price at destination ~~and, except as otherwise provided,~~. However, transportation for compensation shall include transportation for others by a distributor ~~licensed~~ as defined under chapter 452A or liquid products not owned by the distributor.

Sec. 5. Section 327A.15, Code 1995, is amended to read as follows:

327A.15 VEHICLES EXCEPTED.

Sections 327A.1 to 327A.14 shall not apply to ~~(1)~~ transportation in bulk by a vehicle having a total cargo tank shell capacity of two thousand gallons or less, ~~(2)~~ transportation by a distributor ~~licensed~~ as defined under chapter 452A incidental to and in the regular course of ~~the~~ business as a distributor of petroleum products, or ~~(3)~~ reciprocal exchange between distributors ~~licensed~~ as defined under chapter 452A of transportation pursuant to an exchange of products between distributors ~~so licensed~~.

Sec. 6. Section 422.110, unnumbered paragraph 1, Code 1995, is amended to read as follows:

In lieu of the fuel tax refund provided in sections 452A.17 to 452A.19, a person or corporation subject to taxation under divisions II or III of this chapter, except persons or corporations licensed under section 452A.4 ~~or 452A.36~~, may elect to receive an income tax credit for tax years beginning on or after January 1, 1975. The person or corporation which elects to receive an income tax credit shall cancel its refund permit obtained under section 452A.18 within thirty days after the first day of its tax year or the permit becomes invalid at that time. For the purposes of this section, "person" includes a person claiming a tax credit based upon the person's pro rata share of the earnings from a partnership or corporation which is not subject to a tax under division II or III of this chapter as a partnership or corporation. If the election to receive an income tax credit has been made, it remains effective for at least one tax year, and for subsequent tax years unless a change is requested and a new refund permit applied for within thirty days after the first day of the person's or corporation's tax year. The income tax credit shall be the amount of the Iowa fuel tax paid on fuel purchased by the person or corporation and used as follows:

Sec. 7. Section 422.110, subsection 2, Code 1995, is amended to read as follows:

2. Special fuel as defined in section ~~452A.33, subsection 7,~~ 452A.2 used for the purpose of operation of corn shellers, roller mills and feed grinders mounted on trucks.

Sec. 8. Section 452A.1, Code 1995, is amended to read as follows:

452A.1 SHORT TITLE.

This division, plus applicable provisions of division IV of this chapter ~~and any amendments to either~~ shall be known and may be cited as the "Motor Fuel and Special Fuel Tax Law," ~~and as so constituted is hereinafter referred to as this division~~.

Sec. 9. Section 452A.2, subsections 2 and 5, Code 1995, are amended by striking the subsections and inserting in lieu thereof the following:

2. "Dealer" means a person, other than a distributor, who engages in the business of selling or distributing motor fuel or special fuel to the end user in this state.

5. "Distributor" means a person who acquires tax paid motor fuel or special fuel from a supplier, restrictive supplier or importer, or another distributor for subsequent sale at wholesale and distribution by tank cars or tank trucks or both. The department may require that the distributor be registered to have terminal purchase rights.

Sec. 10. Section 452A.2, subsection 7, Code 1995, is amended to read as follows:

7. "Licensee" ~~shall mean and include~~ means ~~any~~ a person holding an uncanceled ~~distributor's~~ supplier's, restrictive supplier's, importer's, exporter's, dealer's, user's, or blender's license issued by the department under this division or any prior motor fuel tax law or any other person who possesses fuel for which the tax has not been paid.

Sec. 11. Section 452A.2, subsection 8, Code 1995, is amended to read as follows:

8. "Motor fuel" ~~shall mean (a) all~~ means both of the following:

a. All products commonly or commercially known or sold as gasoline (including casinghead and absorption or natural gasoline) regardless of their classifications or uses~~; and (b) any~~.

b. Any liquid advertised, offered for sale, sold for use as, or commonly or commercially used as a fuel for propelling motor vehicles, which when subjected to distillation of gasoline, naphtha, kerosene and similar petroleum products (American Society of Testing Materials Designation D-86), show not less than ten per centum distilled (recovered) below three hundred forty-seven degrees Fahrenheit (one hundred seventy-five degrees Centigrade) and not less than ninety-five per centum distilled (recovered) below four hundred sixty-four degrees Fahrenheit (two hundred forty degrees Centigrade)~~; provided, that the term "motor~~.

"Motor fuel" ~~shall~~ does not include special fuel ~~as defined in section 452A.33, subsection 7~~, and ~~shall~~ does not include liquefied gases which would not exist as liquids at a temperature of sixty degrees Fahrenheit and a pressure of fourteen and seven-tenths pounds per square inch absolute, ~~nor~~ or naphthas and solvents ~~as hereinafter defined~~ unless the liquefied gases or naphthas and solvents are used as a component in the manufacture, compounding, or blending of a liquid within ~~(b) above~~ paragraph "b", in which event the resulting product shall be deemed to be motor fuel.

Sec. 12. Section 452A.2, subsection 9, Code 1995, is amended by striking the subsection.

Sec. 13. Section 452A.2, Code 1995, is amended by adding the following new subsections:

NEW SUBSECTION. 1A. "Blender" means a person who owns and blends alcohol with gasoline to produce ethanol blended gasoline and blends the product at a nonterminal location. The blender is not restricted to blending alcohol with gasoline. Products blended with other than grain alcohol are treated and taxed as gasoline. "Blender" also means a person blending two or more special fuel products at a nonterminal location where the tax has not been paid on all of the products blended. The blend is taxed as a special fuel.

NEW SUBSECTION. 1B. "Common carrier" or "contract carrier" means a person involved in the movement of motor fuel or special fuel from the terminal or movement of the motor fuel or special fuel imported into this state, who is not an owner of the motor fuel or special fuel.

NEW SUBSECTION. 5A. "Eligible purchaser" means a distributor of motor fuel or special fuel or an end user of special fuel who has purchased a minimum of two hundred forty thousand gallons of special fuel each year in the preceding two years. Eligible purchasers who elect to make delayed payments to a licensed supplier shall use electronic funds transfer. Additional requirements for qualifying as an eligible purchaser shall be established by rule.

NEW SUBSECTION. 6A. "Export" means delivery across the boundaries of this state by or for the seller or purchaser from a place of origin in this state.

NEW SUBSECTION. 6B. "Exporter" means a person or other entity who acquires fuel in this state exclusively for export to another state.

NEW SUBSECTION. 6C. "Import" means delivery across the boundaries of this state by or for the seller or purchaser from a place of origin outside this state.

NEW SUBSECTION. 6D. "Importer" means a person who imports motor fuel or undyed special fuel in bulk or transport load into the state by truck, rail, or barge.

NEW SUBSECTION. 6E. "Licensed compressed natural gas and liquefied petroleum gas dealer" means a person in the business of handling untaxed compressed natural gas or liquefied petroleum gas who delivers any part of the fuel into a fuel supply tank of any motor vehicle.

NEW SUBSECTION. 6F. "Licensed compressed natural gas and liquefied petroleum gas user" means a person licensed by the department who dispenses compressed natural gas or liquefied petroleum gas, upon which the special tax has not been previously paid, for highway use from fuel sources owned and controlled by the person into the fuel supply tank of a motor vehicle, or commercial vehicle owned or controlled by the person.

NEW SUBSECTION. 11A. "Restrictive supplier" means a person who imports motor fuel or undyed special fuel into this state in tank wagons or in small tanks not otherwise licensed as an importer.

NEW SUBSECTION. 11B. "Special fuel" means fuel oils and all combustible gases and liquids suitable for the generation of power for propulsion of motor vehicles or turbine-powered aircraft, and includes any substance used for that purpose, except that it does not include motor fuel.

NEW SUBSECTION. 11C. "Supplier" means a person who acquires motor fuel or special fuel by pipeline or marine vessel from a state, territory, or possession of the United States, or from a foreign country for storage at and distribution from a terminal and who is registered under 26 U.S.C. § 4101 for tax-free transactions in gasoline, a person who produces in this state or acquires by truck, railcar, or barge for storage at and distribution from a terminal, alcohol or alcohol derivative substances, or a person who produces, manufactures, or refines motor fuel or special fuel in this state. "Supplier" includes a person who does not meet the jurisdictional connection to this state but voluntarily agrees to act as a supplier for purposes of collecting and reporting the motor fuel or special fuel tax. "Supplier" does not include a retail dealer or wholesaler who merely blends alcohol with gasoline before the sale or distribution of the product or a terminal operator who merely handles, in a terminal, motor fuel or special fuel consigned to the terminal operator.

NEW SUBSECTION. 11D. "Terminal" means a motor fuel or special fuel storage and distribution facility that is supplied by a pipeline or a marine vessel and from which the fuel may be removed at a rack. "Terminal" does not include a facility at which motor fuel or special fuel blend stocks and additives are used in the manufacture of products other than motor fuel or special fuel and from which no motor fuel or special fuel are removed.

NEW SUBSECTION. 11E. "Terminal operator" means the person who by ownership or contractual agreement is charged with the responsibility for, or physical control over, and operation of a terminal. If co-venturers own a terminal, "terminal operator" means the

person who is appointed to exercise the responsibility for, or physical control over, and operation of the terminal.

NEW SUBSECTION. 12A. "Use" means the receipt, delivery, or placing of liquefied petroleum gas by a licensed liquefied petroleum gas user into a fuel supply tank of a motor vehicle while the vehicle is in the state, except that with respect to natural gas used as a special fuel, "use" means the receipt, delivery, or placing of the natural gas into equipment for compressing the gas for subsequent delivery into the fuel supply tank of a motor vehicle.

NEW SUBSECTION. 12B. "Withdrawn from terminal" means physical movement from a supplier to a distributor or eligible end user and includes an importer going out of state and obtaining fuel from a terminal and bringing the fuel into the state, and a restrictive supplier bringing fuel into the state even though not purchased directly from a terminal.

Sec. 14. Section 452A.3, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

452A.3 LEVY OF EXCISE TAX.

1. For the privilege of operating motor vehicles in this state, an excise tax of twenty cents per gallon is imposed upon the use of all motor fuel used for any purpose except aviation gasoline and except motor fuel containing at least ten percent alcohol distilled from cereal grains grown in the United States for the period ending June 30, 2000, and except as otherwise provided in this division. For the privilege of operating aircraft in this state an excise tax of eight cents per gallon is imposed on the use of all aviation gasoline.

2. For the privilege of operating motor vehicles in this state, an excise tax of nineteen cents per gallon until June 30, 2000, is imposed upon the use of motor fuel containing at least ten percent alcohol distilled from cereal grains grown in the United States and used for any purpose except as otherwise provided in this division.

3. For the privilege of operating motor vehicles or aircraft in this state, there is imposed an excise tax on the use of special fuel in a motor vehicle or aircraft. The tax rate on special fuel for diesel engines of motor vehicles is twenty-two and one-half cents per gallon. The rate of tax on special fuel for aircraft is three cents per gallon. On all other special fuel the per gallon rate is the same as the motor fuel tax. Indelible dye meeting United States environmental protection agency and internal revenue service regulations must be added to fuel before or upon withdrawal at a terminal or refinery rack for that fuel to be exempt from tax and may be used only for an exempt purpose.

4. For compressed natural gas used as a special fuel, the rate of tax that is equivalent to the motor fuel tax shall be sixteen cents per hundred cubic feet adjusted to a base temperature of sixty degrees Fahrenheit and a pressure of fourteen and seventy-three hundredths pounds per square inch absolute.

5. The tax shall be paid by the following:

a. The supplier, upon the invoiced gross gallonage of all motor fuel or undyed special fuel withdrawn from a terminal for delivery in this state.

b. The person who owns or causes the fuel to be brought into the state by a restrictive supplier or importer, upon the invoiced gross gallonage of motor fuel or undyed special fuel imported.

c. The blender on total invoiced gross gallonage of alcohol or other product sold to be blended with gasoline or special fuel.

d. Any other person who possesses taxable fuel upon which the tax has not been paid to a licensee.

However, the tax shall not be imposed or collected under this division with respect to motor fuel or special fuel sold for export or exported from this state to any other state, territory, or foreign country.

6. Thereafter, except as otherwise provided in this division, the per gallon amount of the tax shall be added to the selling price of every gallon of such motor fuel or undyed special fuel sold in this state and shall be collected from the purchaser so that the ultimate consumer bears the burden of the tax.

Sec. 15. Section 452A.4, Code 1995, is amended to read as follows:

452A.4 ~~DISTRIBUTOR'S~~ SUPPLIER'S, RESTRICTIVE SUPPLIER'S, IMPORTER'S, EXPORTER'S, DEALER'S, AND USER'S LICENSE.

1. It shall be unlawful for any person to ~~receive~~ sell motor fuel or undyed special fuel within this state or to otherwise act as a ~~distributor~~ supplier, restrictive supplier, importer, exporter, dealer, or user unless the person holds an uncanceled ~~distributor's~~ license issued by the department. To procure a license a ~~distributor~~ supplier, restrictive supplier, importer, exporter, dealer, or user shall file with the department an application signed under penalty for false certificate ~~and in such form as the department may prescribe,~~ setting forth and complying with all of the following:

~~1.~~ a. The name under which the ~~distributor~~ licensee will transact business in ~~the~~ this state ~~of Iowa~~.

~~2.~~ b. The location, with street number address, of the principal office or place of business of the ~~distributor~~ licensee within this state.

~~3.~~ c. The name and complete residence address of the owner or the names and addresses of the partners, if the ~~distributor~~ licensee is a partnership, or the names and addresses of the principal officers, if the ~~distributor~~ licensee is a corporation or association.

d. A dealer's or user's license shall be required for each separate place of business or location where compressed natural gas or liquefied petroleum gas is delivered or placed into the fuel supply tank of a motor vehicle.

e. An applicant for an exporter's license shall provide verification as required by the department that the applicant has the appropriate license valid in the state or states into which the motor fuel or undyed special fuel will be exported.

2. a. The department may deny the issuance of a license to an applicant who is substantially delinquent in the payment of a tax due, or the interest or penalty on the tax, administered by the department. If the applicant is a partnership, a license may be denied if a partner owes any delinquent tax, interest, or penalty. If the applicant is a corporation, a license may be denied if any officer having a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax, interest, or penalty of the applicant corporation.

b. ~~If (a) any~~ The department may deny the issuance of a license if an application for a license to transact business as a ~~distributor~~ supplier, restrictive supplier, importer, exporter, dealer, or user in this state ~~shall be~~ is filed by ~~any~~ a person whose license ~~shall have~~ or registration has been canceled for cause at any time ~~theretofore~~ under the provisions of ~~the~~ this chapter or any prior motor fuel tax law, ~~or (b)~~ if the department ~~shall be of the opinion~~ has reason to believe that ~~such~~ the application is not filed in good faith, or ~~(c)~~ if the application is filed by some person as a subterfuge for the real person in interest whose license or registration ~~shall theretofore have~~ has been canceled for cause under the provisions of this chapter or any prior motor fuel tax law~~, the department, after a hearing of which the applicant shall have been given fifteen days' notice in writing and in which said~~. The applicant shall be given fifteen days' notice in writing of the date of the hearing and shall have the right to appear in person or by counsel and present testimony~~, shall have and is hereby given the right and authority to refuse to issue to the applicant a distributor's license~~.

~~Upon the filing of the application, a filing fee of ten dollars shall be paid to the department.~~

3. a. The application in proper form having been accepted for filing, ~~the filing fee paid~~ and the other conditions and requirements of this section and division IV having been complied with, the department shall issue to the applicant a license to transact business as a ~~distributor~~ supplier, restrictive supplier, importer, exporter, dealer, or user in this state. The license shall remain in full force and effect until canceled as provided in this chapter.

b. The license shall not be assignable and shall be valid only for the ~~distributor~~ licensee in whose name it is issued.

c. The department shall keep and file all applications and bonds ~~with an alphabetical index thereof, together with~~ and a record of all licensees.

Sec. 16. Section 452A.5, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

452A.5 DISTRIBUTION ALLOWANCE.

A supplier shall retain a distribution allowance of not more than one and six-tenths percent of all gallons of motor fuel and a distribution allowance of not more than seven-tenths percent of all gallons of undyed special fuel removed from the terminal during the reporting period for purposes of tax computation under section 452A.8.

The distribution allowance shall be prorated between the supplier and the distributor as follows:

1. Motor fuel: four-tenths percent retained by the supplier, one and two-tenths percent to the distributor.

2. Undyed special fuel: thirty-five hundredths percent retained by the supplier, thirty-five hundredths percent to the distributor or dealer purchasing directly from a supplier. Gallons exported outside of the state shall not be included in the calculation of the distribution.

Sec. 17. Section 452A.6, Code 1995, is amended to read as follows:

452A.6 ETHANOL BLENDED GASOLINE BLENDER'S LICENSE.

A person other than a ~~distributor~~ supplier, restrictive supplier, or importer licensed under this division, who blends ~~motor fuel containing at least ten percent~~ gasoline with alcohol distilled from ~~agricultural products~~ cereal grains so that the blend contains at least ten percent alcohol distilled from cereal grains, shall obtain a blender's license. The license shall be obtained by following the procedure ~~as set forth in~~ under section 452A.4 and the license is subject to the same restrictions as contained in that section. ~~Each~~ A blender shall maintain records as required by section 452A.10 as to motor fuel, alcohol, and ethanol blended gasoline.

Sec. 18. NEW SECTION. 452A.7 FOREIGN SUPPLIERS.

The director, upon application, may authorize the collection and reporting of the tax by any supplier not having jurisdictional connections with this state. A foreign supplier shall be issued a license to collect and report the tax and shall be subject to the same regulations and requirements as suppliers having a jurisdictional connection with the state, or other regulations and agreements as prescribed by the director.

Sec. 19. Section 452A.8, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

452A.8 TAX REPORTS – COMPUTATION AND PAYMENT OF TAX – CREDITS.

1. For the purpose of determining the amount of the supplier's, restrictive supplier's, or importer's tax liability, a supplier or restrictive supplier shall file, not later than the last day of the month following the month in which this division becomes effective and not later than the last day of each calendar month thereafter, and an importer shall file a report semi-monthly with the department, signed under penalty for false certification. For an importer for the reporting period from the first day of the month through the fifteenth of the month, the report is due on the last day of the month. For an importer for the reporting period from the sixteenth of the month through the last day of the month the report is due on the fifteenth day of the following month. The reports shall include the following:

a. A statement of the number of invoiced gallons of motor fuel and undyed special fuel withdrawn from the terminal by the licensee within this state during the preceding calendar month in such detail as determined by the department. This includes on-site blending reports at the terminal.

b. For information purposes only, a supplier, restrictive supplier, or importer shall show the number of invoiced gallons of dyed special fuel withdrawn from the terminal.

c. A statement showing the deductions authorized in this division in such detail and with such supporting evidence as required by the department.

d. Any other information the department may require for the enforcement of this chapter.

2. At the time of filing of a report, a supplier, restrictive supplier, or importer shall pay to the department the full amount of the fuel tax due for the preceding calendar month computed as follows:

a. From the total number of invoiced gallons of motor fuel or undyed special fuel withdrawn from the terminal by the licensee within the state during the preceding calendar month the following deductions shall be made:

(1) The gallonage of motor fuel or undyed special fuel withdrawn from a terminal by a licensee and exported outside Iowa.

(2) For suppliers only, the one and six-tenths percent of the number of gallons of motor fuel or seven-tenths percent of the number of gallons of undyed special fuel of the invoiced gallons of motor fuel or undyed special fuel withdrawn from a terminal within this state during the preceding calendar month.

b. The number of invoiced gallons remaining after the deductions in paragraph "a" shall be multiplied by the per gallon fuel tax rate.

c. The tax due under paragraph "b" shall be the amount of fuel tax due from the supplier, restrictive supplier, or importer for the preceding reporting period. The director may require by rule that the payment of taxes by suppliers, restrictive suppliers, and importers be made by electronic funds transfer. The director may allow a tax float by rule where the eligible purchaser is not required to pay the tax to the supplier until one business day prior to the date the tax is due. Any credit calculated by the supplier, restrictive supplier, or importer may be applied against the amount due.

A licensed supplier who is unable to recover the tax from an eligible purchaser is not liable for the tax, upon proper documentation, and may credit the amount of unpaid tax against a later remittance of tax. Under this provision, a supplier does not qualify for a credit if the purchaser did not elect to use the eligible purchaser status, or otherwise does not qualify to be an eligible purchaser. To qualify for the credit, the supplier must notify the department of the uncollectible account no later than ten calendar days after the due date for payment of the tax. If a supplier sells additional motor fuel or undyed special fuel to a delinquent eligible purchaser after notifying the department that the supplier has an uncollectible debt with that eligible purchaser, the limited liability provision does not apply to the additional fuel. The supplier is liable for tax collected from the purchaser.

d. The director may require by rule that reports be filed by electronic transmission.

e. The tax for compressed natural gas and liquefied petroleum gas delivered by a licensed compressed natural gas or liquefied petroleum gas dealer for use in this state shall attach at the time of the delivery and shall be collected by the dealer from the consumer and paid to the department as provided in this chapter. The tax, with respect to compressed natural gas and liquefied petroleum gas acquired by a consumer in any manner other than by delivery by a licensed compressed natural gas or liquefied petroleum gas dealer into a fuel supply tank of a motor vehicle, attaches at the time of the use of the fuel and shall be paid over to the department by the consumer as provided in this chapter.

The department shall adopt rules governing the dispensing of compressed natural gas and liquefied petroleum gas by licensed dealers and licensed users. For purposes of this paragraph "dealer" and "user" means a licensed compressed natural gas or liquefied petroleum gas dealer or user and "fuel" means compressed natural gas or liquefied petroleum gas. The department shall require that all pumps located at dealer locations and user locations through which liquefied petroleum gas can be dispensed, metered, inspected, tested for accuracy, and sealed and licensed by the state department of agriculture and land stewardship, and that fuel delivered into the fuel supply tank of any motor vehicle shall be dispensed only through tested metered pumps and may be sold without temperature

correction or corrected to a temperature of sixty degrees. If the metered gallonage is to be temperature-corrected, only a temperature-compensated meter shall be used. Natural gas used as fuel shall be delivered into compressing equipment through sealed meters certified for accuracy by the department of agriculture and land stewardship.

All gallonage which is not for highway use, dispensed through metered pumps as licensed under this section on which fuel tax is not collected, must be substantiated by exemption certificates as provided by the department or by valid exemption certificates provided by the dealers, signed by the purchaser, and retained by the dealer. A "valid exemption certificate provided by a dealer" is an exemption certificate which is in the form prescribed by the director to assist a dealer to properly account for fuel dispensed for which tax is not collected and which is complete and correct according to the requirements of the director.

For the privilege of purchasing liquefied petroleum gas, dispensed through licensed metered pumps, on a basis exempt from the tax, the purchaser shall sign exemption certificates for the gallonage claimed which is not for highway use.

The department shall disallow all sales of gallonage which is not for highway use unless proof is established by the certificate. Exemption certificates shall be retained by the dealer for a period of three years.

(1) For the purpose of determining the amount of liability for fuel tax, each dealer and each user shall file with the department not later than the last day of the month following the month in which this division becomes effective and not later than the last day of each calendar month thereafter a monthly tax return certified under penalties for false certification. The return shall show, with reference to each location at which fuel is delivered or placed by the dealer or user into a fuel supply tank of any motor vehicle during the next preceding calendar month, information as required by the department.

(2) The amount of tax due shall be computed by multiplying the appropriate tax rate per gallon by the number of gallons of fuel delivered or placed by the dealer or user into supply tanks of motor vehicles.

(3) The return shall be accompanied by remittance in the amount of the tax due for the month in which the fuel was placed into the supply tanks of motor vehicles.

3. For the purpose of determining the amount of the tax liability on alcohol blended to produce ethanol blended gasoline, each licensed blender shall, not later than the last day of each month following the month in which the blending is done, file with the department a monthly report, signed under penalty for false certificate, containing information required by rules adopted by the director.

4. A person who possesses fuel or uses fuel in a motor vehicle upon which no tax has been paid by a licensee in this state is subject to reporting and paying the applicable tax.

Sec. 20. Section 452A.9, Code 1995, is amended to read as follows:

452A.9 REPORT FROM PERSONS NOT LICENSED AS ~~DISTRIBUTORS~~ SUPPLIERS, RESTRICTIVE SUPPLIERS, OR IMPORTERS.

Every person other than a licensed ~~distributor~~ supplier, restrictive supplier, or importer, who ~~shall purchase~~ purchases, ~~bring~~ brings into this state, or otherwise ~~acquire~~ acquires within this state motor fuel or undyed special fuel, not otherwise exempted, ~~with respect to~~ which ~~such~~ the person has knowingly not paid or incurred liability to pay either to a licensee or to a dealer the motor fuel or special fuel tax, shall be subject ~~with respect to the motor fuel~~ to ~~all~~ the provisions of this division that apply to ~~distributors on~~ suppliers, restrictive suppliers, and importers of motor fuel ~~received by them in this state~~ or undyed special fuel and shall make the same reports and tax payments ~~thereon~~ and be subject to the same penalties for delinquent reporting or nonreporting or delinquent payment or nonpayment as apply to ~~distributors~~ suppliers, restrictive suppliers, and importers.

Sec. 21. Section 452A.10, Code 1995, is amended to read as follows:

452A.10 REQUIRED ~~DISTRIBUTOR AND DEALER~~ RECORDS.

~~Each~~ A motor fuel ~~distributor~~ or special fuel supplier, restrictive supplier, importer, exporter, blender, dealer, user, common carrier, contract carrier, or terminal shall maintain ~~and keep~~ for a period of three years, records of all transactions by which the ~~distributor receives, uses, sells, delivers or otherwise disposes of motor fuel within this state,~~ supplier, restrictive supplier, or importer withdraws from a terminal within this state or imports into this state motor fuel or undyed special fuel together with invoices, bills of lading, and other pertinent records and papers as ~~may reasonably be~~ required by the department ~~for the administration of this division~~.

If in the normal conduct of a ~~distributor's~~ supplier's, restrictive supplier's, importer's, exporter's, blender's, dealer's, user's, common carrier's, contract carrier's, or terminal's business the ~~distributor's~~ records are maintained and kept at an office outside ~~the~~ this state, ~~of Iowa, it shall be a sufficient compliance with this section if~~ the records ~~are~~ shall be made available for audit and examination by the department at the office outside ~~Iowa~~ this state, but ~~such~~ the audit and examination ~~outside Iowa~~ shall be without expense to ~~the~~ this state.

Each ~~dealer~~ distributor handling motor fuel or special fuel in this state shall maintain ~~and keep~~ for a period of ~~two~~ three years records of all motor fuel or undyed special fuel purchased or otherwise acquired by the ~~dealer~~ distributor, together with delivery tickets, invoices, and bills of lading, and ~~such~~ any other ~~pertinent~~ records ~~as~~ required by the department ~~shall require~~.

The department, after an audit and examination of ~~the~~ records ~~of a distributor or dealer~~ required to be maintained under this section, may authorize their disposal~~, the authorization to be in writing after~~ upon the written request ~~by~~ of the supplier, restrictive supplier, importer, exporter, blender, dealer, user, carrier, terminal, or distributor ~~or dealer~~.

Sec. 22. Section 452A.12, Code 1995, is amended to read as follows:

452A.12 LOADING AND DELIVERY EVIDENCE ON TRANSPORTATION EQUIPMENT.

1. ~~There~~ A serially numbered manifest shall be carried on every vehicle, except small tank wagons, while in use in transportation service, ~~a serially numbered manifest in form satisfactory to the department~~ on which shall be entered the following information as to the cargo of motor fuel or special fuel being moved in the vehicle: The date and place of loading, the place to be unloaded, the person for whom it is to be delivered, the nature and kind of product, the amount of product, and other information ~~called for in the forms prescribed or approved~~ required by the department. The manifest for small tank wagons shall be retained at the home office. The manifest covering each load transported, upon consummation of the delivery, shall be completed by showing the date and place of actual delivery and the person to whom actually delivered and shall be kept as a permanent record for a period of three years. However, the record of the manifest of past cargoes need not be carried on the conveyance but ~~must~~ shall be preserved by the carrier for ~~the~~ inspection ~~of~~ by the department. A carrier subject to this subsection when distributing for a licensee may with the approval of the department ~~when distributing for a licensee~~ substitute the loading and delivery evidence required in subsection 2 for the manifest.

2. ~~Every distributor or other~~ A person while transporting motor fuel or undyed special fuel from a refinery or marine or pipeline terminal in this state or from a point outside this state ~~via~~ over the highways of this state in service other than that ~~covered in~~ under subsection 1 ~~of this section~~ shall carry in the vehicle a loading invoice showing the ~~true~~ name and address of the seller or consignor, the date and place of loading and the kind and quantity of motor fuel or special fuel loaded, together with invoices showing the kind and quantity of each delivery ~~therefrom,~~ and the name and address of each purchaser or consignee.

Sec. 23. Section 452A.15, Code 1995, is amended to read as follows:

452A.15 TRANSPORTATION REPORTS – REFINERY AND PIPELINE AND MARINE TERMINAL REPORTS.

1. Every railroad and common carrier or contract ~~motor~~ carrier transporting motor fuel or special fuel either in interstate or intrastate commerce within this state and every person

transporting motor fuel or special fuel by whatever manner ~~from a point outside this state to any point in this~~ into this state shall, subject to penalties for false certificate, report to the department ~~on forms prescribed by the department~~ all deliveries of motor fuel or special fuel to points within this state other than refineries or marine or pipeline terminals. If any supplier, restrictive supplier, importer, or distributor ~~or dealer~~ is also engaged in the transportation of motor fuel or special fuel for others, the supplier, restrictive supplier, importer, or distributor ~~or dealer~~ shall make the same reports as required of common carriers and contract carriers.

The report shall cover monthly periods and shall show as to each delivery:

a. The name and address of the person to whom delivery was actually ~~and in fact~~ made.

b. The name and address of the originally named consignee, if delivered to any other than the originally named consignee.

c. The point of origin, the point of delivery, and the date of delivery.

d. The number and initials of each tank car and the number of gallons contained ~~therein~~ in the tank car, if shipped by rail.

e. The name of the boat, barge, or vessel, and the number of gallons contained ~~therein~~ in the boat, barge, or vessel, if shipped by water.

f. The registration number of each tank truck and the number of gallons contained ~~therein~~ in the tank truck, if transported by motor truck.

g. The manner, if delivered by other means, in which the delivery is made.

h. ~~Such additional~~ Additional information relative to shipments of motor fuel or special fuel as the department may require.

If ~~any~~ a person required under this section to file transportation reports is a licensee under this division and if the information required in the transportation report is contained in any other report rendered by the person under this division, ~~no~~ a separate transportation report of that information shall not be required.

2. ~~Every~~ A person operating storage facilities at a refinery or at a ~~marine or pipeline~~ terminal in this state shall ~~monthly~~ make ~~an~~ a monthly accounting to the department ~~on forms prescribed by the department~~ of all motor fuel, alcohol, and undyed special fuel withdrawn from the refinery ~~storage~~ and all motor fuel, alcohol, and undyed special fuel delivered into, withdrawn from and on hand in the refinery or terminal ~~storage~~.

3. The reports required in this section shall be for information purposes only and the department may in its discretion waive the filing of any of these reports not necessary for proper administration of this division. The reports required in this section shall be certified under penalty for false certificate and filed with the department within the time allowed for filing of ~~distributors'~~ suppliers' and restrictive suppliers' reports of motor fuel ~~received~~ or special fuel withdrawn from a terminal within this state or imported into this state.

Sec. 24. Section 452A.17, Code 1995, is amended to read as follows:

452A.17 ~~REFUND TO NONLICENSEE - FUEL USED OTHER THAN IN WATERCRAFT, AIRCRAFT, OR MOTOR VEHICLES~~ REFUNDS.

1. A person ~~other than a distributor, dealer or user licensed under this chapter~~ who uses motor fuel or undyed special fuel for any of the ~~purpose of operating or propelling farm tractors, corn shellers, roller mills, truck mounted feed grinders, stationary gas engines, for producing denatured alcohol within the state, for cleaning or dyeing or for any purpose other than in watercraft or aircraft or for propelling motor vehicles operated or intended to be operated upon the public highways~~ nontaxable purposes listed in this subsection, and who has paid the motor fuel or special fuel tax ~~on the fuel~~ either directly to the department or by having the tax added to the price of the fuel, and who has a refund permit, upon presentation to and approval by the department of a claim for refund, shall be reimbursed and repaid the amount of the tax which the claimant has paid on the gallonage so used, except that the amount of a refund payable under this division may be applied by the department against any tax liability outstanding on the books of the department against the claimant.

a. The refund is allowable for motor fuel or undyed special fuel sold to or used for the following:

(1) The United States or any agency or instrumentality of the United States or where collection of the tax would be prohibited by the Constitution of the United States or the laws of the United States or by the Constitution of the State of Iowa.

(2) An Iowa urban transit system which is used for a purpose specified in section 452A.57, subsection 6.

(3) A regional transit system, the state, any of its agencies, or any political subdivision of the state which is used for a purpose specified in section 452A.57, subsection 11, or for public purposes, including fuel sold for the transportation of pupils of approved public and nonpublic schools by a carrier who contracts with the public school under section 285.5.

(4) Fuel used in unlicensed vehicles, stationary engines, and implements used in agricultural production.

(5) Fuel used for producing denatured alcohol.

(6) Fuel used for idle time, power takeoffs, reefer units, pumping credits, transport diversions, fuel lost through casualty, exports by eligible purchasers, and blending errors for special fuel. The department shall adopt rules setting forth specific requirements relating to refunds for idle time, power takeoffs, reefer units, pumping credits and transport diversions, fuel lost through casualty, and blending errors for special fuel.

(7) A bona fide commercial fisher, licensed and operating under an owner's certificate for commercial fishing gear issued pursuant to section 482.4.

(8) For motor fuel or special fuel placed in motor vehicles and used, other than on a public highway, in the extraction and processing of natural deposits, without regard to whether the motor vehicle was registered under section 321.18. An applicant under this subparagraph shall maintain adequate records for a period of three years beyond the date of the claim.

b. ~~Every~~ A claim for refund is subject to the following conditions:

~~1.~~ (1) The claim shall be on a form prescribed by the department and be certified by the claimant under penalty for false certificate.

~~2.~~ (2) The claim shall ~~have attached thereto the original invoice or other~~ include proof as prescribed by the department showing the purchase of the motor fuel or undyed special fuel on which a refund is claimed.

~~3.~~ (3) An invoice shall not be acceptable in support of a claim for refund unless it is a separate serially numbered invoice covering no more than one purchase of motor fuel or undyed special fuel, prepared by the seller on a form approved by the department which will prevent erasure or alteration~~; nor~~ and unless it is legibly written with no corrections or erasures and shows the date of sale, the name and address of the seller and of the purchaser, the kind of fuel, the gallonage in figures, the per gallon price of the motor fuel or undyed special fuel, the total purchase price including the Iowa motor fuel or undyed special fuel tax and that the total purchase price including tax has been paid; ~~provided, that as~~. However, with respect to refund invoices made on a billing machine, the department may waive any of the requirements of this ~~subsection~~ subparagraph.

~~4.~~ (4) The claim shall state the gallonage of motor fuel or undyed special fuel that was used or will be used by the claimant other than in watercraft or aircraft or to propel motor vehicles, the manner in which the motor fuel or undyed special fuel was used or will be used and the equipment in which it was used or will be used.

~~5.~~ (5) The claim shall ~~also~~ state whether ~~or not~~ the claimant used fuel for watercraft or aircraft or to propel motor vehicles from the same tanks or receptacles in which the claimant kept the motor fuel or undyed special fuel on which the refund is claimed.

~~6. A refund shall not be paid with respect to any motor fuel or special fuel taken out of this state in fuel supply tanks of watercraft, aircraft, or motor vehicles.~~

~~7. A refund shall not be paid with respect to motor fuel or special fuel purchased more than four calendar months prior to the date the claim was filed with the department.~~

~~8. A refund shall not be paid with respect to motor fuel or special fuel used in the performance of a contract which is paid out of state funds unless the contract for the work contains a certificate made under penalty for false certificate that the estimate, bid or price to be paid for the work includes no amount representing motor fuel or special fuel tax subject to refund.~~

~~9.~~ (6) If an original invoice is lost or destroyed the department may in its discretion accept a copy identified and certified by the seller as being a true copy of the original.

~~10.~~ (7) ~~The right of a person to a refund under this section shall not be assignable.~~ Claim shall be made by and the amount of the refund ~~when determined by the department~~ shall be paid to the person who purchased the motor fuel or undyed special fuel as shown in the supporting invoice unless that person designates another person as an agent for purposes of filing and receiving the refund for idle time, power takeoff, reefer units, pumping credits, and transport diversions.

~~11.~~ (8) In order to verify the validity of a claim for refund the department shall have the right to require the claimant to furnish such additional proof of validity as the department may determine and to examine the books and records of the claimant. Failure of a claimant to furnish the claimant's books and records for examination shall constitute a waiver of all rights to refund related to the transaction in question.

~~12. Refunds shall be made of motor vehicle fuel taxes paid on motor fuel or special fuel placed in motor vehicles and used, other than on public highways, in the extraction and processing of natural deposits, without regard to whether such motor vehicles are registered under section 321.18. An applicant for a refund under this subsection must maintain adequate records for a period of three years beyond the filing of the claim. The department will pay the claim upon the presentation of proof which may reasonably be required.~~

~~13. A bona fide commercial fisher, licensed and operating under an owner's certificate for commercial fishing gear issued pursuant to section 482.4 is entitled to receive a motor fuel or special fuel tax refund under this section.~~

~~14.~~ 4. In lieu of the refund provided in this section, a person may receive an income tax credit as provided in chapter 422, division IX, but only as to motor fuel or undyed special fuel not used in motor vehicles, aircraft, or watercraft.

5. a. A claim for refund shall not be allowed ~~which is in an amount of less than ten dollars~~ unless the claimant has accumulated sixty dollars in credits for one calendar year. A claim for refund may be filed any time the sixty dollar minimum has been met within the calendar year. If the sixty dollar minimum has not been met in the calendar year, the credit shall be claimed on the claimant's income tax return unless the taxpayer is not required to file an income tax return in which case a refund shall be allowed. Once the sixty dollar minimum has been met, the claim for refund must be filed within one year.

b. A refund shall be paid with respect to any motor fuel or undyed special fuel taken out of this state in supply tanks of watercraft, aircraft, or motor vehicles.

c. A refund shall not be paid with respect to motor fuel or special fuel used in the performance of a contract which is paid out of state funds unless the contract for the work contains a certificate made under penalty for false certificate that the estimate, bid, or price to be paid for the work does not include any amount representing motor fuel or special fuel tax subject to refund.

Sec. 25. Section 452A.18, Code 1995, is amended to read as follows:

452A.18 REFUND PERMIT.

A person shall not claim a refund under section 452A.17 or section 452A.21 until the person has obtained a refund permit from the department. A special permit shall be obtained by ~~applicants~~ an applicant claiming a refund under this chapter ~~on account of~~ for motor fuel used to blend ethanol blended gasoline. Application for a refund permit shall be made to the department ~~on a form provided by the department~~, shall be certified by the applicant under penalty for false certificate, and shall contain among other things, the name, address, and occupation of the applicant, the nature of the applicant's business, and

a sufficient description for identification of the machines and equipment in which ~~is to be used~~ the motor fuel ~~for which refund may be claimed under the permit~~ or undyed special fuel is to be used. Each permit shall bear a separate number and each claim for refund shall bear the number of the permit under which it is made. The department shall keep a permanent record of all permits issued and a cumulative record of the amount of refund claimed and paid under each. A refund permit shall continue in effect until it is revoked or becomes invalid.

Sec. 26. Section 452A.21, Code 1995, is amended to read as follows:

452A.21 REFUND - CREDIT ~~— PENALTY~~.

Persons ~~other than distributors~~ not licensed under this division who blend motor fuel and alcohol to produce ethanol blended gasoline may file for a refund for the difference between taxes paid on the motor fuel purchased to produce ethanol blended gasoline and the tax due on the ethanol blended gasoline blended. If, during any month, a person licensed ~~as a distributor~~ under this division uses tax paid motor fuel to blend ethanol blended gasoline and the refund otherwise due under this section is greater than the ~~distributor's~~ licensee's total tax liability for that month, the ~~distributor will be~~ licensee is entitled to a credit. The claim for credit shall be filed as part of the report required by section 452A.8.

In order to obtain the refund established by this section, the person shall do all of the following:

1. Obtain a blender's permit as provided in section 452A.18.
2. File a refund claim containing the information as required by the department and certified by the claimant under penalty for false certificate.
3. Retain invoices meeting the requirements of section 452A.17, subsection ~~3~~ 1, paragraph "b", subparagraph (3), for the motor fuel purchased.
4. Retain invoices for the purchase of alcohol.

A refund or credit memorandum will not be issued unless the claim is filed within ninety days following the end of the month during which the ethanol blended gasoline was actually blended.

~~If a person files an incorrect refund claim, there shall be added a penalty of five percent to the amount by which the amount claimed and refunded exceeds the amount actually due. If a fraudulent refund claim is filed with intent to evade the tax, the penalty shall be fifty percent in lieu of five percent. The person shall also pay interest on the excess refunded at a rate of three-fourths of one percent per month counting each fraction of a month as an entire month, computed from the date the refund was issued to the date the excess refund is repaid to the state.~~

Sec. 27. Section 452A.54, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Fuel tax liability under this division shall be computed on the total number of gallons of each kind of motor fuel and special fuel consumed in the operation in Iowa by commercial motor vehicles subject to this division at the same rate for each kind of fuel as would be applicable if taxed under division I ~~or division II~~ of this chapter. A refund against the fuel tax liability so computed shall be allowed, on excess Iowa motor fuel purchased, in the amount of fuel tax paid at the prevailing rate per gallon set out under division I ~~or division II~~ of this chapter on motor fuel and special fuel consumed by commercial motor vehicles, the operation of which is subject to this division.

Sec. 28. Section 452A.57, subsections 1 and 5, Code 1995, are amended to read as follows:

1. "Appropriate state agency" or "state agency" means the department of revenue and finance or the state department of transportation, whichever is responsible for control, maintenance, or supervision of the power, requirement, or duty referred to in the provision.

The department of revenue and finance shall administer the provisions of ~~divisions~~ division I ~~and II~~ of this chapter, and the state department of transportation shall administer the provisions of division III. The state department of transportation shall have enforcement authority for division I as agreed upon by the director of revenue and finance and the director of transportation.

5. "Fuel taxes" means ~~and includes~~ the per gallon excise taxes imposed under ~~divisions~~ division I~~, II and III~~ of this chapter with respect to motor fuel and undyed special fuel.

Sec. 29. Section 452A.59, Code 1995, is amended to read as follows:

452A.59 ADMINISTRATIVE RULES.

The department of revenue and finance ~~is~~ and the state department of transportation are authorized and empowered to ~~make such reasonable~~ adopt rules under chapter 17A, relating to the administration and enforcement of this chapter as ~~the department may deem needful~~ deemed necessary by the departments. ~~These rules shall be effective when the provisions of chapter 17A have been complied with.~~

Sec. 30. Section 452A.60, Code 1995, is amended to read as follows:

452A.60 FORMS OF REPORT, REFUND CLAIM AND RECORDS.

The department of revenue and finance or the state department of transportation shall prescribe and furnish all forms, as applicable, upon which reports and applications shall be made and claims for refund presented under this chapter and may prescribe forms of record to be kept by ~~motor fuel distributors, motor fuel dealers, motor fuel~~ suppliers, restrictive suppliers, importers, exporters, blenders, common carriers, contract carriers, ~~special fuel~~ licensed compressed natural gas and liquefied petroleum gas dealers~~, special fuel~~ and users, terminal operators, and interstate commercial motor vehicle operators.

~~Whenever in this chapter the~~ The department of revenue and finance or the state department of transportation ~~is authorized to prescribe the form of record to be kept, the appropriate state agency~~ may ~~in lieu thereof~~ approve ~~the~~ a form of record ~~being kept, and shall approve the form of record where it furnishes in~~, other than a prescribed form, if the required information is presented in a reasonably accessible form ~~the information which is required and~~ which substantially complies with the prescribed form.

Sec. 31. Section 452A.62, Code 1995, is amended to read as follows:

452A.62 INSPECTION OF RECORDS.

The department of revenue and finance or the state department of transportation, whichever is applicable, is hereby given the authority within the time prescribed for keeping records ~~(1)~~ to do the following:

1. ~~to~~ To examine, during the usual business hours of the day, the records, books, papers, receipts, invoices, storage tanks, and any other equipment of ~~(a)~~ any of the following:

a. A distributor, ~~dealer, purchaser, or~~ supplier, restrictive supplier, importer, exporter, blender, terminal operator, common~~, contract or other~~ carrier, or contract carrier, pertaining to motor fuel ~~received, used, sold, delivered, or otherwise disposed of, or (b) of any special fuel~~ or undyed special fuel withdrawn from a terminal or brought into this state.

b. A licensed compressed natural gas or liquefied petroleum gas dealer, ~~special fuel~~ user, or person supplying ~~special fuel~~ compressed natural gas or liquefied petroleum gas to ~~any~~ a licensed compressed natural gas or liquefied petroleum gas dealer or user ~~of special fuel and (c) of any~~.

c. An interstate operator of motor vehicles to verify the truth and accuracy of any statement, report, or return, or to ascertain whether or not the taxes imposed by this chapter have been paid~~; (d)~~.

d. ~~any~~ Any person selling ~~fuel oil~~ fuels that can be used for highway use~~; and (2)~~.

2. ~~to~~ To examine the records, books, papers, receipts, and invoices of any distributor, ~~special fuel dealer or special fuel user~~ supplier, restrictive supplier, importer, exporter, terminal operator, licensed compressed natural gas or liquefied petroleum gas dealer or user, or any other person who possesses fuel upon which the tax has not been paid to determine financial responsibility for the payment of the taxes imposed by this chapter.

If ~~any~~ a person ~~within the purview of~~ under this section ~~shall refuse~~ refuses access to pertinent records, books, papers, receipts, invoices, storage tanks, or any other equipment, ~~then~~ the appropriate state agency shall certify the names and facts to any court of competent jurisdiction, and the ~~said~~ court shall enter ~~such~~ an order ~~in the premises as the enforcement of~~ to enforce this chapter ~~and justice shall require~~.

Sec. 32. Section 452A.63, unnumbered paragraph 1, Code 1995, is amended to read as follows:

All information obtained by the department of revenue and finance or the state department of transportation from the examining of reports or records required to be filed or kept under ~~the provisions of~~ this chapter shall be treated as confidential and shall not be divulged except to other state officers, a member or members of the general assembly, or any duly appointed committee of either or both houses of the general assembly, or to a representative of the state having some responsibility in connection with the collection of the taxes imposed or in proceedings brought under the provisions of this chapter~~; provided, however, that the appropriate state agency shall make available for public information on or before the last day of the month following the month in which the tax is required to be paid the names of the distributors and as to each of them the total gallons received in the state and separately, the received gallons (1) exported or sold for export, (2) sold tax-free in the state to entities that are exempt from the tax and (3) sold tax free in the state to entities required to report and account for the tax. The department of revenue and finance shall also make available to the public information with respect to special fuel dealers and users and as to each of them the gallonage used and taxes paid~~. The department of revenue and finance or the state department of transportation, upon request of officials entrusted with enforcement of the motor vehicle fuel tax laws of the federal government or any other state, may forward to such officials any pertinent information which the appropriate state agency may have relative to motor fuel and special fuel provided the officials of the other state furnish like information.

Sec. 33. Section 452A.71, Code 1995, is amended to read as follows:

452A.71 REFUNDS TO PERSONS OTHER THAN DISTRIBUTORS AND ~~SPECIAL FUEL~~ COMPRESSED NATURAL GAS AND LIQUEFIED PETROLEUM GAS DEALERS AND USERS.

Except as provided in section 452A.54, any person other than a ~~licensed distributor, licensed special fuel dealer, or licensed special fuel user~~ person who has paid or has had charged to the person's account with a distributor, dealer, or ~~special fuel dealer~~ user fuel taxes imposed under this chapter with respect to motor fuel or undyed special fuel in excess of one hundred gallons, which is subsequently lost or destroyed, while the person is the owner, through leakage, fire, explosion, lightning, flood, storm, or other casualty, except evaporation, shrinkage, or unknown causes, the person shall be entitled to a refund of the tax so paid or charged. To qualify for the refund, the person shall notify the department of revenue and finance in writing of the loss or destruction and the gallonage lost or destroyed within ten days from the date of discovery of the loss or destruction. Within sixty days after filing the notice, the person shall file with the department of revenue and finance an affidavit sworn to by the person having immediate custody of the motor fuel or undyed special fuel at the time of the loss or destruction setting forth in full the circumstances and amount of the loss or destruction and such other information as the department of revenue and finance may require. Any refund payable under this section may be applied by the department against any tax liability outstanding on the books of the department against the claimant.

Sec. 34. Section 452A.73, Code 1995, is amended to read as follows:

452A.73 EMBEZZLEMENT OF FUEL TAX MONEY – PENALTY.

Every sale of motor fuel in this state and every sale of undyed special fuel dispensed by the seller into a fuel supply tank of a motor vehicle shall, unless otherwise provided, be

presumed to include as a part of the purchase price the fuel tax due the state of Iowa under the provisions of this chapter. Every person collecting fuel tax money as part of the selling price of motor fuel or undyed special fuel, shall hold the tax money in trust for the state of Iowa unless the fuel tax on the fuel has been previously paid to the state of Iowa. Any person receiving fuel tax money in trust and failing to remit it to the department of revenue and finance on or before time required shall be guilty of theft.

Sec. 35. Section 452A.74, Code 1995, is amended to read as follows:

452A.74 UNLAWFUL ACTS – PENALTY.

It shall be unlawful:

1. For any person to knowingly fail, neglect, or refuse to make any required return or statement or pay over fuel taxes ~~as herein~~ required under this section.

2. For any person to knowingly make any false, incorrect, or materially incomplete record required to be kept or made under ~~the provisions of~~ this chapter, to refuse to offer required books and records to the department of revenue and finance or the state department of transportation for inspection on demand or to refuse to permit the department of revenue and finance or the state department of transportation to examine the person's motor fuel or undyed special fuel storage tanks and handling or dispensing equipment.

3. For any seller to issue or any purchaser to receive and retain any incorrect or false invoice or sales ticket in connection with the sale or purchase of motor fuel or undyed special fuel.

4. For any claimant to alter any invoice or sales ticket, whether the invoice or sales ticket is to be used to support a claim for refund or income tax credit or not, provided, however, if a claimant's refund permit ~~shall have~~ has been revoked for cause as provided in section 452A.19 ~~such~~ the revocation shall ~~be~~ serve as a bar to prosecution for violation of this subsection.

5. For any person to act as a ~~motor fuel distributor, special fuel~~ supplier, restrictive supplier, importer, exporter, blender, compressed natural gas or liquefied petroleum gas dealer or ~~special fuel~~ user without the required license.

6. For any person to use motor fuel ~~or~~, undyed special fuel, or illegal use of dyed special fuel in the fuel supply tank of a vehicle with respect to which the person knowingly has not paid or had charged to the person's account with a distributor or dealer, or with respect to which does not within the time required in this chapter report and pay the applicable fuel tax.

7. For any ~~special fuel~~ licensed compressed natural gas or liquefied petroleum gas dealer or user to dispense ~~special fuel~~ compressed natural gas or liquefied petroleum gas into the fuel supply tank of any motor vehicle without collecting the fuel tax.

~~8. For special fuel dealers or special fuel distributors to deliver special fuel on a tax paid basis into a tank with a capacity greater than one thousand fifty gallons.~~

~~9.~~ 8. Any delivery by a distributor of ~~special fuel~~ compressed natural gas or liquefied petroleum gas to a compressed natural gas or liquefied petroleum gas dealer or user for the purpose of evading the state tax on ~~special fuels~~ compressed natural gas or liquefied petroleum gas, into facilities other than those licensed above knowing that ~~said~~ the fuel will be used ~~as special fuel~~ for highway use shall constitute a violation of this section. Any compressed natural gas or liquefied petroleum gas dealer or user for purposes of evading the state tax on ~~special fuel~~ compressed natural gas or liquefied petroleum gas, who allows a distributor to place ~~special fuel~~ compressed natural gas or liquefied petroleum gas for highway use in facilities other than those licensed above ~~will~~, shall also be deemed in violation of this section.

A person found guilty of an offense specified in this section is guilty of a fraudulent practice. For purposes of determining the place of trial, the situs of an offense specified in this section is in the county of the residence of the person charged with the offense. However, if the person is a nonresident or the person's residence cannot be determined, the situs of the offense is in Polk county. Prosecution for an offense specified in this section shall be commenced within six years following its commission.

Sec. 36. NEW SECTION. 452A.74A PENALTY AND ENFORCEMENT PROVISIONS.
In addition to the tax or additional tax, the following fines and penalties shall apply:

1. ILLEGAL USE OF DYED FUEL. The illegal use of dyed fuel in the supply tank of a motor vehicle shall result in a civil penalty assessed against the owner or operator of the motor vehicle as follows:

a. A two hundred dollar fine for the first violation.

b. A five hundred dollar fine for a second violation within three years of the first violation.

c. A one thousand dollar fine for third and subsequent violations within three years of the first violation.

2. ILLEGAL IMPORTATION OF UNTAXED FUEL. A person who illegally imports motor fuel or undyed special fuel without a valid importer's license or supplier's license shall be assessed a civil penalty as provided in this subsection. However, the owner or operator of the importing vehicle shall not be guilty of violating this subsection if it is shown by the owner or operator that the owner or operator reasonably did not know or reasonably should not have known of the illegal importation.

a. For a first violation, the importing vehicle shall be detained and a fine of two thousand dollars shall be paid before the vehicle will be released. The owner or operator of the importing vehicle or the owner of the fuel may be held liable for payment of the fine.

b. For a second violation, the importing vehicle shall be detained and a fine of five thousand dollars shall be paid before the vehicle will be released. The owner or operator of the importing vehicle or the owner of the fuel may be held liable to pay the fine.

c. For third and subsequent violations, the importing vehicle and the fuel shall be seized and a fine of ten thousand dollars shall be paid before the vehicle will be released. The owner or operator of the importing vehicle or the owner of the fuel may be held liable to pay the fine.

d. If the owner or operator of the importing vehicle or the owner of the fuel fail to pay the tax and fine for a first or second offense, the importing vehicle and the fuel may be seized. The department of revenue and finance, the state department of transportation, or any peace officer, at the request of either department, may seize the vehicle and the fuel.

e. If the operator or owner of the importing vehicle or the owner of the fuel move the vehicle or the fuel after the vehicle has been detained and a sticker has been placed on the vehicle stating that "This vehicle cannot be moved until the tax, penalty, and interest have been paid to the Department of Revenue and Finance", an additional penalty of five thousand dollars shall be assessed against the operator or owner of the importing vehicle or the owner of the fuel.

f. For purposes of this subsection, "vehicle" means as defined in section 321.1.

3. IMPROPER RECEIPT OF FUEL CREDIT OR REFUND. If a person files an incorrect refund claim, in addition to the amount of the claim, a penalty of ten percent shall be added to the amount by which the amount claimed and refunded exceeds the amount actually due and shall be paid to the department. If a person knowingly files a fraudulent refund claim with the intent to evade the tax, the penalty shall be seventy-five percent in lieu of the ten percent. The person shall also pay interest on the excess refunded at the rate per month specified in section 421.7, counting each fraction of a month as an entire month, computed from the date the refund was issued to the date the excess refund is repaid to the state.

4. ILLEGAL HEATING OF FUEL. The deliberate heating of taxable motor fuel or special fuel by dealers prior to consumer sale is a simple misdemeanor.

5. PREVENTION OF INSPECTION. The department of revenue and finance or the state department of transportation may conduct inspections for coloration, markers, and shipping papers at any place where taxable fuel is or may be loaded into transport vehicles, produced, or stored. Any attempts by a person to prevent, stop, or delay an inspection of fuel or shipping papers by authorized personnel shall be subject to a civil penalty of

not more than one thousand dollars per occurrence. Any law enforcement officer or department of revenue and finance or state department of transportation employee may physically inspect, examine or otherwise search any tank, reservoir, or other container that can or may be used for the production, storage, or transportation of any type of fuel.

6. FAILURE TO CONSPICUOUSLY LABEL A FUEL PUMP. A retailer who does not conspicuously label a fuel pump or other delivery facility as required by the internal revenue service, that dispenses dyed diesel fuel so as to notify customers that it contains dyed diesel fuel, shall pay to the department a penalty of one hundred dollars per occurrence.

7. FALSE OR FRAUDULENT RETURN. Any person, including an officer of a corporation or a manager of a limited liability company, who is required to make, render, sign, or verify any report or return required by this chapter and who makes a false or fraudulent report, or who fails to file a report or return with the intent to evade the tax, shall be guilty of a fraudulent practice. Any person who aids, abets, or assists another person in making any false or fraudulent return or false statement in any return with the intent to evade payment of tax shall be guilty of a fraudulent practice.

Sec. 37. Section 452A.76, Code 1995, is amended to read as follows:

452A.76 ENFORCEMENT AUTHORITY.

~~Authority is given to the department of revenue and finance to enforce the provisions of this chapter except division III. Employees of the department of revenue and finance designated as enforcement employees have the power of peace officers in the performance of such duties.~~

Authority to enforce division III is given to the state department of transportation. Employees of the department of transportation designated enforcement employees have the power of peace officers in the performance of their duties; however, they shall not be considered members of the Iowa highway safety patrol. The department of transportation shall furnish enforcement employees with necessary equipment and supplies in the same manner as provided in section 80.18, including uniforms which are distinguishable in color and design from those of the Iowa highway safety patrol. Enforcement employees shall be furnished and shall conspicuously display badges of authority.

~~It is the duty of all peace officers to see that the provisions of this chapter are not violated, and to respond to the call of the department of revenue and finance and state department of transportation to make investigations in their respective counties and report to the department of revenue and finance and state department of transportation. Peace officers are authorized to stop a conveyance suspected to be illegally transporting motor fuel on the highways, to investigate the cargo for that purpose and to seize and impound the cargo and conveyance when it appears that the conveyance is being operated in violation of the provisions of this chapter.~~

Authority is given to the department of revenue and finance, the state department of transportation, the department of public safety, and any peace officer as requested by such departments to enforce the provisions of division I and this division of this chapter. The department of revenue and finance shall adopt rules providing for enforcement under division I and this division of this chapter regarding the use of motor fuel or special fuel in implements of husbandry. Enforcement personnel or requested peace officers are authorized to stop a conveyance suspected to be illegally transporting motor fuel or special fuel on the highways, to investigate the cargo and also have the authority to inspect or test the fuel in the supply tank of a conveyance to determine if legal fuel is being used to power the conveyance. The operator of any vehicle transporting motor fuel or special fuel shall, upon request, produce and offer for inspection the manifest or loading and delivery invoices pertaining to the load and trip in question and shall permit the authority to inspect and measure the contents of the vehicle. If the vehicle operator fails to produce the evidence or if, when produced, the evidence fails to contain the required information and it appears that there is an attempt to evade payment of the fuel tax, the vehicle operator will be subject to the penalty provisions contained in section 452A.74A. For purposes of this section, "vehicle" means as defined in section 321.1.

Sec. 38. Section 452A.80, Code 1995, is amended to read as follows:

452A.80 MICROFILM OR PHOTOGRAPHIC COPIES - ORIGINALS DESTROYED.

The appropriate state agency shall have the power and authority to record, copy or reproduce by any photographic, photostatic, microfilm, microcard, miniature photographic or other process which accurately reproduces or forms a durable medium for so reproducing the original of any forms or records pertaining to motor fuel tax or undyed special fuel tax, or any paper or document with respect to refund of ~~such~~ the tax~~, and when such~~. If the forms and records ~~shall~~ have been ~~so~~ reproduced in accordance with this section, the state agency ~~shall have the power to~~ may destroy the originals and ~~such~~ the reproductions shall be competent evidence in any court in accordance with the provision of section 622.30.

Sec. 39. Section 452A.84, Code 1995, is amended to read as follows:

452A.84 TRANSFER TO STATE GENERAL FUND.

The treasurer of state shall transfer from the motor fuel tax fund to the 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 section 452A.17, subsection ~~13~~ 1, paragraph "a", subparagraph (7). All moneys remaining after claims for refund and the cost of administration have been made shall be transferred to the general fund of the state.

Sec. 40. Section 452A.85, Code 1995, is amended to read as follows:

452A.85 TAX PAYMENT FOR STORED MOTOR FUEL, ETHANOL BLENDED GASOLINE, ~~AND~~ SPECIAL FUEL, COMPRESSED NATURAL GAS, AND LIQUEFIED PETROLEUM GAS - PENALTY.

1. Persons having title to motor fuel, ethanol blended gasoline, ~~or~~ undyed special fuel, compressed natural gas, or liquefied petroleum gas in storage and held for sale on the effective date of an increase in the excise tax rate imposed on motor fuel, ethanol blended gasoline, ~~or~~ undyed special fuel, compressed natural gas, or liquefied petroleum gas under this chapter shall be subject to an inventory tax based upon the gallonage in storage as of the close of the business day ~~next~~ preceding the effective date of the increased excise tax rate of motor fuel, ethanol blended gasoline, ~~or~~ undyed special fuel, compressed natural gas, or liquefied petroleum gas which will be subject to the increased excise tax rate.

2. Persons subject to the tax imposed under this section shall take an inventory to determine the gallonage in storage for purposes of determining the tax and shall report ~~that~~ the gallonage ~~on forms provided by the department of revenue and finance~~ and pay the tax due within thirty days of the prescribed inventory date. The department of revenue and finance shall adopt rules pursuant to chapter 17A as are necessary to ~~carry out the provisions of~~ administer this section.

3. The amount of the inventory tax is equal to the inventory tax rate times the gallonage in storage as determined under subsection 1. The inventory tax rate is equal to the difference of the increased excise tax rate less the previous excise tax rate.

Sec. 41. Section 452A.86, Code 1995, is amended to read as follows:

452A.86 METHOD OF DETERMINING GALLONAGE.

The exclusive method of determining gallonage of any purchases or sales of motor fuel ~~and~~, undyed special fuel, compressed natural gas, or liquefied petroleum gas as defined in this chapter and distillate fuels shall be on a gross volume basis. A temperature-adjusted or other method shall not be used, except as it applies to liquefied petroleum gas and the sale or exchange of petroleum products between petroleum refiners. All invoices, bills of lading, or other records of sale or purchase and all reports or records required to be made,

kept, and maintained by a ~~distributor or dealer~~ supplier, restrictive supplier, importer, exporter, blender, or compressed natural gas or liquefied petroleum gas dealer or user shall be made, kept, and maintained on the gross volume basis. For purposes of this section, "distillate fuels" means any fuel oil, gas oil, topped crude oil, or other petroleum oils derived by refining or processing crude oil or unfinished oils which have a boiling range at atmospheric pressure which falls completely or in part between five hundred fifty and twelve hundred degrees Fahrenheit.

Sec. 42. INVENTORY OF UNDYED SPECIAL FUEL. Licensed dealers and users shall take inventory of the gallonage of undyed special fuel held in storage as of the effective date of this Act and pay to the department of revenue and finance, as specified in section 452A.85, subsection 2, a tax of twenty-two and one-half cents per gallon. However, on-farm storage of undyed special fuel shall be exempt from the inventory requirements and the tax imposed under this section.

Sec. 43. Sections 452A.13, 452A.16, 452A.20, and 452A.31 through 452A.38, Code 1995, are repealed.

Sec. 44. This Act takes effect January 1, 1996. All licensees* and permits existing prior to the effective date of this Act, except for licenses and permits issued under division III of chapter 452A, shall be canceled at that time, notwithstanding the provisions of chapter 17A.

Approved May 4, 1995

CHAPTER 156

FRUIT-TREE OR FOREST RESERVATION RECAPTURE TAX

H.F. 558

AN ACT relating to the recapture tax on property maintained as a fruit-tree or forest reservation for which a property tax exemption was granted and providing effective and applicability date provisions.

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

Section 1. Section 427C.12, unnumbered paragraph 2, Code 1995, is amended to read as follows:

The board of supervisors shall designate the county conservation board or the assessor who shall inspect the area for which an application is filed for a fruit-tree or forest reservation tax exemption before the application is accepted. Use of aerial photographs may be substituted for on-site inspection when appropriate. The application can only be accepted if it meets the criteria established by the natural resource commission to be a fruit-tree or forest reservation. Once the application has been accepted, the area shall continue to receive the tax exemption during each year in which the area is maintained as a fruit-tree or forest reservation without the owner having to refile. If the property is sold or transferred, ~~the buyer or transferee does not have to refile for the tax exemption~~ the seller shall notify the buyer that all, or part of, the property is in fruit-tree or forest reservation and subject to the recapture tax provisions of this section. The tax exemption shall continue to be granted for the remainder of the eight-year period for fruit-tree reservation and for the following years for forest reservation or until the property no longer qualifies as a fruit-tree or forest

*The word "licenses" probably intended

reservation. The area may be inspected each year by the county conservation board or the assessor to determine if the area is maintained as a fruit-tree or forest reservation. If the area is not maintained or is used for economic gain other than as a fruit-tree reservation during any year of the eight-year exemption period and any year of the following five years or as a forest reservation during any year for which the exemption is granted and any of the five years following those exemption years, the assessor shall assess the property for taxation at its fair market value as of January 1 of that year and in addition the area shall be subject to a recapture tax. However, the area shall not be subject to the recapture tax if the owner, including one possessing under a contract of sale, and the owner's direct antecedents or descendants have owned the area for more than ten years. The tax shall be computed by multiplying the consolidated levy for each of those years, if any, of the five preceding years for which the area received the exemption for fruit-tree or forest reservation times the assessed value of the area that would have been taxed but for the tax exemption. This tax shall be entered against the property on the tax list for the current year and shall constitute a lien against the property in the same manner as a lien for property taxes. The tax when collected shall be apportioned in the manner provided for the apportionment of the property taxes for the applicable tax year.

Sec. 2. This Act, being deemed of immediate importance, takes effect upon enactment and applies to sales or transfers of property made on or after the date of enactment.

Approved May 4, 1995

CHAPTER 157

ASSESSMENT OF CERTAIN COOPERATIVE AND NONPROFIT RESIDENTIAL PROPERTY

H.F. 559

AN ACT defining multiple housing cooperatives and certain other property of nonprofit organizations as residential property for purposes of assessing the value of the property for taxation purposes, and providing for the Act's retroactive applicability.

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

Section 1. Section 441.21, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 12. Beginning with valuations established on or after January 1, 1995, as used in this section, "residential property" includes all land and buildings of multiple housing cooperatives organized under chapter 499A and includes land and buildings used primarily for human habitation which land and buildings are owned and operated by organizations that have received tax-exempt status under section 501(c)(3) of the Internal Revenue Code and rental income from the property is not taxed as unrelated business income under section 422.33, subsection 1A.

Sec. 2. RETROACTIVE APPLICABILITY. This Act applies retroactively to January 1, 1995, for assessment years beginning on or after that date.

Approved May 4, 1995

CHAPTER 158

TAXES DEDICATED TO EMERGENCY SERVICES BY TOWNSHIPS
H.F. 489

AN ACT authorizing an increase in the amount of taxes dedicated to the reserve account by township trustees for supplies and equipment related to fire protection, emergency warning systems, and ambulance services.

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

Section 1. Section 359.43, subsection 4, Code 1995, is amended to read as follows:

4. Of the levies authorized under subsections 1 and 2, the township trustees may credit to a reserve account annually an amount not to exceed ~~ten~~ thirty cents per thousand dollars of the assessed value of the taxable property in the township for the purchase or replacement of supplies and equipment required to carry out the services specified under section 359.42. Notwithstanding section 12C.7, interest earned on moneys credited to the reserve account shall be credited to the reserve account.

Approved May 4, 1995

CHAPTER 159

TAX LEVY FOR CERTAIN COUNTY HOSPITALS
S.F. 179

AN ACT relating to the maximum property tax levy for certain county hospitals.

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

Section 1. Section 347.7, unnumbered paragraph 1, Code 1995, is amended to read as follows:

If a county hospital is established, the board of supervisors, at the time of levying ordinary taxes, shall levy a tax at the rate voted not to exceed fifty-four cents per thousand dollars of assessed value in any one year for the erection and equipment of the hospital, and also a tax not to exceed twenty-seven cents per thousand dollars of value for the improvement, maintenance, and replacements of the hospital, as certified by the board of hospital trustees. However, in counties having a population of two hundred twenty-five thousand or over, the levy for taxes payable in the fiscal year beginning July 1, 1996, and for subsequent fiscal years, for improvements and maintenance of the hospital shall not exceed one dollar and ~~thirty-five~~ seventy-five cents per thousand dollars of assessed value in any one year. The proceeds of the taxes constitute the county public hospital fund and the fund is subject to review by the board of supervisors in counties over two hundred twenty-five thousand. However, the board of trustees of a county hospital, where funds are available in the county public hospital fund of the county which are unappropriated, may use the unappropriated funds for erecting and equipping hospital buildings and additions thereto without authority from the voters of the county.

Sec. 2. APPLICABILITY. This Act applies to taxes payable in the fiscal year beginning July 1, 1996, and all subsequent fiscal years.

Approved May 4, 1995

CHAPTER 160

REQUIREMENTS FOR INSTRUMENTS PRESENTED TO COUNTY RECORDERS

S.F. 394

AN ACT relating to instruments filed or recorded with the county recorder and providing for the Act's applicability.

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

Section 1. Section 331.602, subsection 1, Code 1995, is amended to read as follows:

1. Record all instruments presented to the recorder's office for recordation upon payment of the proper fees and compliance with other recording requirements as provided by law. The instruments presented for filing or recordation shall be legible and reproducible, and shall have typed or legibly printed on them the names of all signatories including the names of acknowledging officers and witnesses beneath the original signatures. The instruments shall be no larger than eight and one-half inches by fourteen inches and shall provide a space at the top of the instrument at least eight and one-half inches across the page by two inches in length, on which space shall be typed or legibly printed across the page on the bottom one-fourth inch of this space, the name, address, and telephone number of the individual who prepared the instrument. The remaining portion of this space shall be reserved for use by the county recorder, except as otherwise authorized by the recorder.

a. However, if an instrument does not contain typed or printed names, the recorder shall accept the instrument for recordation or filing if it is accompanied by an affidavit, to be recorded with the instrument, correctly spelling in legible print or type the signatures appearing on the instrument.

b. The requirement of paragraph "a" does not apply to military discharges, military instruments, wills, court records, or to any other instrument dated before July 4, 1959.

c. Failure to print or type signatures as provided in this subsection does not invalidate the instrument.

Sec. 2. APPLICABILITY. This Act applies to instruments signed or notarized on or after January 1, 1996.

Approved May 4, 1995

CHAPTER 161

COMMISSION OF VETERANS AFFAIRS

H.F. 203

AN ACT relating to the location of the office of the commission of veterans affairs, and providing an effective date.

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

Section 1. Section 35A.2, subsection 2, Code 1995, is amended to read as follows:

2. ~~Five~~ Six commissioners shall be honorably discharged members of the armed forces of the United States. The American legion of Iowa, disabled American veterans department of Iowa, veterans of foreign wars department of Iowa, American veterans of World War II, Korea, and Vietnam, the Vietnam veterans of America, and the military order of the purple heart, through their department commanders, shall submit two names

respectively from their organizations to the governor. The governor shall appoint from each of the organizations one representative to serve as a member of the commission, unless the appointments would conflict with the bipartisan and gender balance provisions of sections 69.16 and 69.16A. In addition, the governor shall appoint ~~two members~~ one member of the public, knowledgeable in the general field of veterans affairs, to serve on the commission.

Sec. 2. Section 35A.2, subsection 3, Code 1995, is amended by striking the subsection.

Sec. 3. Section 35A.3, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 13. Conduct an equal number of meetings at Camp Dodge and the Iowa veterans home. The agenda for each meeting shall include a reasonable time period for public comment.

Sec. 4. REPEAL. 1992 Iowa Acts, chapter 1140, section 44, is repealed.

Sec. 5. INFORMATION STORAGE – TRAINING – REPORTS.

The commission of veterans affairs shall do the following:

1. Develop and issue for response requests for proposals for storing information and data concerning the military service records of Iowa veterans, and other information the commission deems appropriate, upon microfilm, electronic computer, or data processing equipment, and for proposals for the purchase of the equipment necessary to store the records and information. The commission shall also make every reasonable effort to obtain federal funding for the storing of information and data and the purchase of equipment as provided in this subsection. The commission shall deliver a written report on all proposals submitted in response to the requests for proposals along with the commission's recommendations to the general assembly not later than January 1, 1996.

2. Study the costs of training provided to executive directors of county commissions of veteran affairs under subsection 12.* The commission shall submit a report of its findings and recommendations to the general assembly by January 1, 1996.

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

Approved May 4, 1995

CHAPTER 162

STATE PERSONNEL SYSTEMS

H.F. 507

AN ACT relating to state government personnel systems, including affirmative action reports, disability programs, deferred compensation, experimental research projects, the state training system, and health insurance contracts for public employees.

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

Section 1. Section 19A.3, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 23. Up to six nonprofessional employees designated at the discretion of each statewide elected official.

Sec. 2. Section 19A.3, subsection 9, Code 1995, is amended to read as follows:

*See Chapter 209, §18 herein

9. Seasonal employees ~~appointed during the period of April 15 through October 15~~ appointed during a department's designated six-month seasonal employment period during the same annual twelve-month period, as approved by the director.

Sec. 3. NEW SECTION. 19A.3A EMPLOYEES OF STATEWIDE ELECTED OFFICIALS.

The exempt position classifications of employees of statewide elected officials as of June 30, 1994, shall remain exempt and any employees subsequently hired to fill any exempt position vacancies shall be classified as exempt employees.

Sec. 4. NEW SECTION. 19A.8A EXPERIMENTAL RESEARCH PROJECTS.

The director may conduct experimental or research personnel-related projects of limited duration designed to improve the quality of the employment system. The provisions of section 19A.9 or administrative rules adopted pursuant to that section are waived for the purposes of such projects. Projects adopted under this authority shall not violate existing collective bargaining agreements. Any projects that relate to issues covered by such agreements or issues that are mandatory subjects of collective bargaining are subject to negotiations as applicable. The director shall notify the chairpersons of the standing committees on appropriations of the senate and the house of representatives and the chairpersons of the appropriate subcommittees of those committees of the proposed projects. The notice from the director shall include the purpose of the project, a description of the project and how the project will be evaluated. Chairpersons notified shall be given at least two weeks to review and comment on the proposal before the project is implemented. The director shall report the results of the experimental research projects conducted in the preceding fiscal year to the legislative council by September 30 of each year.

Sec. 5. Section 19A.12, subsection 2, Code 1995, is amended to read as follows:

2. ~~An Iowa management~~ A training revolving fund is created in the state treasury. The moneys credited to the fund shall be used for the purpose of paying actual and necessary expenses incurred by the department in administering the ~~Iowa management~~ training system. All fees, grants, or specific appropriations for this purpose shall be credited to the fund. The fees for the ~~Iowa management~~ training system courses shall be set by the director to cover the ~~cost~~ costs of ~~administration except for costs associated with salaries of employees of the department,~~ course development, training materials, facilities and equipment, ~~and~~ professional instructors, and administration, except for costs associated with the salary of employees of the department. The fees shall be paid to the department by the state agency sending the employees for training and the payment shall be credited to the ~~Iowa management~~ training revolving fund. Notwithstanding section 8.33, the department shall not revert any unencumbered or unobligated balance in the fund~~, except amounts in excess of fifty thousand dollars, beginning on June 30, 1988~~.

Sec. 6. Section 19A.15, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The records of the department, except personal information in an employee's file if the publication of such information would serve no proper public purpose, shall be public records and shall be open to public inspection, subject to reasonable rules as to the time and manner of inspection which may be prescribed by the director. Personal information includes the home address and home telephone number of an employee. Each employee shall have access to the employee's personal file.

Sec. 7. Section 19A.32, Code 1995, is amended to read as follows:

19A.32 WORKERS' COMPENSATION CLAIMS.

The director shall employ appropriate staff to handle and adjust claims of state employees for workers' compensation benefits pursuant to chapters 85, 85A, 85B, and 86, or with the approval of the executive council contract for the services or purchase workers'

compensation insurance coverage for state employees or selected groups of state employees. A state employee workers' compensation fund is established to pay state employee workers' compensation claims and administrative costs. The department shall establish a rating formula and assess premiums to all agencies, departments, and divisions of the state including those which have not received an appropriation for the payment of workers' compensation insurance and which operate from moneys other than from the general fund of the state. The department shall collect the premiums and deposit them into the state employee workers' compensation fund. Notwithstanding section 8.33, moneys deposited in the state employee workers' compensation fund shall not revert to the general fund of the state at the end of any fiscal year, but shall remain in the state employee workers' compensation fund and be continuously available to pay state employee workers' compensation claims. The director of revenue and finance is authorized and directed to draw warrants on this fund for the payment of state employee workers' compensation claims.

Sec. 8. Section 19B.5, subsection 2, Code 1995, is amended to read as follows:

2. The department of personnel shall submit a report on the condition of affirmative action programs in state agencies covered by subsection 1 by ~~August 31~~ September 30 of each year to the department of management.

Sec. 9. Section 70A.20, Code 1995, is amended to read as follows:

70A.20 EMPLOYEES DISABILITY PROGRAM.

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, railroad retirement disability income, 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 or railroad retirement 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:

1. Waiting period, ninety working days of continuous sickness or accident disability or the expiration of accrued sick leave, whichever is greater.

2. Maximum period benefits paid for both accident or sickness disability:

a. If the disability occurs prior to the time the employee attains the age of sixty-one years, the maximum benefit period shall end sixty months after continuous benefit payments begin or on the date on which the employee attains the age of sixty-five years, whichever is later.

b. If the disability occurs on or after the time the employee attains the age of sixty-one years but prior to the age of sixty-nine years, the maximum benefit period shall end sixty

months after continuous benefit payments begin or on the date on which the employee attains the age of seventy years, whichever is earlier.

c. If the disability occurs on or after the time the employee attains the age of sixty-nine years, the maximum benefit period shall end twelve months after continuous benefit payments begin.

3. a. Minimum and maximum benefits, not less than fifty dollars per month and not exceeding two thousand dollars per month.

b. In no event shall benefits exceed one hundred percent of the claimant's predisability covered monthly compensation.

4. All permanent full-time state employees shall be covered under the employees disability insurance program, except board members and members of commissions who are not full-time state employees, and state employees who on July 1, 1974, are under another disability program financed in whole or in part by the state, and state employees who have agreed to participation in another disability program through a collective bargaining agreement. For purposes of this section, members of the general assembly serving on or after January 1, 1989, are eligible for the plan during their tenure in office, on the basis of enrollment rules established for full-time state employees excluded from collective bargaining as provided in chapter 20.

Sec. 10. Section 509A.6, Code 1995, is amended to read as follows:

509A.6 CONTRACT WITH INSURANCE CARRIER OR HEALTH MAINTENANCE ORGANIZATION.

The governing body may contract with a nonprofit corporation operating under the provisions of this chapter or chapter 514 or with any insurance company having a certificate of authority to transact an insurance business in this state with respect of a group insurance plan, which may include life, accident, health, hospitalization and disability insurance during period of active service of such employees, with the right of any employee to continue such life insurance in force after termination of active service at such employee's sole expense; may contract with a nonprofit corporation operating under and governed by the provisions of this chapter or chapter 514 with respect of any hospital or medical service plan; and may contract with a health maintenance organization or an organized delivery system authorized to operate in this state with respect to health maintenance organization or organized delivery system activities.

Sec. 11. Section 509A.12, Code 1995, is amended to read as follows:

509A.12 DEFERRED COMPENSATION PROGRAM FOR GOVERNMENTAL EMPLOYEES.

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. The contract acquired for an employee~~,~~ shall be in accordance with the plan document and from any company ~~the employee may choose~~ that is authorized to do business in this state, or through an Iowa-licensed salesperson 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.~~ When the state of Iowa acquires an investment product pursuant to the plan document the state does not become a shareholder, stockholder, or owner of a corporation in violation of Article VIII, section 3, of the Constitution of the State of Iowa or any other provision of law.

This section is in addition to any benefit program provided by law for employees of the state or its political subdivisions.

Approved May 4, 1995

CHAPTER 163

AMUSEMENT CONCESSIONS

H.F. 117

AN ACT relating to cost of play and value of prizes of games of skill and games of chance conducted at amusement concessions.

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

Section 1. Section 99B.3, subsection 1, paragraphs d and h, Code 1995, are amended to read as follows:

d. The game is posted and the cost to play the game does not exceed ~~one dollar~~ three dollars.

h. The actual retail value of any prize does not exceed ~~twenty-five~~ fifty dollars. If a prize consists of more than one item, unit or part, the aggregate retail value of all items, units or parts shall not exceed ~~twenty-five~~ fifty dollars.

Approved May 4, 1995

CHAPTER 164

DEPOSITS OF ESTATE FUNDS BY CORPORATE FIDUCIARIES

H.F. 257

AN ACT relating to the administration of trusts and estates by corporate fiduciaries.

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

Section 1. Section 633.156, Code 1995, is amended to read as follows:

633.156 DEPOSITS BY CORPORATE FIDUCIARIES.

Section 633.155 shall not be construed to prohibit a corporate fiduciary from making a deposit of estate funds in its own banking department or in the banking department of an affiliated bank. For purposes of this section, "affiliated bank" means any bank that controls, directly or indirectly, the fiduciary or is controlled, directly or indirectly, by an entity which also controls, directly or indirectly, the fiduciary.

Approved May 4, 1995

CHAPTER 165

DISSOLUTION OF MARRIAGE – HEARING EXEMPTION

H.F. 94

AN ACT to permit certain dissolutions of marriage to take place without a hearing.

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

Section 1. Section 598.8, Code 1995, is amended to read as follows:

598.8 HEARINGS.

1. ~~Hearings~~ Except as otherwise provided in subsection 2, hearings for dissolution of marriage shall be held in open court upon the oral testimony of witnesses, or upon the depositions of such witnesses taken as in other equitable actions or taken by a commissioner appointed by the court. ~~However, the~~ The court may in its discretion close the hearing. Hearings held for the purpose of determining child custody may be limited in attendance by the court.

2. The court may enter a decree of dissolution without a hearing under either of the following circumstances:

a. All of the following circumstances have been met:

(1) The parties have certified in writing that there has been a breakdown of the marriage relationship to the extent that the legitimate objects of matrimony have been destroyed and there remains no reasonable likelihood that the marriage can be preserved.

(2) All documents required by the court and by statute have been filed.

(3) The parties have entered into a written agreement settling all of the issues involved in the dissolution of marriage.

(4) There are no children of the marriage for whom support, as defined under section 598.1, may be ordered.

b. The respondent has not entered a general or special appearance or filed a motion or pleading in the case, the waiting period provided under section 598.19 has expired, and all of the following circumstances have been met:

(1) The petitioner has certified in writing that there has been a breakdown of the marriage relationship to the extent that the legitimate objects of matrimony have been destroyed and there remains no reasonable likelihood that the marriage can be preserved.

(2) All documents required by the court and by statute have been filed.

(3) There are no children of the marriage for whom support, as defined under section 598.1, may be ordered.

Approved May 4, 1995

CHAPTER 166

HARD LABOR BY INMATES

H.F. 215

AN ACT to require that all inmates of the institutions under the control of the department of corrections perform hard labor, and providing transition provisions.

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

Section 1. Section 904.701, Code 1995, is amended to read as follows:

904.701 SERVICES REQUIRED - GRATUITOUS ALLOWANCES.

1. ~~Inmates of the institutions may~~ An inmate of an institution shall be required to perform ~~any proper and reasonable service~~ hard labor which is suited to ~~their~~ the inmate's age, gender, physical and mental condition, strength, and attainments~~, for the benefit of the institutions or the welfare of the inmates, either~~ in the ~~institutions~~ institution proper, ~~or~~ in the industries established in connection with ~~them~~ the institution, or at such other places as may be determined by the director. Substantially equivalent hard labor programs shall be available to both male and female inmates. When an inmate of an institution is working outside the institution proper, the inmate shall be deemed at all times to be in the actual custody of the superintendent of the institution. Inmates performing hard labor on chain gangs at a location other than within or on the grounds of a correctional

institution shall be attired in brightly colored uniforms that readily identify them as inmates of correctional institutions. Inmates performing other types of hard labor at locations other than within or on the grounds of a correctional institution may also be required by the department to wear the brightly colored uniforms. Inmates not required to wear brightly colored uniforms while performing hard labor shall be otherwise clearly designated as inmates of correctional institutions. The employment of inmates in hard labor shall not displace employed workers, shall not be applied to skills, crafts, or trades in which a local surplus of labor exists, and shall not impair existing contracts for employment or services.

2. The director may when practicable pay the inmate an allowance as the director deems proper in view of the circumstances, and in view of the cost attending the maintenance of the inmate. The allowance is a gratuitous payment and is not a wage arising out of an employment relationship. The payment shall not exceed the amount paid to free labor for a like or equivalent service.

3. For purposes of this section, "hard labor" means physical or mental labor which is performed for a period of time which shall average, as nearly as possible, forty hours each week, and may include useful and productive work, chain gangs, menial labor, substance abuse or sex offender treatment programs, any training necessary to perform any work required, and, if possible, work providing an inmate with marketable vocational skills. "Hard labor" does not include labor which is dangerous to an inmate's life or health, is unduly painful, or is required to be performed under conditions that would violate occupational safety and health standards applicable to such labor if performed by a person who is not an inmate.

4. Notwithstanding subsection 1, an inmate who has been determined by the director to be unsuitable for the performance of hard labor due to the inmate's age, gender, physical or mental condition, strength, or security status shall not be required to perform hard labor.

5. The department shall adopt rules to implement this section.

Sec. 2. DEVELOPMENT OF PLAN AND TRANSITION TO FULL WORK PROGRAMMING BY DEPARTMENT. Notwithstanding section 1 of this Act, the department of corrections shall not be required to fully implement the requirements of section 904.701, until July 1, 1997. However, the department shall develop and implement a plan in consultation with state and local agencies and members of the private sector, which provides for the incremental implementation of the hard labor requirements contained in section 904.701, for each inmate who is physically and mentally able to perform hard labor and does not present an unreasonable security status, and who is not currently engaged in labor meeting the requirements. The plan shall provide for implementation of hard labor work programs during the interval of time between the effective date of this Act and July 1, 1997, with full implementation of the requirements of section 904.701 by July 1, 1997, and may provide for the performance of work by inmates both inside and outside of the institutions under the control of the department. The plan shall include a procedure for the determination of suitability of an inmate for the performance of hard labor and, if an inmate is found to be suitable, the placement of the inmate in an appropriate hard labor program. In selecting and developing work programs which are included within the plan, the department shall choose work programs which would require minimal additional administrative costs, which minimize the need for additional personnel, and which minimize the security risks to the general public. The department shall submit a report to the general assembly on January 1, 1996, outlining the progress made towards implementation of this Act. The department shall also file a copy of the completed plan with the general assembly on January 1, 1997.

Approved May 4, 1995

CHAPTER 167

CIVIL LITIGATION BY INMATES AND PRISONERS - INMATE ACCOUNTS

H.F. 246

AN ACT relating to civil litigation by inmates and prisoners and deductions from inmate accounts for certain expenses, including costs of litigation by inmates.

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

Section 1. NEW SECTION. 610A.1 ACTIONS OR APPEALS BROUGHT BY INMATES.

1. Notwithstanding section 610.1 or 822.5, if the person bringing a civil action or appeal is an inmate of an institution or facility under the control of the department of corrections or a prisoner of a municipal jail or detention facility, the inmate or prisoner shall pay in full all fees and costs associated with the action or appeal.

a. Upon filing of the action or appeal, the court shall order the inmate or prisoner to pay a minimum of twenty percent of the required filing fee before the court will take any further action on the inmate's or prisoner's action or appeal and shall also order the inmate or prisoner to make monthly payments of ten percent of all outstanding fees and costs associated with the inmate's or prisoner's action or appeal.

b. If the inmate has an inmate account under section 904.702, the department of corrections shall withdraw moneys maintained in the account for the payment of fees and costs associated with the inmate's action or appeal in accordance with the court's order until the required fees and costs are paid in full. The inmate shall file a certified copy of the inmate's account balance with the court at the time the action or appeal is filed.

c. An inmate may authorize the department of corrections to make or the inmate may make an initial or subsequent payment beyond that requirement by this section.

d. The court may dismiss any civil action or appeal in which the inmate or prisoner has previously failed to pay fees and costs in accordance with this section.

2. The court may make the authorization provided for in section 610.1 if it finds that the inmate does not have sufficient moneys in the inmate's account or sufficient moneys flowing into the account to make the payments required in this section or, in the case of a prisoner of a municipal jail or detention facility, that the prisoner otherwise meets the requirements of section 610.1.

Sec. 2. NEW SECTION. 610A.2 DISMISSAL OF ACTION OR APPEAL.

1. In addition to the penalty provided in section 610.5, the court in which an affidavit of inability to pay has been filed may dismiss the action or appeal in whole or in part on a finding of either of the following:

a. The allegation of inability to pay is false.

b. The action or appeal is frivolous or malicious in whole or in part.

2. In determining whether an action or appeal is frivolous or malicious, the court may consider whether the claim has no arguable basis in law or fact or the claim is substantially similar to a previous claim, either in that it is brought against the same party or in that the claim arises from the same operative facts as a previous claim which was determined to be frivolous or malicious.

3. In making the determination under subsection 1, the court may hold a hearing before or after service of process on its own motion or on the motion of a party. The hearing may be held by telephone or video conference on the motion of the court or of a party.

4. The court may dismiss the entire action or appeal or a portion of the action or appeal before or after service of process. If a portion of the action or appeal is dismissed, the court shall also designate the issues and defendants on which the action or appeal is to proceed without paying fees and costs. This order is not subject to interlocutory appeal.

Sec. 3. NEW SECTION. 610A.3 LOSS OF GOOD CONDUCT TIME.

If an action or appeal brought by an inmate or prisoner in state or federal court is determined to be malicious or filed solely to harass or if the inmate or prisoner testifies falsely or otherwise presents false evidence or information to the court in such an action, the inmate shall lose some or all of the good conduct time credits acquired by the inmate or prisoner. The court may make an order deducting the credits or the credits may be deducted pursuant to a disciplinary hearing pursuant to chapter 903A at the facility at which the inmate is held.

Sec. 4. NEW SECTION. 610A.4 COST SETOFF.

The state or a municipality shall have the right to set off the cost of incarceration of an inmate or prisoner at any time, following notice and hearing, against any claim made by or monetary obligation owed to an inmate or prisoner for whom the cost of incarceration can be calculated.

Sec. 5. Section 903A.3, subsection 1, Code 1995, is amended to read as follows:

1. Upon finding that an inmate has violated an institutional rule, or has had an action or appeal dismissed under section 610A.2, the independent administrative law judge may order forfeiture of any or all good conduct time earned and not forfeited up to the date of the violation by the inmate and may order forfeiture of any or all good conduct time earned and not forfeited up to the date the action or appeal is dismissed, unless the court entered such an order under section 610A.3. The independent administrative law judge has discretion within the guidelines established pursuant to section 903A.4, to determine the amount of time that should be forfeited based upon the severity of the violation. Prior violations by the inmate may be considered by the administrative law judge in the decision.

Sec. 6. Section 904.702, Code 1995, is amended to read as follows:

904.702 ~~DEDUCTION TO PAY COURT COSTS, INDUSTRIES PROGRAM COSTS, INCARCERATION COSTS, OR DEPENDENTS — DEPOSITS — SAVINGS FUND~~ DEDUCTIONS FROM INMATE ACCOUNTS.

If allowances are paid pursuant to section 904.701, the director ~~may deduct an amount established by the inmate's restitution plan of payment or an amount sufficient to pay all or part of the court costs taxed as a result of the inmate's commitment~~ shall establish an inmate account, for deposit of those allowances and for deposit of moneys sent to the inmate from a source other than the department of corrections. ~~The amount deducted shall be forwarded to the clerk of the district court or proper official.~~ The director may deduct an amount, not to exceed ten percent of the amount of the allowance, unless the inmate requests a larger amount, to be deposited into the inmate savings fund ~~established in~~ as required under section 904.508, subsection 2. ~~However, if the inmate's deposit in the inmate savings fund is sufficient to pay the amount due the inmate upon discharge, parole, or placement on work release pursuant to section 906.9, and the inmate has voluntarily withdrawn from the savings fund, the director shall not make further deposits from the inmate's allowances into the savings fund unless the inmate chooses to participate in the savings fund.~~ The director shall deduct from the inmate account an amount established by the inmate's restitution plan of payment. The director shall also deduct from any remaining account balance an amount sufficient to pay all or part of any judgment against the inmate, including but not limited to judgments for taxes and child support, and court costs and fees assessed either as a result of the inmate's confinement or amounts required to be paid under section 610A.1. Written notice of the amount of the deduction shall be given to the inmate, who shall have five days after receipt of the notice to submit in writing any and all objections to the deduction to the director, who shall consider the objections prior to transmitting the deducted amount to the clerk of the district court. The director need give only one notice for each action or appeal under section 610A.1 for which periodic deductions are to be made. The director shall next deduct from any remaining account balance an amount sufficient to pay all or part of any costs assessed against the inmate for misconduct

or damage to the property of others. The director may deduct and disburse an amount sufficient for industries' programs to qualify under the eligibility requirements established in the Justice Assistance Act of 1984, Pub. L. No. 98-473, including an amount to pay all or part of the cost of the inmate's incarceration. The director may pay all or any part of remaining allowances paid pursuant to section 904.701 directly to a dependent of the inmate, or may deposit the allowance to the account of the inmate, or may deposit a portion and allow the inmate a portion for the inmate's personal use.

The director, the institutional division, and the department shall not be liable to any person for any damages caused by the withdrawal or failure to withdraw money or the payment or failure to make any payment under this section.

Approved May 4, 1995

CHAPTER 168

EXHIBITION OF PERSONS

S.F. 366

AN ACT relating to the exhibition of humans.

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

Section 1. Section 727.10, Code 1995, is amended to read as follows:

727.10 EXHIBITING ~~DEFORMED OR ABNORMAL~~ PERSONS.

~~Any~~ A person ~~who~~ shall not exhibit, place on exhibition, or cause to be exhibited any ~~deformed, maimed, idiotic or abnormal~~ person ~~or human monstrosity~~ without the ~~exhibited person's or human monstrosity's consent, and receive any fee or compensation therefor,~~ permission of the person exhibited or the person's parent or guardian. A parent or guardian of an exhibited person shall not receive compensation from the exhibition. A person who violates this section commits a serious misdemeanor.

Approved May 4, 1995

CHAPTER 169

COLLECTION OF RESTITUTION AND OTHER COURT REVENUES

S.F. 403

AN ACT relating to collection of delinquent restitution payments and providing an effective date.

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

Section 1. Section 321.40, unnumbered paragraph 4, Code 1995, is amended to read as follows:

The county treasurer shall refuse to renew the registration of a vehicle registered to a person when notified that ~~there is a warrant outstanding for that person's arrest out of a~~

the person has not paid restitution as defined under section 910.1, subsection 3, to the clerk of the court located within that county ~~and the warrant arises out of the alleged violation of a provision of this chapter or of an ordinance adopted by a local authority relating to the stopping, parking or operation of a vehicle or the regulation of traffic~~. Each clerk of court ~~in this state~~ subject to this section shall, by the last day of each month, notify the county treasurer of that county of all persons ~~against whom such an arrest warrant has been issued and is outstanding~~ who owe delinquent restitution. Immediately upon the cancellation or satisfaction of ~~such an arrest warrant~~ the restitution the clerk of court shall notify ~~the person against whom the arrest warrant was issued and~~ the county treasurer if that person's name appeared on the last list furnished to the county treasurer. This paragraph does not apply to the transfer of a registration or the issuance of a new registration. The provisions of this paragraph are applicable to counties with a population of ~~two hundred~~ twenty-five thousand or more. The provisions of this paragraph shall be applicable to any county with a population of less than ~~two hundred~~ twenty-five thousand upon the adoption of a resolution by the county board of supervisors so providing.

Sec. 2. Section 321.236, subsection 1, paragraph c, Code 1995, is amended to read as follows:

c. If the local authority regulating the standing or parking of vehicles under this subsection is located in a county where the renewal of registration of a vehicle shall be ~~denied~~ refused for ~~outstanding arrest warrants~~ unpaid restitution under section 321.40, the simple notice of fine under paragraph "a" ~~of this subsection~~ shall contain the following statement:

"FAILURE TO PAY ~~A JUDGMENT FOR A PARKING VIOLATION~~ RESTITUTION OWED BY YOU CAN BE GROUNDS FOR REFUSING TO RENEW YOUR MOTOR VEHICLE'S REGISTRATION."

~~This paragraph does not invalidate forms for notice of parking violations in existence prior to July 1, 1980. Existing forms may be used until supplies are exhausted.~~

Sec. 3. Section 331.756, subsection 5, unnumbered paragraph 4, Code 1995, is amended to read as follows:

All fines, penalties, court costs, fees, and restitution for court-appointed attorney fees or expenses of a public defender which are delinquent as defined in section 602.8107 may be collected by the county attorney or the person procured or designated by the county attorney. In order to receive a percentage of the amounts collected pursuant to section 602.8107, the county attorney must file annually with the clerk of the district court on or before July 1 a notice of full commitment to collect delinquent obligations and must file on the first day of each month a list of the cases in which the county attorney or the person procured or designated by the county attorney is pursuing the collection of delinquent obligations. The annual notice shall contain a list of procedures which will be initiated by the county attorney. Amounts collected by the county attorney or the person procured or designated by the county attorney shall be distributed in accordance with section 602.8107.

Sec. 4. Section 421.17, subsection 25, unnumbered paragraph 1, Code 1995, 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 civil penalty or restitution 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. 5. Section 421.17, subsection 25, paragraph f, Code 1995, is amended to read as follows:

f. The department shall set off the debt ~~against, and deduct~~, plus a fee established by rule to reflect the cost of processing ~~from~~, against the debtor's income tax refund or rebate. The department shall transfer ninety percent of the amount set off to the treasurer of

state for deposit in the general fund of the state. The remaining ten percent shall be remitted to the judicial department and used to defray the costs of this procedure. If the debtor gives timely written notice of intent to contest the amount of the claim, the department shall hold the refund or rebate until final determination of the correct amount of the claim.

Sec. 6. Section 602.8107, subsection 1, Code 1995, is amended to read as follows:

1. Restitution as defined in section 910.1 and all other fines, penalties, fees, court costs, and surcharges owing and payable to the clerk 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.~~ Any fees charged to the clerk with respect to payment by credit card may be paid from receipts collected by credit card.

Sec. 7. Section 602.8107, subsection 4, unnumbered paragraphs 1 and 2, Code 1995, are amended to read as follows:

All fines, penalties, court costs, fees, surcharges, and restitution for court-appointed attorney fees or for expenses of a public defender which are delinquent may be collected by the county attorney or the county attorney's designee. Thirty-five percent of the amounts collected by the county attorney or the person procured or designated by the county attorney shall be deposited in the general fund of the county if the county attorney has filed the notice required in section 331.756, subsection 5, unless the county attorney has discontinued collection efforts on a particular delinquent amount ~~and has transferred collection responsibilities to the department of revenue and finance~~. The remainder shall be paid to the clerk for distribution under section 602.8108.

This subsection does not apply to amounts collected for victim restitution, the victim compensation fund, criminal penalty surcharge, or amounts collected as a result of procedures initiated under subsection 5 or under section 421.17, subsection 25.

Sec. 8. Section 602.8107, subsection 5, Code 1995, is amended to read as follows:

5. If a county attorney ~~has not filed a~~ does not file the notice ~~of commitment to collect delinquent obligations pursuant to~~ and list of cases required in section 331.756, subsection ~~5, or has transferred collection responsibility for a particular delinquent amount to the department, the department of revenue and finance or its designee may collect delinquent fines, penalties, court costs, surcharges, restitution for court-appointed attorney fees, or expenses of a public defender. From the amounts collected, the department shall pay for the services of its designee and the remainder shall be deposited in the general fund of the state~~, the judicial department may assign obligations to the centralized collection unit of the department of revenue and finance or its designee to collect delinquent debts owed to the clerk of the district court.

The department of revenue and finance may impose a fee established by rule to reflect the cost of processing which shall be added to the debt owed to the clerk of the district court. Any amounts collected by the unit will first be applied to the processing fee. The remaining amounts shall be remitted to the clerk of the district court for the county in which the debt is owed. The judicial department may prescribe rules to implement this section. These rules may provide for remittance of processing fees to the department of revenue and finance or its designee.

~~This subsection does not apply to amounts collected for victim restitution, the victim compensation fund, criminal penalty surcharge, or amounts collected as a result of procedures initiated under section 421.17, subsection 25.~~ Satisfaction of the outstanding obligation occurs only when all fees or charges and the outstanding obligation are paid in full. Payment of the outstanding obligation only shall not be considered payment in full for satisfaction purposes.

The department of revenue and finance or its collection designee shall file with the clerk of the district court a notice of the satisfaction of each obligation to the full extent of the

moneys collected in satisfaction of the obligation. The clerk of the district court shall record the notice and enter a satisfaction for the amounts collected.

Sec. 9. Section 666.6, Code 1995, is amended to read as follows:

666.6 ANNUAL REPORT OF OUTSTANDING FINES, PENALTIES, FORFEITURES, AND RECOGNIZANCES.

The clerk of the district court shall make an annual report in writing to the state court administrator no later than ~~January~~ August 15 of the fines, penalties, forfeitures, and recognizances which have not been paid, remitted, canceled, or otherwise satisfied during the previous ~~calendar~~ fiscal year.

Sec. 10. EFFECTIVE DATE. This Act takes effect January 1, 1996.

Approved May 4, 1995

CHAPTER 170

REGULATION OF REAL ESTATE BROKERS AND SALESPERSONS – MISCELLANEOUS PROVISIONS

H.F. 252

AN ACT relating to the regulation of real estate brokers and salespersons.

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

Section 1. Section 543B.1, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

543B.1 LICENSE MANDATORY.

A person shall not, directly or indirectly, with the intention or upon the promise of receiving any valuable consideration, offer, attempt, agree to perform, or perform any single act as a real estate broker whether as a part of a transaction or as an entire transaction, or represent oneself as a real estate broker, broker associate, or salesperson, without first obtaining a license and otherwise complying with the requirements of this chapter.

Sec. 2. Section 543B.3, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

543B.3 BROKER – DEFINITION.

As used in this chapter, "real estate broker" means a person acting for another for a fee, commission, or other compensation or promise, whether it be for all or part of a person's time, and who engages directly or indirectly in any of the following acts:

1. Sells, exchanges, purchases, rents, or leases real estate.
2. Lists, offers, attempts, or agrees to list real estate for sale, exchange, purchase, rent, or lease.
3. Advertises or holds oneself out as being engaged in the business of selling, exchanging, purchasing, renting, leasing, or managing real estate.
4. Negotiates, or offers, attempts, or agrees to negotiate, the sale, exchange, purchase, rental, or lease of real estate.
5. Buys, sells, offers to buy or sell, or otherwise deals in options on real estate or improvements on real estate.
6. Collects, or offers, attempts, or agrees to collect, rent for the use of real estate.
7. Assists or directs in the procuring of prospects, intended to result in the sale, exchange, purchase, rental, or leasing of real estate.

8. Assists or directs in the negotiation of any transaction intended to result in the sale, exchange, purchase, rental, or leasing of real estate.

Sec. 3. Section 543B.4, Code 1995, is amended to read as follows:

543B.4 REAL ESTATE - DEFINITION.

~~"Real estate" as~~ As used in this chapter, ~~shall mean~~ "real estate" means real property wherever situated, and ~~shall include~~ includes any and all leaseholds or any other interest or estate ~~therein~~ in land, and business opportunities which involve any interest in real property.

Sec. 4. Section 543B.5, Code 1995, is amended to read as follows:

543B.5 OTHER DEFINITIONS.

As used in this chapter:

1. "Branch office" means a real estate broker's office other than a principal place of business.

~~1.~~ 2. "Broker associate" means a person who has a broker's license but is licensed under, and employed by or otherwise associated with, another broker as a salesperson.

~~2.~~ 3. "Inactive license" means either a broker or salesperson license certificate that is on file with the real estate commission in the commission office and during which time the licensee is precluded from engaging in any of the acts of this chapter.

4. "Person" means an individual, partnership, association, or corporation.

5. "Regular employee" means a person whose compensation is fixed in advance, who does not receive a commission, who works exclusively for the owner, and whose total compensation is subject to state and federal withholding.

~~3.~~ 6. "Salesperson" means a person who is licensed under, and employed by or otherwise associated with, a real estate broker, as a selling, renting, or listing agent or representative of the broker.

Sec. 5. Section 543B.7, Code 1995, is amended to read as follows:

543B.7 ACTS EXCLUDED FROM PROVISIONS.

The provisions of this chapter shall not apply to the sale, exchange, purchase, rental, lease, or advertising of any real estate in any of the following cases:

~~1. Owners or lessors, or to the regular employees thereof, with respect to the property owned and leased where such acts are performed in the regular course of or incident to the management of property owned and the investment therein.~~

1. A person who, as owner, spouse of an owner, general partner of a limited partnership, lessor, or prospective purchaser, or through another engaged by such person on a regular full-time basis, buys, sells, manages, or otherwise performs any act with reference to property owned, rented, leased, or to be acquired by such person.

2. By any person acting as attorney in fact under a duly executed and acknowledged power of attorney from the owner, ~~authorizing~~ to act on behalf of the owner or lessor to authorize the final consummation and execution of any contract for the sale, leasing, or exchange of real estate.

3. ~~Nor shall the provisions of this chapter apply to an~~ A licensed attorney admitted to practice in Iowa acting solely as an incident to the practice of law.

4. ~~The acts of one while~~ A person acting as a receiver, trustee in bankruptcy, administrator, executor, guardian, or while acting under court order or ~~while acting~~ under authority of a deed of trust, trust agreement, or will.

5. The acts of an auctioneer in conducting a public sale or auction. The auctioneer's role must be limited to establishing the time, place, and method of an auction, advertising the auction including a brief description of the property for auction and the time and place for the auction, and crying the property at the auction. If the auctioneer closes or attempts to close the sale of the property or otherwise engages in acts defined in sections 543B.3 and 543B.6, then the requirements of this chapter do apply to the auctioneer.

6. An isolated real estate rental transaction by an owner's representative on behalf of ~~said~~ the owner; such transaction not being made in the course of repeated and successive transactions of a like character.

7. The sale of time-share uses as defined in section 557A.2.

8. A person acting as a resident manager when such resident manager resides in the dwelling and is engaged in the leasing of real property in connection with their employment.

9. An officer or employee of the federal government, state government, or a political subdivision of the state, in the conduct of the officer's or employee's official duties.

10. A person employed by a public or private utility who performs an act with reference to property owned, leased, or to be acquired by the utility employing that person, where such an act is performed in the regular course of, or incident to, the management of the property and the investment in the property.

Sec. 6. Section 543B.34, subsection 9, Code 1995, is amended to read as follows:

9. a. Paying a commission or any part of a commission for performing any of the acts specified in this chapter to a person who is not a licensed broker or salesperson under this chapter or who is not engaged in the real estate business in another state or foreign country, provided that the provisions of this section shall not be construed to prohibit the payment of earned commissions to any of the following:

(1) The estate or heirs of a deceased real estate licensee when such licensee had a valid real estate license in effect at the time the commission was earned.

(2) A citizen of another country acting as a referral agent if that country does not license real estate brokers and if the Iowa licensee paying the commission or compensation obtains and maintains reasonable written evidence that the payee is a citizen of the other country, is not a resident of this country, and is in the business of brokering real estate in that other country.

(3) A corporation pursuant to paragraph "b".

b. ~~However, a~~ A broker may pay a commission to a corporation which is wholly owned, or owned with a spouse, by a salesperson or broker associate employed by or otherwise associated with the broker, if all of the following conditions are met:

~~a.~~ (1) The corporation does not engage in real estate transactions as a third-party agent or in any other activity requiring a license under this chapter.

~~b.~~ (2) The employing broker is not relieved of any obligation to supervise the employed licensee or any other requirement of this chapter or the rules adopted pursuant to this chapter.

~~c.~~ (3) The employed broker associate or salesperson is not relieved from any personal civil liability for any licensed activities by interposing the corporate form.

Sec. 7. Section 543B.46, subsection 4, Code 1995, is amended to read as follows:

4. Each broker shall only deposit trust funds received on real estate or business opportunity transactions as defined in section 543B.6 in ~~said~~ the common trust account and shall not commingle the broker's personal funds or other funds in ~~said~~ the trust account with the exception that a broker may deposit and keep a sum not to exceed ~~one~~ five hundred dollars in ~~said~~ the account from the broker's personal funds, which sum shall be specifically identified and deposited to cover bank service charges relating to ~~said~~ the trust account.

Approved May 4, 1995

CHAPTER 171

EXEMPTIONS FROM MOTOR CARRIER SAFETY REQUIREMENTS

H.F. 393

AN ACT relating to certain exemptions from federal motor carrier safety regulations.

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

Section 1. Section 321.449, unnumbered paragraph 4, Code 1995, is amended to read as follows:

Notwithstanding other provisions of this section, rules adopted under this section for ~~a driver~~ drivers of ~~a~~ commercial ~~vehicle~~ vehicles shall not apply to a driver ~~for a private carrier, who is not for hire and~~ of a commercial vehicle who is engaged exclusively in intrastate commerce, when the ~~driver's~~ commercial ~~vehicle is not operated more than one hundred miles from the driver's work reporting location~~ vehicle's gross vehicle weight rating is 26,000 pounds or less, unless the vehicle is used to transport hazardous materials requiring a placard or if the vehicle is designed to transport more than fifteen passengers, including the driver. For the purpose of complying with the hours of service recordkeeping requirements under 49 C.F.R. § 395.1(e)(5), a driver's report of daily beginning and ending on duty time submitted to the motor carrier at the end of each work week shall be considered acceptable motor carrier time records. In addition, rules adopted under this section shall not apply to a driver for a farm operation as defined in section 352.2, or for an agricultural interest when the commercial vehicle is operated between the farm as defined in section 352.2 and another farm, between the farm and a market for farm products, or between the farm and an agribusiness location. A driver or a driver-salesperson for a private carrier, who is not for hire and who is engaged exclusively in intrastate commerce may drive twelve hours, be on duty sixteen hours in a twenty-four hour period and be on duty seventy hours in seven consecutive days or eighty hours in eight consecutive days. A driver-salesperson means as defined in 49 C.F.R. § 395.2, adopted as of a specific date by the department by rule.

Approved May 4, 1995

CHAPTER 172

APPLICATION OF PESTICIDES AND OTHER CHEMICALS

S.F. 256

AN ACT providing for pesticides, by providing for the notification of application and providing for the elimination of provisions relating to chemigation.

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

Section 1. Section 206.2, subsection 7, Code 1995, is amended by striking the subsection.

Sec. 2. Section 206.5, subsection 6, Code 1995, is amended by striking the subsection.

Sec. 3. Section 206.19, subsection 3, Code 1995, is amended to read as follows:

3. Determine in cooperation with municipalities, the proper notice to be given by a commercial or public applicator to occupants of adjoining properties in urban areas prior to or after the exterior application of pesticides, and establish a schedule to determine the

periods of application least harmful to living beings~~, and adopt rules to implement these provisions~~. The rules shall provide that a commercial or public applicator must provide notice only if an occupant requests that the commercial or public applicator provide the occupant notice in a timely manner prior to the application. The request shall include the name and address of the occupant, a telephone number of a location where the occupant may be contacted during normal business hours and evening hours, and the address of each property that adjoins the occupant's property. The notification shall expire on December 31 of each year, or the date when the occupant no longer occupies the property, whichever is earlier. Municipalities shall cooperate with the department by reporting infractions and in implementing this subsection.

Sec. 4. Section 206.22, subsection 4, Code 1995, is amended by striking the subsection.

Sec. 5. REPEAL. Chapter 206A, Code 1995, is repealed.

Approved May 4, 1995

CHAPTER 173

ARTS AND CULTURAL ENHANCEMENT AND ENDOWMENT

S.F. 390

AN ACT relating to recompense to a cooperating teacher and to the Iowa arts and cultural enhancement and endowment program and foundation.

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

Section 1. Section 262.75, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. In lieu of the payment of monetary recompense to a cooperating teacher, the cooperating teacher may direct that the monetary recompense be paid by the institution directly into a scholarship fund which has been established jointly by the board of directors of the school district that employs the teacher and the local teachers' association. In such cases, the cooperating teacher shall receive neither monetary recompense nor any reduction in tuition at the institution.

Sec. 2. Section 303C.4, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Enhancement account funds shall be available, upon certification by the department ~~of the availability of matching funds from private sources, to nonprofit organizations for the purposes of education, outreach, and enhancement~~ that the applicant has secured nonstate matching funds at least equal to the amount of the grant award. ~~An organization proposing a program must have available funds from private sources in order to receive an equal amount of public funds contained in the enhancement account.~~ The department shall consider the recommendations of the caucus on arts and cultural enhancement made pursuant to section 303C.6, and the recommendations of the advisory council created in section 303C.5, and shall adopt rules pursuant to chapter 17A governing the distribution of funds to organizations. Proposed programs shall do at least one of the following:

Sec. 3. Section 303C.5, Code 1995, is amended to read as follows:

303C.5 BLOCK GRANTS PROVIDED TO QUALIFIED ORGANIZATIONS.

~~1.~~ Enhancement account funds shall be available ~~for distribution to qualified organizations~~ for the purposes of enhancing the quality of local arts and cultural programs. ~~In order to qualify for a block grant, an organization must represent at least seventy percent of its defined membership.~~ The department shall adopt rules pursuant to chapter 17A governing the eligibility for, and the distribution of, block grants. The rules adopted shall include, but are not limited to, requirements that eligible organizations have adequate bylaws, mission statements, representational board structure, and publicly accessible arts programming.

~~2. An advisory council consisting of organizations funded by the department pursuant to this section, and representatives of the Iowa assembly for local arts agencies, Iowa alliance for arts education, Iowa arts coalition, the Iowa museum association, the chairperson of the statewide caucus, the department of education, and the Iowa humanities board is established. The advisory council shall review and advise the department regarding the awarding of funds pursuant to section 303C.4.~~

Sec. 4. NEW SECTION. 303C.5A ADVISORY COUNCIL.

1. An advisory council is established to advise the department regarding the awarding of funds pursuant to section 303C.4. The advisory council shall consist of seven members selected as follows:

a. The person elected as chairperson of the statewide cultural caucus pursuant to section 303C.6, subsection 2.

b. The chairperson of the Iowa humanities board.

c. The chairperson of the Iowa arts council.

d. Four members appointed by the director of the department of cultural affairs, two of whom shall be representatives of statewide arts organizations.

2. The majority shall not include any member who has a conflict of interest and a statement by a member of a conflict of interest shall be conclusive for this purpose.

3. The term of office for the member selected pursuant to subsection 1, paragraph "a", is one year. The term of office for members selected pursuant to subsection 1, paragraphs "b" through "d", is three years. Terms shall be staggered and shall commence and end as provided in section 69.19. A vacancy shall be filled by the original appointing authority.

4. The advisory council shall be bipartisan and gender balanced in accordance with sections 69.16 and 69.16A.

Sec. 5. Section 303C.6, subsection 2, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Biennially, in the month of June during odd-numbered years, the department shall convene a statewide caucus on arts and cultural enhancement. ~~The caucus shall be held for one day during the month of June in the capitol complex, Des Moines.~~

Sec. 6. Section 303C.6, subsection 2, paragraph a, Code 1995, is amended to read as follows:

a. Prior to ~~a~~ the statewide caucus, the department shall make arrangements to hold a conference in each of six regions of the state as defined by the Iowa arts council. The department shall promote attendance of interested persons at each conference. A designee of the department shall call each conference to order and serve as temporary chairperson until persons attending elect a chairperson. The department shall provide persons attending with current information regarding cultural enhancement programs and expenditures. Persons attending shall identify opportunities for programs in the areas of education, outreach, and enhancement and review recommended changes in enhancement account policies, programs, and funding, and make recommendations in the form of a resolution. The persons attending ~~each~~ the conference shall elect six persons from among the attendees to serve as regional, voting delegates to the statewide caucus~~, and one person to serve as~~. The conference attendees shall elect a chairperson ~~of the region~~ from among the

six representatives. The selection of persons at each conference to serve as regional, voting delegates to the statewide caucus shall conform to the gender balance requirements of section 69.16A. Other interested persons may attend the statewide caucus as nonvoting attendees.

Sec. 7. Section 303C.6, subsection 3, Code 1995, is amended by striking the subsection.

Sec. 8. Section 303C.7, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

303C.7 ARTS AND CULTURAL ENDOWMENT PROGRAM ESTABLISHED.

The arts and cultural endowment program is established. The program shall be administered by the arts and cultural endowment foundation governing board established in section 303C.8, which shall adopt rules pursuant to chapter 17A to fulfill the purposes of this section. Interest on the funds in the endowment account established in section 303C.2, subsection 2, is available for the purposes of this section. The endowment foundation shall establish criteria for the awarding of grants, fellowships, and scholarships to nonprofessional, professional, and student artists to develop, encourage, and enhance the arts and cultural programs in the state, upon submission of a proposal by the artist. An artist shall request no more than twenty-five thousand dollars in a proposal.

Sec. 9. NEW SECTION. 303C.8 ARTS AND CULTURAL ENDOWMENT FOUNDATION – GOVERNING BOARD – ESTABLISHED.

1. The arts and cultural endowment foundation is established and shall be administered by a governing board consisting of seven members, three of whom shall be appointed by the Iowa humanities board and four of whom shall be appointed by the director of the department. Members shall be knowledgeable about education, arts, the humanities, and fund-raising activities in this state. A vacancy shall be filled by the original appointing authority. Members shall serve three-year staggered terms which shall commence and end as provided in section 69.19. The governing board shall be bipartisan and gender balanced in accordance with sections 69.16 and 69.16A.

2. The Iowa arts council shall provide administrative services for the arts and cultural endowment foundation and shall advise and assist the governing board. The exercise of the powers granted to the endowment foundation in this chapter is an essential governmental function. The endowment foundation shall be located in the department's offices.

3. The endowment foundation may solicit and accept gifts, grants, donations, bequests, and in-kind contributions for deposit in the endowment account. The endowment foundation shall, to the extent possible, use gifts, donations, and bequests in accordance with the expressed desires of the person making the gift, donation, or bequest.

Sec. 10. TRANSITION. The terms of members serving on the advisory council abolished by this Act shall expire June 30, 1995. Members of the initial advisory council established pursuant to section 4 of this Act shall be appointed not later than July 1, 1995. Notwithstanding section 4 of this Act, two members appointed to the initial advisory council established under this Act shall serve terms ending April 30, 1996; two members shall serve terms ending April 30, 1997; and two members shall serve terms ending April 30, 1998. The person elected as chairperson of the statewide cultural caucus pursuant to section 303C.6, subsection 2, shall serve a term ending April 30, 1996.

Sec. 11. INITIAL GOVERNING BOARD. Members of the initial governing board established pursuant to section 9 of this Act shall be appointed not later than July 1, 1995. Notwithstanding section 9 of this Act, one member appointed by the Iowa humanities board and one member appointed by the department to the initial governing board established under section 9 of this Act shall each serve terms ending April 30, 1996; one member

appointed by the Iowa humanities board and one member appointed by the department shall each serve terms ending April 30, 1997; and one member appointed by the Iowa humanities board and two members appointed by the department shall each serve terms ending April 30, 1998.

Approved May 4, 1995

CHAPTER 174

SALES TAX EXEMPTION – PLANT PRODUCTION

H.F. 159

AN ACT relating to the production of ornamental, flowering, or vegetable plants for purposes of the state sales tax.

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

Section 1. Section 422.42, Code 1995, is amended by adding the following new subsections and renumbering current subsections as necessary:

NEW SUBSECTION. 1. "Agricultural production" includes the production of flowering, ornamental, or vegetable plants in commercial greenhouses or otherwise. "Agricultural products" include flowering, ornamental, or vegetable plants.

NEW SUBSECTION. 2A. "Farm machinery and equipment" means machinery and equipment used in agricultural production.

Sec. 2. Section 422.42, subsection 11, Code 1995, is amended to read as follows:

11. "Retail sale" or "sale at retail" means the sale to a consumer or to any person for any purpose, other than for processing, for resale of tangible personal property or taxable services, or for resale of tangible personal property in connection with taxable services; and includes the sale of gas, electricity, water, and communication service to retail consumers or users; but does not include agricultural breeding livestock and domesticated fowl; and does not include commercial fertilizer, agricultural limestone, herbicide, pesticide, insecticide, food, medication, or agricultural drain tile, including installation of agricultural drain tile, any of which are to be used in disease control, weed control, insect control, or health promotion of plants or livestock produced as part of agricultural production for market; and does not include electricity, steam, or any taxable service when purchased and used in the processing of tangible personal property intended to be sold ultimately at retail. When used by a manufacturer of food products, carbon dioxide in a liquid, solid, or gaseous form, electricity, steam, and other taxable services are sold for processing when used to produce marketable food products for human consumption, including but not limited to, treatment of material to change its form, context, or condition, in order to produce the food product, maintenance of quality or integrity of the food product, changing or maintenance of temperature levels necessary to avoid spoilage or to hold the food product in marketable condition, maintenance of environmental conditions necessary for the safe or efficient use of machinery and material used to produce the food product, sanitation and quality control activities, formation of packaging, placement into shipping containers, and movement of the material or food product until shipment from the building of manufacture. Tangible personal property is sold for processing within the meaning of this subsection only when it is intended that the property will, by means of fabrication, compounding, manufacturing, or germination become an integral part of other tangible personal property intended to be sold ultimately at retail; or will be consumed as fuel in

creating heat, power, or steam for processing including grain drying, or for providing heat or cooling for livestock buildings or for greenhouses or buildings or parts of buildings dedicated to the production of flowering, ornamental, or vegetable plants intended for sale in the ordinary course of business, or for generating electric current, or in implements of husbandry engaged in agricultural production; or the property is a chemical, solvent, sorbent, or reagent, which is directly used and is consumed, dissipated, or depleted, in processing personal property which is intended to be sold ultimately at retail or consumed in the maintenance or repair of fabric or clothing, and which may not become a component or integral part of the finished product. The distribution to the public of free newspapers or shoppers guides is a retail sale for purposes of the processing exemption.

Sec. 3. Section 422.45, subsection 39, paragraphs a and c, Code 1995, are amended to read as follows:

a. The implement, machinery, or equipment is directly and primarily used in livestock or dairy production or in the production of flowering, ornamental, or vegetable plants.

c. The replacement part is essential to any repair or reconstruction necessary to the farm machinery's or equipment's exempt use in livestock or dairy production or in the production of flowering, ornamental, or vegetable plants.

Sec. 4. Section 422.47, subsection 4, paragraph f, Code 1995, is amended to read as follows:

f. In this section, "fuel" includes gas, electricity, water, heat, steam, and any other tangible personal property consumed in creating heat, power, or steam. In this section, "fuel consumed in processing" means fuel used or disposed of for processing including grain drying, for providing heat or cooling for livestock buildings or for greenhouses or buildings or parts of buildings dedicated to the production of flowering, ornamental, or vegetable plants intended for sale in the ordinary course of business, or for generating electric current, or in implements of husbandry engaged in agricultural production. In this subsection, "fuel exemption certificate" means an exemption certificate given by the purchaser under penalty of perjury to assist retailers in properly accounting for nontaxable sales of fuel consumed in processing. In this subsection, "substantial change" means a change in the use or disposition of tangible personal property and services by the purchaser such that the purchaser pays less than ninety percent of the purchaser's actual sales tax liability. A change includes a misstatement of facts in an application made pursuant to paragraph "c" or in a fuel exemption certificate.

Approved May 5, 1995

CHAPTER 175

REAL ESTATE TRANSFER TAX EXEMPTIONS – PURCHASE MONEY MORTGAGE LIENS

S.F. 189

AN ACT relating to the transfer of real estate by exempting certain transfers of real estate from the real estate transfer tax and providing that a lien for a purchase money mortgage has priority over other interests in the property.

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

Section 1. Section 428A.2, subsection 15, Code 1995, is amended to read as follows:

15. Deeds between a family corporation, partnership, ~~or~~ limited partnership, limited

liability partnership, or limited liability company and its stockholders, ~~or~~ partners, or members for the purpose of transferring real property in an incorporation or corporate dissolution or the organization or dissolution of a partnership, ~~or~~ limited partnership, limited liability partnership, or limited liability company under the laws of this state, where the deeds are given for no actual consideration other than for shares or for debt securities of the corporation, partnership, ~~or~~ limited partnership, limited liability partnership, or limited liability company. For purposes of this subsection, a family corporation, partnership, ~~or~~ limited partnership, limited liability partnership, or limited liability company is a corporation, partnership, ~~or~~ limited partnership, limited liability partnership, or limited liability company where the majority of the voting stock of the corporation, or of the ownership shares of the partnership, ~~or~~ limited partnership, limited liability partnership, or limited liability company is held by and the majority of the stockholders, ~~or~~ partners, or members are persons related to each other as spouse, parent, grandparent, lineal ascendants of grandparents or their spouses and other lineal descendants of the grandparents or their spouses, or persons acting in a fiduciary capacity for persons so related and where all of its stockholders, ~~or~~ partners, or members are natural persons or persons acting in a fiduciary capacity for the benefit of natural persons.

Sec. 2. NEW SECTION. 654.12B PRIORITY OF PURCHASE MONEY MORTGAGE LIEN.

The lien created by a purchase money mortgage shall have priority over and is senior to preexisting judgments against the purchaser and any other right, title, interest, or lien arising either directly or indirectly by, through, or under the purchaser. A mortgage is a purchase money mortgage if it is either of the following:

1. Taken or retained by the seller of the real estate to secure all or part of its price.
2. Taken by a lender who, by making an advance or incurring an obligation, provides funds to enable the purchaser to acquire rights in the real estate, including all costs in connection with the purchase, if the funds are in fact so used. The mortgage shall contain a recital that it is a purchase money mortgage in order to provide notice to third parties of its priority. If there is more than one purchase money mortgage, a prior recorded mortgage has priority unless "the prior recorded mortgage" or "a mortgage recorded earlier" provides otherwise.

Approved May 16, 1995

CHAPTER 176

GAMBLING

H.F. 571

AN ACT relating to the frequency of referendums held on excursion gambling boat proposals or gambling games proposals for licensed pari-mutuel racetracks and the qualifications of a qualifying organization which are necessary to conduct pari-mutuel wagering at racetracks or gambling games on excursion gambling boats and providing effective and applicability dates.

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

Section 1. Section 99D.8, unnumbered paragraphs 1 and 2, Code 1995, are amended to read as follows:

A qualifying organization, as defined in section 513(d)(2)(C) of the Internal Revenue Code, as defined in section 422.3, exempt from federal income taxation under sections

501(c)(3), 501(c)(4), or 501(c)(5) of the Internal Revenue Code or a nonprofit corporation organized under the laws of this state, whether or not it is exempt from federal income taxation, which is organized to promote those purposes enumerated in section 99B.7, subsection 3, paragraph "b", ~~and~~ or which regularly conducts~~, as one of its substantial exempt purposes,~~ an agricultural and educational fair or exposition for the promotion of the horse, dog, or other livestock breeding industries of the state, or an agency, instrumentality, or political subdivision of the state, may apply to the commission for a license to conduct horse or dog racing. The application shall be filed with the administrator of the commission at least sixty days before the first day of the horse race or dog race meeting which the organization proposes to conduct, shall specify the day or days when and the exact location where it proposes to conduct racing, and shall be in a form and contain information as the commission prescribes.

If any part of the net income of a licensee is determined to be unrelated business taxable income as defined in sections 511 through 514 of the Internal Revenue Code, or is otherwise taxable, the ~~qualifying organization~~ licensee shall be required to distribute ~~the~~ such amount ~~of net unrelated business taxable income~~ to political subdivisions in the state and organizations described in section 501(c)(3) of the Internal Revenue Code in the county in which ~~it~~ the licensee operates. ~~Distributions to these organizations made during the year in which the unrelated business income was earned shall be treated as included in the required distributions for this purpose.~~

Sec. 2. Section 99F.1, subsection 14, Code 1995, is amended to read as follows:

14. "Qualified sponsoring organization" means a nonprofit corporation organized under the laws of this state, whether or not it is exempt from federal income taxation, or a person or association that can show to the satisfaction of the commission that the person or association is eligible for exemption from federal income taxation 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.

Sec. 3. Section 99F.6, subsection 4, paragraph a, Code 1995, is amended to read as follows:

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~~ A qualified sponsoring organization ~~is~~ licensed to operate gambling games under this chapter~~, the qualified sponsoring organization~~ shall ~~certify that~~ distribute 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~~ shall distribute the receipts 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.

Sec. 4. Section 99F.7, subsection 10, paragraph a, Code 1995, is amended to read as follows:

a. A license to conduct gambling games on an excursion gambling boat in a county shall be issued only if the county electorate approves the conduct of the gambling games as provided in this subsection. The board of supervisors, upon receipt of a valid petition meeting the requirements of section 331.306, shall direct the commissioner of elections to submit to the qualified electors of the county a proposition to approve or disapprove the conduct of gambling games on an excursion gambling boat in the county. The proposition shall be submitted at a general election or at a special election called for that purpose. To be submitted at a general election, the petition must be received by the board of supervisors at least five working days before the last day for candidates for county offices to file nomination papers for the general election pursuant to section 44.4. If a majority of the county voters voting on the proposition favor the conduct of gambling games, the commission may issue one or more licenses as provided in this chapter. If a majority of the county voters voting on the proposition do not favor the conduct of gambling games, a license to conduct gambling games in the county shall not be issued. ~~After a referendum has been held, another referendum requested by petition shall not be held for at least two years.~~

Sec. 5. Section 99F.7, subsection 10, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. After a referendum has been held which defeated a proposal to conduct gambling games on excursion gambling boats or which defeated a proposal to conduct gambling games at a licensed pari-mutuel racetrack enclosure as provided in this section, another referendum on a proposal to conduct gambling games on an excursion gambling boat or at a licensed pari-mutuel racetrack shall not be held for at least two years.

Sec. 6. EFFECTIVE AND APPLICABILITY DATES. This Act, being deemed of immediate importance, takes effect upon enactment. Sections 1 through 3 of this Act apply retroactively to January 1, 1995, and sections 4 and 5 apply retroactively to September 1, 1994.

Approved May 16, 1995

CHAPTER 177

SNOWMOBILE AND ALL-TERRAIN VEHICLE OPERATION ON PUBLIC LAND

H.F. 340

AN ACT providing for the operation of snowmobiles and all-terrain vehicles by defining public land.

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

Section 1. Section 321G.1, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 13A. "Public land" means land owned by the federal government, the state, or political subdivisions of the state and land acquired or developed for public recreation pursuant to section 321G.7.

Approved May 16, 1995

CHAPTER 178

JURISDICTION IN KIDNAPPING CASES

H.F. 29

AN ACT to provide a presumption that kidnapping has occurred within the state.

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

Section 1. Section 803.1, subsection 2, Code 1995, is amended to read as follows:

2. An offense may be committed partly within this state if conduct which is an element of the offense, or a result which constitutes an element of the offense, occurs within this state. If the body of a murder victim is found within the state, the death is presumed to have occurred within the state. If a kidnapping victim, or the body of a kidnapping victim, is found within the state, the confinement or removal of the victim from one place to another is presumed to have occurred within the state.

Approved May 16, 1995

CHAPTER 179

INMATE LITERACY AND EDUCATIONAL REQUIREMENTS

S.F. 120

AN ACT requiring that prison inmates demonstrate functional literacy competence at or above the sixth grade level or make progress towards completion of a general equivalency diploma, conditioning receipt of certain privileges on participation in education programs, and permitting the use of educational competence as a precondition to the granting of parole or work release, and providing exceptions.

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

Section 1. NEW SECTION. 904.516 ACADEMIC ACHIEVEMENT OF INMATES - LITERACY AND HIGH SCHOOL EQUIVALENCY PROGRAMS.

1. Effective July 1, 1997, a person who is committed to the custody of the director of the department of corrections may be evaluated for purposes of determining the level of achievement in the basic skills of arithmetic, the communicative arts of reading, writing, grammar, and spelling, social studies, and the sciences.

2. Persons who demonstrate functional literacy competence below the sixth grade level may be required to participate in literacy programs established by the department. Participation shall be voluntary, but shall be reflected as part of the person's record at the institution. Persons who are required to participate in literacy programs and who refuse to participate shall be subject to the following penalties:

a. Eligibility only for a minimum allowance.
b. Placement on idle status.
c. Ineligibility for work bonuses.
d. Ineligibility for minimum out or minimum live out status.
e. Ineligibility for other privileges as determined by the department.

3. Persons who have not completed the requirements for high school or a high school equivalency diploma may be required to complete the requirements for and to obtain a high school equivalency diploma under chapter 259A.

4. The department, in cooperation with the board of parole, shall adopt rules which establish a procedure for evaluation of inmates to determine basic skills achievement, and

criteria for placement of inmates in educational programs. Rules adopted may include, but shall not be limited to, the establishment of standards for the development of appropriate programming, imposition of any applicable penalties, and for waiver of any educational requirements.

Sec. 2. Section 906.4, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The board may, effective July 1, 1997, subject to such exceptions as may be deemed necessary by the board, require each inmate who is physically and mentally capable to demonstrate functional literacy competence at or above the sixth grade level or make progress towards completion of the requirements for a high school equivalency diploma under chapter 259A prior to release of the inmate on parole or work release.

Sec. 3. PROGRESS REPORTS - BUDGET REQUEST. The department of corrections shall submit, as part of the department's budget request to the governor, plans for the implementation of this Act by July 1, 1997. The department shall also submit a report, in January of 1996, to the general assembly which outlines the progress made towards implementation of this Act.

Approved May 16, 1995

CHAPTER 180

DOMESTIC ABUSE

S.F. 367

†**AN ACT** relating to domestic abuse and providing a penalty.

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

Section 1. Section 13.2, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 13. Develop written procedures and policies to be followed by prosecuting attorneys in the prosecution of domestic abuse cases under chapters 236 and 708.

Sec. 2. Section 232.8, subsection 1, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. The juvenile court shall have jurisdiction in proceedings commenced against a child pursuant to section 236.3 over which the district court has waived its jurisdiction. The juvenile court shall hear the action in the manner of an adjudicatory hearing under section 232.47, subject to the following:

(1) The juvenile court shall abide by the provisions of sections 236.4 and 236.6 in holding hearings and making a disposition.

(2) The plaintiff is entitled to proceed pro se under sections 236.3A and 236.3B.

Sec. 3. Section 232.22, subsection 1, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. There is probable cause to believe that the child has committed a delinquent act which would be domestic abuse under chapter 236 or a domestic abuse assault under section 708.2A if committed by an adult.

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

Sec. 4. Section 232.29, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 3. An informal adjustment agreement regarding a child who has been placed in detention under section 232.22, subsection 1, paragraph "f", may include a provision that the child voluntarily participate in a batterers' treatment program under section 708.2B.

Sec. 5. Section 232.46, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. A consent decree entered regarding a child placed in detention under section 232.22, subsection 1, paragraph "f", shall require the child to attend a batterers' treatment program under section 708.2B. The second time the child fails to attend the batterers' treatment as required by the consent decree shall result in the decree being vacated and proceedings commenced under section 232.47.

Sec. 6. Section 232.52, subsection 2, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. In the case of a child adjudicated delinquent for an act which would be a violation of chapter 236 or section 708.2A if committed by an adult, an order requiring the child to attend a batterers' treatment program under section 708.2B.

Sec. 7. Section 236.2, subsection 4, Code 1995, is amended to read as follows:

4. a. "Family or household members" means spouses, persons cohabiting, parents, or other persons related by consanguinity or affinity~~, except children under eighteen~~.

b. "Family or household members" does not include children under age eighteen of persons listed in paragraph "a".

Sec. 8. Section 236.3, unnumbered paragraph 1, Code 1995, is amended to read as follows:

A person, including a parent or guardian on behalf of an unemancipated minor, may seek relief from domestic abuse by filing a verified petition in the district court. Venue shall lie where either party resides. The petition shall state the:

Sec. 9. Section 236.3, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. If the petition is being filed on behalf of an unemancipated minor, the name of the parent or guardian filing the petition and the parent's or guardian's address. For the purposes of this chapter, "plaintiff" includes a person filing an action on behalf of an unemancipated minor.

Sec. 10. Section 236.3, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If the person against whom relief from domestic abuse is being sought is seventeen years of age or younger, the district court shall waive its jurisdiction over the action to the juvenile court.

Sec. 11. Section 236.5, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. The court may order that the defendant pay the plaintiff's attorneys fees and court costs.

Sec. 12. Section 236.8, Code 1995, is amended to read as follows:

236.8 CONTEMPT - HEARINGS.

~~The~~ A person commits a simple misdemeanor or the court may hold a ~~party~~ person in contempt for a violation of an order or court-approved consent agreement entered under this chapter, for violation of a temporary or permanent protective order or order to vacate the homestead under chapter 598, or for violation of any order that establishes conditions

of release or is a protective order or sentencing order in a criminal prosecution arising from a domestic abuse assault. If convicted or held in contempt, the defendant shall serve a jail sentence. Any jail sentence of more than one day imposed under this section shall be served on consecutive days. A defendant who is held in contempt or convicted may be ordered by the court to pay the plaintiff's attorneys fees and court costs incurred in the proceedings under this section.

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.

A person shall not be convicted of and held in contempt for the same violation of an order or court-approved consent agreement entered under this chapter, for the same violation of a temporary or permanent protective order or order to vacate the homestead under chapter 598, or for violation of any order that establishes conditions of release or is a protective order or sentencing order in a criminal prosecution arising from a domestic abuse assault.

Sec. 13. NEW SECTION. 236.20 FOREIGN PROTECTIVE ORDERS – REGISTRATION – ENFORCEMENT.

1. As used in this section, "foreign protective order" means a protective order entered in a state other than Iowa which would be an order or court-approved consent agreement entered under this chapter, a temporary or permanent protective order or order to vacate the homestead under chapter 598, or an order that establishes conditions of release or is a protective order or sentencing order in a criminal prosecution arising from a domestic abuse assault if it had been entered in Iowa.

2. A copy of a foreign protective order authenticated in accordance with the statutes of this state may be filed with the clerk of the district court of the county in which the person in whose favor the order was entered resides. The clerk shall provide copies of the order as required by section 236.5.

3. A foreign protective order so filed has the same effect and shall be enforced in the same manner as a protective order issued in this state.

Sec. 14. NEW SECTION. 236.21 MUTUAL PROTECTIVE ORDERS PROHIBITED – EXCEPTIONS.

A court in an action under this chapter shall not issue mutual protective orders against the victim and the abuser unless both file a petition requesting a protective order.

Sec. 15. Section 708.2B, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. District departments or contract service providers shall receive upon request peace officers' investigative reports regarding persons participating in programs under this section. The receipt of reports under this section shall not waive the confidentiality of the reports under section 22.7.

Sec. 16. Section 907.3, subsection, 1, paragraph i, Code 1995, is amended to read as follows:

i. The offense is a conviction for or plea of guilty to a violation of section 236.8 or a finding of contempt pursuant to section 236.8 or 236.14.

Sec. 17. Section 907.3, subsection 2, Code 1995, is amended to read as follows:

2. At the time of or after pronouncing judgment and with the consent of the defendant, the court may defer the sentence and assign the defendant to the judicial district department of correctional services. However, the court shall not defer the sentence for a violation of section 708.2A if the defendant has previously received a deferred judgment or sentence for a violation of section 708.2 or 708.2A which was issued on a domestic abuse assault, or if similar relief was granted anywhere in the United States concerning that

jurisdiction's statutes which substantially correspond to domestic abuse assault as provided in section 708.2A. In addition, the court shall not defer a sentence if it is imposed for a conviction for or plea of guilty to a violation of section 236.8 or for contempt pursuant to section 236.8 or 236.14. Upon a showing that the defendant is not fulfilling the conditions of probation, the court may revoke probation and impose any sentence authorized by law. Before taking such action, the court shall give the defendant an opportunity to be heard on any matter relevant to the proposed action. Upon violation of the conditions of probation, the court may proceed as provided in chapter 908.

Sec. 18. The commissioner of insurance shall evaluate model legislation which will be proposed by the national association of insurance commissioners regarding using domestic abuse as a factor in determining whether a person shall be offered insurance coverage and make recommendations to the general assembly regarding adopting the model legislation.

Approved May 16, 1995

CHAPTER 181

LEGALIZATION OF KEOKUK PROPERTY TRANSFER

S.F. 468

AN ACT to legalize the transfer of certain property by the City of Keokuk and providing an effective date.

WHEREAS, the City of Keokuk, by quitclaim deed dated November 30, 1993, and recorded on December 2, 1993, transferred certain property, namely vacated F Street, lots seven, ten, and eleven, in block seventeen, Reid's addition to the City of Keokuk, to Clarence and Rose Bergheger; and

WHEREAS, section 364.7 of the Code of Iowa requires the city council to adopt a resolution regarding the proposed sale of city property, publish notice of the proposal, hold a public hearing on the proposal, and then adopt another resolution authorizing the sale; and

WHEREAS, neither the abstract of the property nor city records indicate that the city council of the City of Keokuk complied with the requirements of section 364.7; and

WHEREAS, the lack of recorded evidence of compliance by the city with section 364.7 has clouded the title of the property; NOW THEREFORE,

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

Section 1. All proceedings taken by the city council of the City of Keokuk regarding the transfer of the property described as vacated F Street, lots seven, ten, and eleven, in block seventeen, Reid's addition to the City of Keokuk, are hereby legalized and constitute a valid and binding disposal of city property in accordance with section 364.7.

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

Approved May 16, 1995

CHAPTER 182

MISCELLANEOUS PROVISIONS CONCERNING CHILDREN

S.F. 150

AN ACT relating to children, including child abuse involving termination of parental rights in certain abuse or neglect cases, the department of human services' adoption information exchange, and access by other states to child abuse information, case permanency plans for children in out-of-home placements, state foster care requests, and custody and visitation determinations and providing an applicability and effective date.

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

Section 1. Section 232.2, subsection 4, unnumbered paragraph 1, Code 1995, is amended to read as follows:

"Case permanency plan" means the plan, mandated by Pub. L. No. 96-272, as codified in 42 U.S.C. § 671(a)(16), 627(a)(2)(B), and 675(1),(5), which is designed to achieve placement in the least restrictive, most family-like setting available and in close proximity to the parent's home, consistent with the best interests and special needs of the child, and which considers the placement's proximity to the school in which the child is enrolled at the time of placement. The plan shall be developed by the department or agency involved and the child's parent, guardian, or custodian. The plan shall specifically include all of the following:

Sec. 2. Section 232.2, subsection 4, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. The actions expected of the parent, guardian, or custodian in order for the department or agency to recommend that the court terminate a dispositional order for the child's out-of-home placement and for the department or agency to end its involvement with the child and the child's family.

Sec. 3. Section 232.88, Code 1995, is amended to read as follows:

232.88 SUMMONS, NOTICE, SUBPOENAS AND SERVICES.

After a petition has been filed the court shall issue and serve summons, notice, subpoenas, and other process in the same manner as for adjudicatory hearings in cases of juvenile delinquency as provided in section 232.37. In addition to the parties required to be provided notice under section 232.37, notice for any hearing under this division shall be provided to the agency, facility, institution, or person, including a foster parent, with whom a child has been placed for the purposes of foster care.

Sec. 4. Section 232.91, Code 1995, is amended to read as follows:

232.91 PRESENCE OF PARENTS, ~~AND~~ GUARDIAN AD LITEM, AND FOSTER PARENTS AT HEARINGS.

1. Any hearings or proceedings under this division subsequent to the filing of a petition shall not take place without the presence of the child's parent, guardian, custodian, or guardian ad litem in accordance with and subject to section 232.38. A parent without custody may petition the court to be made a party to proceedings under this division.

2. An agency, facility, institution, or person, including a foster parent, may petition the court to be made a party to proceedings under this division.

Sec. 5. Section 232.104, subsection 2, paragraph b, Code 1995, is amended to read as follows:

b. Enter an order pursuant to section 232.102 to continue placement of the child for an additional six months at which time the court shall hold a hearing to consider modification of its permanency order. An order entered under this paragraph shall enumerate the specific factors, conditions, or expected behavioral changes which comprise the basis for the

determination that the need for removal of the child from the child's home will no longer exist at the end of the additional six-month period.

Sec. 6. Section 232.2, subsection 6, paragraph o, Code 1995, is amended by striking the paragraph and inserting in lieu thereof the following:

o. Who is described by any other paragraph of this subsection and in whose body there is an illegal drug present as a direct consequence of the acts or omissions of the child's parent, guardian, or custodian which a reasonable and prudent person knew or should have known is likely to lead to the drug's presence in the child's body. The presence of the drug shall be determined in accordance with a medically relevant test as defined in section 232.73.

Sec. 7. Section 232.68, subsection 2, paragraph f, Code 1995, 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 person responsible for the care of the child which a reasonable and prudent person knew or should have known is likely to lead to the drug's presence in the child's body.

Sec. 8. Section 232.73, unnumbered paragraph 2, Code 1995, is amended to read as follows:

As used in this section and section 232.77, "medically relevant test" means a test that produces reliable results of exposure to cocaine, heroin, amphetamine, methamphetamine, or other illegal drugs, or combinations or derivatives thereof, including a drug urine screen test. The Iowa department of public health, in consultation with the department of human services and the council on chemically exposed infants and children created in chapter 235C, shall adopt rules specifying minimum standards for reliable results of medically relevant tests. The rules shall include but are not limited to standards which minimize the incidence of false positive test results. The Iowa department of public health shall maintain a list of laboratories which are approved to perform medically relevant tests in accordance with the standards adopted in administrative rules.

Sec. 9. NEW SECTION. 232.106 TERMS AND CONDITIONS ON CHILD'S PARENT.

If the court enters an order under this chapter which imposes terms and conditions on the child's parent, guardian, or custodian, the purpose of the terms and conditions shall be to assure the protection of the child. The order is subject to the following provisions:

1. The order shall state the reasons for and purpose of the terms and conditions.

2. If a parent, guardian, or custodian is required to have a chemical test of blood or urine for the purpose of determining the presence of an illegal drug, the test shall be a medically relevant test as defined in section 232.73. The parent, guardian, or custodian may select the laboratory which processes the test from among the laboratories approved pursuant to section 232.73. A positive test result shall not be used for the criminal prosecution of a parent, guardian, or custodian for the presence of an illegal drug.

Sec. 10. Section 232.116, subsection 1, paragraph h, Code 1995, is amended to read as follows:

h. The court finds that ~~both~~ all of the following have occurred:

(1) The child meets the definition of child in need of assistance based on a finding of physical or sexual abuse or neglect as a result of the acts or omissions of one or both parents.

(2) There is clear and convincing evidence that the abuse or neglect posed a significant risk to the life of the child or constituted imminent danger to the child.

~~(2)~~ (3) There is clear and convincing evidence that the ~~circumstances surrounding the abuse or neglect of the child, despite the~~ offer or receipt of services~~, constitutes imminent~~

~~danger to the child~~ would not correct the conditions which led to the abuse or neglect of the child within a reasonable period of time.

Sec. 11. Section 232.116, subsection 1, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. m. The court finds that all of the following have occurred:

(1) The child has been adjudicated a child in need of assistance pursuant to section 232.96.

(2) The parent has been convicted of child endangerment resulting in the death of the child's sibling, has been convicted of three or more acts of child endangerment involving the child, the child's sibling, or another child in the household, or has been convicted of child endangerment resulting in a serious injury to the child, the child's sibling, or another child in the household.

(3) There is clear and convincing evidence that the circumstances surrounding the parent's conviction for child endangerment would result in a finding of imminent danger to the child.

Sec. 12. Section 232.119, subsection 5, Code 1995, is amended to read as follows:

5. A request to defer registering the child on the exchange shall be submitted in writing and shall be granted if any of the following conditions exist:

a. The child is in an adoptive placement.

b. The child's foster parents or another person with a significant relationship is being considered as the adoptive family.

c. ~~The child needs~~ A diagnostic study or testing is necessary to clarify the child's ~~problem~~ needs and to provide an adequate description of the ~~problem~~ child's needs.

d. ~~The~~ At the time of the request, the child is ~~currently hospitalized and~~ receiving medical care, mental health treatment, or other treatment and the child's care or treatment provider has determined that ~~does not permit adoptive placement~~ meeting prospective adoptive parents is not in the child's best interest.

e. The child is fourteen years of age or older and will not consent to an adoption plan and the consequences of not being adopted have been explained to the child.

~~Upon receipt of a valid written request for deferral pursuant to paragraphs "a" through "e", the exchange shall grant the deferral, except that a deferral based on paragraph "b" or "c" shall be granted for no more than a one-time, ninety-day period unless the termination of parental rights order is appealed. However, if the foster parents or another person with a significant relationship continues to be considered the child's prospective adoptive family, additional extensions of the deferral may be granted until ninety days after the date of the final decision regarding the appeal.~~

6. The following requirements apply to a request to defer registering a child on the adoption exchange under subsection 5:

a. For a deferral granted by the exchange pursuant to subsection 5, paragraph "a", "b", or "e", the child's guardian shall address the child's deferral status in the report filed with the court and the court shall review the deferral status in the six-month review hearings held pursuant to section 232.117, subsection 6.

b. In addition to the requirements of paragraph "a", a deferral granted by the exchange pursuant to subsection 5, paragraph "b", shall be limited to not more than a one-time, ninety-day period unless the termination of parental rights order is appealed or the child is placed in a hospital or other institutional placement. However, if the foster parents or another person with a significant relationship continues to be considered the child's prospective adoptive family, additional extensions of the deferral request under subsection 5, paragraph "b", may be granted until sixty days after the date of the final decision regarding the appeal or until the date the child is discharged from a hospital or other institutional placement.

c. A deferral granted by the exchange pursuant to subsection 5, paragraph "c", shall be limited to not more than a one-time, ninety-day period.

d. A deferral granted by the exchange pursuant to subsection 5, paragraph "d", shall be limited to not more than a one-time, one hundred-twenty-day period.

Sec. 13. Section 232.189, Code 1995, is amended to read as follows:

232.189 REASONABLE EFFORTS ADMINISTRATIVE REQUIREMENTS.

Based upon a model reasonable efforts family court initiative, the director of human services and the chief justice of the supreme court or their designees shall jointly establish and implement a statewide protocol for reasonable efforts to prevent or eliminate the need for placement of a child outside the child's home. In addition, the director and the chief justice shall design and implement a system for judicial and departmental reasonable efforts education for deployment throughout the state. The system for reasonable efforts education shall be developed in a manner which addresses the particular needs of rural areas and shall include but is not limited to all of the following topics:

1. Regular training concerning mental or emotional disorders which may afflict children and the impact children with such disorders have upon their families.

2. The duties of judicial and departmental employees associated with placing a child removed from the child's home into a permanent home and the urgency of the placement for the child.

3. The essential elements, including writing techniques, in developing effective permanency plans.

4. The essential elements of gathering evidence sufficient for the evidentiary standards required for judicial orders under this chapter.

Sec. 14. NEW SECTION. 234.7 DEPARTMENT DUTIES.

The department of human services shall comply with the following requirement associated with child foster care licensees under chapter 237:

The department shall include a child's foster parent in and provide timely notice of planning and review activities associated with the child, including but not limited to permanency planning and placement review meetings, which shall include discussion of the child's rehabilitative treatment needs.

Sec. 15. Section 235A.15, subsection 2, paragraph e, subparagraph (4), Code 1995, is amended to read as follows:

(4) To a legally constituted child protection agency of another state which is investigating or treating a child named in a report as having been abused or ~~to~~ which is investigating or treating a person named as having abused a child.

(4A) To a public or licensed child placing agency of another state responsible for an adoptive or foster care preplacement or placement evaluation.

Sec. 16. Section 235A.15, subsection 2, paragraph e, subparagraph (9), Code 1995, is amended to read as follows:

(9) To a legally constituted child protection agency in another state if the agency is conducting a records check of a person who is providing care or has applied to provide care to a child in the other state.

Sec. 17. Section 235C.3, subsection 3, Code 1995, is amended to read as follows:

3. IDENTIFICATION. The council shall develop recommendations regarding state programs or policies to increase the accuracy of the identification of chemically exposed infants and children.

Sec. 18. Section 237.15, subsection 1, unnumbered paragraph 1, Code 1995, is amended to read as follows:

"Case permanency plan" means the plan, mandated by Pub. L. No. 96-272, as codified in 42 U.S.C., §§ 671(a)(16), 627(a)(2)(B), and 675(1),(5), which is designed to achieve placement in the least restrictive, most family-like setting available and in close proximity to the parent's home, consistent with the best interests and special needs of the child, and which

considers the placement's proximity to the school in which the child is enrolled at the time of placement. The plan shall be developed by the department or agency involved and the child's parent, guardian, or custodian. The plan shall specifically include all of the following:

Sec. 19. Section 237.15, subsection 1, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. j. The actions expected of the parent, guardian, or custodian in order for the agency to recommend that the court terminate a dispositional order for the child's out-of-home placement and for the agency to end its involvement with the child and the child's family.

Sec. 20. Section 273.2, subsection 1, Code 1995, is amended to read as follows:

1. In-service training programs for employees of school districts and area education agencies, provided at the time programs and services are established they do not duplicate programs and services available in that area from the universities under the state board of regents and from other universities and four-year institutions of higher education in Iowa. The in-service training programs shall include but are not limited to regular training concerning mental or emotional disorders which may afflict children and the impact children with such disorders have upon their families.

Sec. 21. Section 598.8, Code 1995, is amended to read as follows:

598.8 HEARINGS.

Hearings for dissolution of marriage shall be held in open court upon the oral testimony of witnesses, or upon the depositions of such witnesses taken as in other equitable actions or taken by a commissioner appointed by the court. However, the court may in its discretion close the hearing. Hearings held for the purpose of determining child custody may be limited in attendance by the court. Upon request of either party, the court shall provide security in the courtroom during the custody hearing if a history of domestic abuse relating to either party exists.

Sec. 22. Section 598.41, subsections 1 and 2, Code 1995, are amended to read as follows:

1. a. The court, insofar as is reasonable and in the best interest of the child, shall order the custody award, including liberal visitation rights where appropriate, which will assure the child the opportunity for the maximum continuing physical and emotional contact with both parents after the parents have separated or dissolved the marriage, and which will encourage parents to share the rights and responsibilities of raising the child unless direct physical harm or significant emotional harm to the child, other children, or a parent is likely to result from such contact with one parent~~, and which will encourage parents to share the rights and responsibilities of raising the child~~.

b. Notwithstanding paragraph "a", if the court finds that a history of domestic abuse exists, a rebuttable presumption against the awarding of joint custody exists.

c. The court shall consider the denial by one parent of the child's opportunity for maximum continuing contact with the other parent, without just cause, a significant factor in determining the proper custody arrangement. Just cause may include a determination by the court pursuant to subsection 3, paragraph "j", that a history of domestic abuse exists between the parents.

d. If a history of domestic abuse exists as determined by a court pursuant to subsection 3, paragraph "j", and if a parent who is a victim of such domestic abuse relocates or is absent from the home based upon the fear of or actual acts or threats of domestic abuse perpetrated by the other parent, the court shall not consider the relocation or absence of that parent as a factor against that parent in the awarding of custody or visitation.

e. Unless otherwise ordered by the court in the custody decree, both parents shall have legal access to information concerning the child, including but not limited to medical, educational and law enforcement records.

2. a. On the application of either parent, the court shall consider granting joint custody in cases where the parents do not agree to joint custody.

b. If the court does not grant joint custody under this subsection, the court shall cite clear and convincing evidence, pursuant to the factors in subsection 3, that joint custody is unreasonable and not in the best interest of the child to the extent that the legal custodial relationship between the child and a parent should be severed.

c. A finding by the court that a history of domestic abuse exists, as specified in subsection 3, paragraph "j", which is not rebutted, shall outweigh consideration of any other factor specified in subsection 3 in determination of the awarding of custody under this subsection.

d. Before ruling upon the joint custody petition in these cases, unless the court determines that a history of domestic abuse exists as specified in subsection 3, paragraph "j", or unless the court determines that direct physical harm or significant emotional harm to the child, other children, or a parent is likely to result, the court may require the parties to participate in custody mediation counseling to determine whether joint custody is in the best interest of the child. The court may require the child's participation in the mediation counseling insofar as the court determines the child's participation is advisable.

e. The costs of custody mediation counseling shall be paid in full or in part by the parties and taxed as court costs.

Sec. 23. Section 598.41, subsection 3, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. j. Whether a history of domestic abuse, as defined in section 236.2, exists. In determining whether a history of domestic abuse exists, the court's consideration shall include but is not limited to, commencement of an action pursuant to section 236.3, the issuance of a protective order against the parent or the issuance of a court order or consent agreement pursuant to section 236.5, the issuance of an emergency order pursuant to section 236.6, the holding of a parent in contempt pursuant to section 236.8, the response of a peace officer to the scene of alleged domestic abuse or the arrest of a parent following response to a report of alleged domestic abuse, or a conviction for domestic abuse assault pursuant to section 708.2A.

Sec. 24. Section 598.41, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 7. If an application for modification of a decree or a petition for modification of an order is filed, based upon differences between the parents regarding the custody arrangement established under the decree or order, unless the court determines that a history of domestic abuse exists as specified in subsection 3, paragraph "j", or unless the court determines that direct physical harm or significant emotional harm to the child, other children, or a parent is likely to result, the court may require the parents to participate in mediation to attempt to resolve the differences between the parents.

Sec. 25. Section 600A.5, subsection 3, paragraph c, Code 1995, is amended to read as follows:

c. A plain statement of the facts and grounds in section 600A.8~~, subsections 1 to 4,~~ which indicate that the parent-child relationship should be terminated.

Sec. 26. Section 600A.8, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 8. Both of the following circumstances apply to a parent:

a. The parent has been determined to be a chronic substance abuser as defined in section 125.2 and the parent has committed a second or subsequent domestic abuse assault pursuant to section 708.2A.

b. The parent has abducted the child, has improperly removed the child from the physical custody of the person entitled to custody without the consent of that person, or has improperly retained the child after a visit or other temporary relinquishment of physical custody.

Sec. 27. Section 600B.40, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. In determining the visitation or custody arrangements of a child born out of wedlock, if a judgment of paternity is entered and the mother of the child has not been awarded sole custody, section 598.41 shall apply to the determination, as applicable, and the court shall consider the factors specified in section 598.41, subsection 3, including but not limited to the factor related to a parent's history of domestic abuse.

Sec. 28. Section 602.1203, Code 1995, is amended to read as follows:

602.1203 PERSONNEL CONFERENCES.

The chief justice may order conferences of judicial officers or court employees on matters relating to the administration of justice or the affairs of the department. For judges and other court employees who handle cases involving children and family law, the chief justice shall require regular training concerning mental or emotional disorders which may afflict children and the impact children with such disorders have upon their families.

Sec. 29. APPLICABILITY AND EFFECTIVE DATE. Section 9 of this Act, enacting section 232.106, being deemed of immediate importance, takes effect upon enactment and applies to medically relevant tests performed on or after the effective date of this Act pursuant to court orders imposing terms and conditions which are in effect on or after the effective date of this Act.

Approved May 19, 1995

CHAPTER 183

MEDIATION IN DISSOLUTION OF MARRIAGE PROCEEDINGS

S.F. 239

AN ACT relating to the provision of mediation in dissolution of marriage proceedings.

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

Section 1. NEW SECTION. 598.7A DISSOLUTION OF MARRIAGE - MEDIATION.

In addition to the custody mediation provided pursuant to section 598.41, unless the court determines that a history of domestic abuse exists as specified in section 598.41, subsection 3, paragraph "j", if enacted by 1995 Iowa Acts, Senate File 150,* or unless the court determines that direct physical harm or significant emotional harm to the child, other children, or a parent is likely to result, on the application of either party, or on the court's own motion, the court may require the parties to participate in mediation to attempt to resolve differences between the parties relative to the granting of a marriage dissolution decree, if the court determines that mediation may effectuate a resolution of the differences without court intervention.

The costs of mediation shall be paid in full or in part by the parties, as determined by the court and taxed as court costs.

Sec. 2. Section 598.41, subsection 2, Code 1995, is amended to read as follows:

2. On the application of either parent, the court shall consider granting joint custody in cases where the parents do not agree to joint custody. If the court does not grant joint custody under this subsection, the court shall cite clear and convincing evidence, pursuant to the factors in subsection 3, that joint custody is unreasonable and not in the best interest

*Chapter 182 herein

of the child to the extent that the legal custodial relationship between the child and a parent should be severed. Before ruling upon the joint custody petition in these cases, the court may require the parties to participate in custody mediation ~~counseling~~ to determine whether joint custody is in the best interest of the child. The court may require the child's participation in the mediation ~~counseling~~ insofar as the court determines the child's participation is advisable.

The costs of custody mediation ~~counseling~~ shall be paid in full or in part by the parties and taxed as court costs.

Approved May 19, 1995

CHAPTER 184

WORKFORCE DEVELOPMENT

H.F. 573

AN ACT relating to economic development by establishing a workforce development fund, providing for the transfer of certain employer withholding amounts to the workforce development fund, and establishing a loan loss reserve program.

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

Section 1. NEW SECTION. 15.341 WORKFORCE DEVELOPMENT FUND PROGRAM.

This part shall be known as the "Workforce Development Fund" program.

Sec. 2. NEW SECTION. 15.342 PURPOSE.

The purpose of this part shall be to provide a mechanism for funding workforce development programs listed in section 15.343, subsection 2, in order to more efficiently meet the needs identified within those individual programs.

Sec. 3. NEW SECTION. 15.343 WORKFORCE DEVELOPMENT FUND.

1. A workforce development fund is created as a revolving fund in the state treasury under the control of the department consisting of any moneys appropriated by the general assembly for that purpose and any other moneys available to and obtained or accepted by the department from the federal government or private sources for placement in the fund. The fund shall also include all of the following:

a. Notwithstanding section 8.33, all unencumbered and unobligated funds from 1994 Iowa Acts, chapter 1201, section 1, subsection 6, except paragraph "d", section 3, subsections 1 and 3, and section 10, remaining on July 1, 1995, and all unencumbered and unobligated funds in the Iowa conservation corps escrow account established in section 15.229 and the job training fund established in section 260F.6.

b. The loan loss reserve account created in sections 15.345 and 15.346.

c. Repayment moneys pursuant to section 422.16A, up to a maximum of two million dollars each year.

Notwithstanding section 8.33, moneys in the workforce development fund at the end of each fiscal year shall not revert to any other fund but shall remain in the workforce development fund for expenditure for subsequent fiscal years.

2. The assets of the fund shall be used by the department for the following programs and purposes:

a. The Iowa conservation corps created in sections 15.224 through 15.230.

b. Apprenticeship programs under section 260C.44.
c. The job training programs created in chapter 260F.
d. The loan loss reserve program.
e. For the workforce investment program under section 15.348.

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 workforce development fund to be made for that fiscal year for the programs and purposes contained in subsection 2. The director shall also submit a copy of the proposed allocation to the chairpersons of the joint economic development appropriations subcommittee of the general assembly. Subject to approval under section 8.39 for transfer of allocations between programs contained in subsection 2, the plan may provide for increased or decreased allocations if the demand for a program indicates that the need is greater or lesser than the allocation for that program. The director shall report on a quarterly 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. The director shall also provide quarterly reports to the legislative fiscal bureau on the status of the funds. Unobligated and unencumbered moneys remaining in the workforce development 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. NEW SECTION. 15.345 LOAN LOSS RESERVE ACCOUNT ESTABLISHED.

A loan loss reserve account is created within the workforce development fund to be used by the department to encourage small and medium sized businesses to invest in training for their existing employees.

Sec. 5. NEW SECTION. 15.346 PURPOSE – AUTHORIZED LOANS.

1. Funds in the loan loss reserve account shall be used to guarantee the payment of the principal, interest, and other amounts outstanding under each loan for which a guarantee was given under this section if the loan is made by an approved financial institution to an employer that is or will be located wholly or partially within the state. The account funds shall be used to pay the principal, interest, and other amounts outstanding if the loan delinquency extends for the number of days specified in the applicable guarantee agreement between the department and any third party with which the department may enter into a contract pursuant to this section, or if any other loan default remains uncured.

2. Loans for which a guarantee is given under this section may be used for any of the following educational or job training purposes:

a. Training program administration and development expenses.
b. Training course material development, acquisition, and installation costs.
c. All wages, salaries, benefits, and other expenses of trainer-employees, and the wages, salaries, benefits, travel, and lodging expenses of other employees while receiving or performing training.
d. Tuition, fees, and expenses relating to seminars, conferences, and other outside training events.
e. Third-party training provider salaries, fees, or contract amounts.
f. Tuition and fees paid to postsecondary institutions or trade or technical schools.
g. Books, videos, and other training materials.
h. Training-related equipment rental or acquisition.
i. Training-related facilities' rental, remodeling, or renovation.
j. The cost of registered apprenticeship programs and other education-related or job training expenses.

3. The department may enter into contracts with employers, financial or other entities, and other state agencies or instrumentalities as it determines are appropriate to carry out the purpose of the account. The department shall coordinate this program with the Iowa college student aid commission and the Iowa finance authority.

Sec. 6. NEW SECTION. 15.347 WORKFORCE INVESTMENT PROGRAM ESTABLISHED.

A workforce investment program is established to enable more Iowans to enter or reenter the workforce.

Sec. 7. NEW SECTION. 15.348 PURPOSE.

1. The workforce investment program shall provide training and support services to population groups that have historically faced barriers to employment and which have been difficult to serve in traditional training programs due to such factors as eligibility guidelines, gaps in services available, or other constraints.

2. Program funds shall be used to contract with local entities through a competitive procurement process that emphasizes strong collaboration between existing local programs and organizations.

3. Priority shall be given to training programs that will target displaced homemakers and welfare recipients in order to enable them to achieve self-sufficiency.

4. The department shall administer the workforce investment program and shall adopt rules governing its operation and eligibility guidelines for participation.

Sec. 8. Section 260F.6, subsection 1, Code 1995, is amended to read as follows:

1. There is established for the community colleges a ~~community college~~ job training fund in the department of economic development in the workforce development fund. The ~~community college~~ job training fund consists of moneys appropriated ~~for the fiscal year beginning July 1, 1987, and for succeeding fiscal years~~ for the purposes of this chapter plus the interest and principal from repayment of advances made to businesses for program costs, ~~moneys transferred from the Iowa employment retraining fund to the community college job training fund on July 1, 1992,~~ plus the repayments, including interest, of loans made from that retraining fund, and interest earned from moneys in the ~~community college~~ job training fund.

Sec. 9. NEW SECTION. 422.16A JOB TRAINING WITHHOLDING - CERTIFICATION AND TRANSFER.

Upon payment in full of a certificate of participation or other obligation issued to fund a job training program under chapter 260E, the community college providing the job training program shall notify the department of economic development of the amount paid by the employer or business to the community college to retire the certificate during the previous twelve months. The department of economic development shall notify the department of revenue and finance of that amount. The department shall credit to the workforce development fund established in section 15.343 twenty-five percent of that amount each quarter for a period of ten years. If the amount of withholding from the business or employer is insufficient, the department shall prorate the quarterly amount credited to the workforce development fund. The maximum amount from all employers which shall be transferred to the workforce development fund in any year is two million dollars.

Sec. 10. There is allocated from the workforce development fund for the fiscal year beginning July 1, 1995, and ending June 30, 1996, to the job training fund established under section 260F.6, $657,422, or so much thereof as is necessary, to be used for the purposes of the fund and to the loan loss reserve account established in section 15.345, $219,000, or so much thereof as may be necessary, to be used for the purposes of the account.

Sec. 11. The legislative council is requested to establish a 17 member task force to study the job training needs of the state with emphasis on the needs of targeted technology industries. The review should include, but is not limited to, studying the funding of retraining programs through consortia and supplier networks and entering into multiple retraining agreements to the same business. Membership of the task force consists of three senators

to be appointed by the majority and minority leaders of the senate, three representatives to be appointed by the speaker and minority leader of the house of representatives, and 11 members appointed by the governor from each of the following targeted technology industries: advanced manufacturing; advanced materials; biomedicine and health sciences; biotechnology; computer and information sciences; electronics and related fields; engineering theory and application; energy and natural resources; environmental sciences; telecommunications; transportation and aerospace; and those established industries that may be using less than state-of-the-art technology. The task force shall make a report of its findings and any recommendations to the governor and general assembly by January 1, 1996.

Sec. 12. REPEALS. Sections 15.341 through 15.348 and 422.16A are repealed June 30, 1997. Section 260F.6, subsection 1, is amended by striking the subsection on June 30, 1997, and the Iowa Code editor shall return the language of section 260F.6, subsection 1, to the language of the 1995 Code of Iowa.

Approved May 19, 1995

CHAPTER 185

INSURANCE REGULATION

H.F. 247

AN ACT relating to the regulation of insurance, including the authority of the insurance division to regulate certain policies and contracts and parties to such policies and contracts, providing for coordination of health care benefits with state medical assistance and for continuation of health care benefits pursuant to court-ordered medical child support and for coverage for an adopted child.

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

Section 1. Section 87.4, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The workers' compensation premium written on a municipality which is a member of an insurance pool which provides workers' compensation insurance coverage to a statewide group of municipalities, as defined in section 670.1, shall not be considered in the determination of any assessments levied pursuant to an agreement established under section 515A.15.

Sec. 2. Section 144C.4, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. The commissioner or the commissioner's designee shall serve as an ex officio, nonvoting member of the board.

Sec. 3. NEW SECTION. 505.22 CERTAIN RELIGIOUS ORGANIZATION ACTIVITIES EXEMPT FROM REGULATION.

A religious organization which, through its publication to subscribers, solicits funds for the payment of medical expenses of other subscribers, shall not be considered to be engaging in the business of insurance for purposes of this chapter or any other provision of Title XIII, and shall not be subject to the jurisdiction of the commissioner of insurance, if all of the following apply:

1. The religious publication is provided by a nonprofit charitable organization described in section 501(c)(3) of the Internal Revenue Code.

2. Participation is limited to subscribers who are members of the same denomination or religion.

3. The publication is registered with the United States postal service and acts as an organizational clearinghouse for information between subscribers who have financial, physical, or medical needs, and subscribers who choose to assist with those needs, matching subscribers with the present ability to pay with subscribers with a present financial or medical need.

4. The organization, through its publication, provides for the payment for subscriber financial or medical needs through direct payments from one subscriber to another.

5. The organization, through its publication, suggests amounts to contribute that are voluntary among the subscribers, with no assumption of risk or promise to pay either among the subscribers or between the subscribers and the publication.

Sec. 4. Section 507.2, subsection 3, Code 1995, is amended to read as follows:

3. In lieu of an examination under this chapter of any foreign or alien insurer licensed in this state, the commissioner may accept an examination report on the company as prepared by the regulatory authority for insurance for the company's state of domicile or port-of-entry state ~~until January 1, 1994. Thereafter, such reports shall only be accepted if the regulatory authority was at the time of the examination accredited under the national association of insurance commissioners' financial regulation standards and accreditation program or the examination is performed under the supervision of an accredited regulatory authority or with the participation of one or more examiners who are employed by the accredited state and who, after a review of the examination work papers and report, state under oath that the examination was performed in a manner consistent with standards and procedures required by their insurance department.~~

Sec. 5. Section 507A.10, Code 1995, is amended to read as follows:

507A.10 CEASE AND DESIST ORDER – CIVIL PENALTY.

~~The commissioner~~ Upon a determination by the commissioner, after a hearing conducted pursuant to chapter 17A, that a person or insurer has violated a provision of this chapter, the commissioner shall reduce the findings of the hearing to writing and deliver a copy of the findings to the person or insurer, may issue an order requiring the person or insurer to cease and desist from engaging in the conduct resulting in the violation, and may assess a civil penalty of not more than fifty thousand dollars against ~~a~~ the person or insurer ~~who has violated a provision of this chapter~~.

Sec. 6. Section 507B.4, subsection 7, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Making or permitting any discrimination in the sale of insurance solely on the basis of domestic abuse as defined in section 236.2.

Sec. 7. Section 508.5, Code 1995, is amended to read as follows:

508.5 CAPITAL AND SURPLUS REQUIRED.

A stock life insurance company shall not be authorized to transact business under this chapter with less than two million five hundred thousand dollars capital stock fully paid for in cash and two million five hundred thousand dollars of surplus paid in cash or invested as provided by law. A stock life insurance company shall not increase its capital stock unless the amount of the increase is fully paid in cash. The stock shall be divided into shares of not less than one dollar par value each. A stock life insurance company authorized to do business in Iowa that undergoes a change of control as defined under chapter 521A shall maintain the minimum capital and surplus requirements mandated by this section.

Sec. 8. Section 508.9, Code 1995, is amended to read as follows:

508.9 MUTUAL COMPANIES - CONDITIONS.

Level premium and natural premium life insurance companies organized under the laws of this state upon the mutual plan shall, before issuing policies, have actual applications on at least two hundred and fifty lives for an average amount of one thousand dollars each. A list of the applications giving the name, age, residence, amount of insurance, and annual premium of each applicant shall be filed with the commissioner of insurance, and a deposit made with the commissioner of an amount equal to three-fifths of the whole annual premium on the applications, in cash or the securities required by section 508.5. In addition, a deposit of cash or securities of the character provided by law for the investment of funds for life insurance companies in the sum of five million dollars shall be made with the commissioner, which shall constitute a security fund for the protection of policyholders. The contribution to the security fund shall not give to contributors to the fund or to other persons any voting or other power in the management of the affairs of the company. The security fund may be repaid to the contributors to the security fund with interest at six percent from the date of contribution, at any time, in whole or in part, if the repayment does not reduce the surplus of the company below the amount of five million dollars and then only if consent in writing for the repayment is obtained from the commissioner of insurance. Upon compliance with this section, the commissioner shall issue to the mutual company the certificate prescribed in this chapter. A mutual insurance company authorized to do business in Iowa that undergoes a change of control as defined in chapter 521A shall maintain the minimum surplus requirement mandated by this section.

Sec. 9. Section 513B.2, subsection 10, paragraph b, Code 1995, is amended to read as follows:

b. "Health benefit plan" does not include accident-only, credit, dental, Medicare supplement, long-term care, or disability income insurance, coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, or automobile medical-payment insurance.

Sec. 10. Section 514B.10, Code 1995, is amended to read as follows:

514B.10 CHARGES—~~APPROVAL REQUIRED~~.

~~No schedule of charges for enrollees coverage for health care services or amendment to the schedule may be used by a health maintenance organization until a copy of the schedule or amendment to the schedule has been filed with and approved by the commissioner.~~ Charges to enrollees may be established in accordance with actuarial principles for various categories of enrollees, but the charges shall not be determined according to the status of an individual enrollee's health or sex and shall not be excessive, inadequate, or unfairly discriminatory.

Sec. 11. Section 514B.17, Code 1995, is amended to read as follows:

514B.17 CANCELLATION OF ENROLLEES.

1. An enrollee enrolled in a prepaid individual plan shall not be canceled except for the failure to pay the charges permitted under section 514B.10 or for other reasons stated in the rules ~~promulgated~~ adopted by the commissioner and subject to review in accordance with chapter 17A. ~~No~~ Except as provided in subsection 2 concerning prepaid group plans, notice of cancellation to an enrollee shall not be effective unless delivered to the enrollee by the health maintenance organization in a manner prescribed by the commissioner and at least thirty days before the effective date of cancellation and unless accompanied by a statement of reason for cancellation. At any time before cancellation of the policy for nonpayment, the enrollee may pay to the health maintenance organization the full amount due, including court costs if any, and from the date of payment by the enrollee or the collection of the judgment, coverage shall revive and be in full force and effect.

2. The effect of cancellation of a prepaid group plan providing health care services to enrollees, and the duty to provide notice and liability for benefits, is the same as provided under section 509B.5, subsection 2, for the termination of accident or health insurance for employees or members.

Sec. 12. Section 514C.2, Code 1995, is amended to read as follows:

514C.2 SKILLED NURSING CARE COVERED IN HOSPITALS.

An insurer, a hospital service corporation, or a medical service corporation, which covers the costs of skilled nursing care under an individual or group policy of accident and health insurance regulated under chapter 509 or 514A, ~~or under~~ a nonprofit hospital or medical and surgical service plan regulated under chapter 514, or a health care service contract regulated under chapter 514B, shall also cover the costs of skilled nursing care in a hospital if the level of care needed by the insured or subscriber has been reclassified from acute care to skilled nursing care and no designated skilled nursing care beds or swing beds are available in the hospital or in another hospital or health care facility within a thirty-mile radius of the hospital. The insurer or corporation shall reimburse the insured or subscriber based on the skilled nursing care rate.

Sec. 13. NEW SECTION. 514C.8 COORDINATION OF HEALTH CARE BENEFITS WITH STATE MEDICAL ASSISTANCE.

1. An insurer, health maintenance organization, or hospital and medical service plan providing health care coverage to individuals in this state shall not consider the availability of or eligibility for medical assistance under Title XIX of the federal Social Security Act and chapter 249A, when determining eligibility of the individual for coverage or calculating payments to the individual under the health care coverage plan.

2. The state acquires the rights of an individual to payment from an insurer, health maintenance organization, or hospital or medical service plan to the extent payment for covered expenses is made pursuant to chapter 249A for health care items or services provided to the individual. Upon presentation of proof that payment was made pursuant to chapter 249A for covered expenses, the insurer, health maintenance organization, or hospital or medical service plan shall make payment to the state medical assistance program to the extent of the coverage provided in the policy or contract.

3. An insurer shall not impose requirements on the state with respect to the assignment of rights pursuant to this section that are different from the requirements applicable to an agent or assignee of a covered individual.

4. For purposes of this section, "insurer" means an entity which offers a health benefit plan, including a group health plan under the federal Employee Retirement Income Security Act of 1974.

Sec. 14. NEW SECTION. 514C.9 MEDICAL SUPPORT - INSURANCE REQUIREMENTS.

1. An insurer shall not deny coverage or enrollment of a child under the health plan of the obligor upon any of the following grounds:

a. The child is born out of wedlock.

b. The child is not claimed as a dependent on the obligor's federal income tax return.

c. The child does not reside with the obligor or in the insurer's service area. This section shall not be construed to require a health maintenance organization regulated under chapter 514B to provide any services or benefits for treatment outside of the geographic area described in its certificate of authority which would not be provided to a member outside of that geographic area pursuant to the terms of the health maintenance organizations contract.

2. An insurer of an obligor providing health care coverage to the child for which the obligor is legally responsible to provide support shall do all of the following:

a. Provide information to the obligee or other legal custodian of the child as necessary for the child to obtain benefits through the coverage of the insurer.

b. Allow the obligee or other legal custodian of the child, or the provider with the approval of the obligee or other legal custodian of the child, to submit claims for covered services without the approval of the obligor.

c. Make payment on a claim submitted in paragraph "b" directly to the obligee or other legal custodian of the child, the provider, or the state medical assistance agency for claims

submitted by the obligee or other legal custodian of the child, by the provider with the approval of the obligee or other legal custodian of the child, or by the state medical assistance agency.

3. If an obligor is required by a court order or administrative order to provide health coverage for a child and the obligor is eligible for dependent health coverage, the insurer shall do all of the following:

a. Allow the obligor to enroll under dependent coverage a child who is eligible for coverage pursuant to the applicable terms and conditions of the health benefit plan and the standard enrollment guidelines of the insurer without regard to an enrollment season restriction.

b. Enroll a child who is eligible for coverage under the applicable terms and conditions of the health benefit plan and the standard enrollment guidelines of the insurer, without regard to any time of enrollment restriction, under dependent coverage upon application by the obligee or other legal custodian of the child or by the department of human services in the event an obligor required by a court order or administrative order fails to apply for coverage for the child.

c. Maintain coverage and not cancel the child's enrollment unless the insurer obtains satisfactory written evidence of any of the following:

(1) The court order or administrative order is no longer in effect.

(2) The child is eligible for or will enroll in comparable health coverage through an insurer which shall take effect not later than the effective date of the cancellation of enrollment of the original coverage.

(3) The employer has eliminated dependent health coverage for its employees.

(4) The obligor is no longer paying the required premium because the employer no longer owes the obligor compensation, or because the obligor's employment has terminated and the obligor has not elected to continue coverage.

4. A group health plan shall establish reasonable procedures to determine whether a child is covered under a qualified medical child support order issued pursuant to chapter 252E. The procedures shall be in writing, provide for prompt notice of each person specified in the medical child support order as eligible to receive benefits under the group health plan upon receipt by the plan of the medical child support order, and allow an obligee or other legal custodian of the child under chapter 252E to designate a representative for receipt of copies of notices in regard to the medical child support order that are sent to the obligee or other legal custodian of the child and the department of human services' child support recovery unit.

5. For purposes of this section, unless the context otherwise requires:

a. "Child" means a person, other than an obligee's spouse or former spouse, who is recognized under a qualified medical child support order as having a right to enrollment under a group health plan as the obligor's dependent.

b. "Court order" or "administrative order" means a ruling by a court or administrative agency in regard to the support an obligor shall provide to the obligor's child.

c. "Insurer" means an entity which offers a health benefit plan.

d. "Obligee" means an obligee as defined in section 252E.1.

e. "Obligor" means an obligor as defined in section 252E.1.

f. "Qualified medical child support order" means a child support order which creates or recognizes a child's right to receive health benefits for which the child is eligible under a group health benefit plan, describes or determines the type of coverage to be provided, specifies the length of time for which the order applies, and specifies the plan to which the order applies.

Sec. 15. NEW SECTION. 514C.10 COVERAGE FOR ADOPTED CHILD.

1. DEFINITIONS. For purposes of this section, unless the context otherwise requires:

a. "Child" means, with respect to an adoption or a placement for adoption of a child, an individual who has not attained age eighteen as of the date of the issuance of a final adoption

decree, or upon an interlocutory adoption decree becoming a final adoption decree, as provided in chapter 600, or as of the date of the placement for adoption.

b. "Placement for adoption" means the assumption and retention of a legal obligation for the total or partial support of the child in anticipation of the adoption of the child. The child's placement with a person terminates upon the termination of such legal obligation.

2. COVERAGE REQUIRED. A policy or contract providing for third-party payment or prepayment of health or medical expenses shall provide coverage benefits to a dependent child adopted by, or placed for adoption with, an insured or enrollee under the same terms and conditions as apply to a biological, dependent child of the insured or enrollee. The issuer of the policy or contract shall not restrict coverage under the policy or contract for a dependent child adopted by, or placed for adoption with, the insured or enrollee solely on the basis of a preexisting condition of such dependent child at the time that the child would otherwise become eligible for coverage under the plan, if the adoption or placement occurs while the insured or enrollee is eligible for coverage under the policy or contract. This section applies to the following classes of third-party payment provider contracts or policies delivered, issued for delivery, continued, or renewed in this state on or after July 1, 1995:

a. Individual or group accident and sickness insurance providing coverage on an expense-incurred basis.

b. An individual or group hospital or medical service contract issued pursuant to chapter 509, 514, or 514A.

c. An individual or group health maintenance organization contract regulated under chapter 514B.

d. An individual or group Medicare supplemental policy, unless coverage pursuant to such policy is preempted by federal law.

e. An organized delivery system licensed by the director of public health.

Sec. 16. Section 514G.7, subsection 3, paragraphs a and b, Code 1995, are amended by striking the paragraphs and inserting in lieu thereof the following:

a. A long-term care insurance policy or certificate shall not use a definition of preexisting condition which is more restrictive than the following: "Preexisting condition" means the existence of symptoms which would cause an ordinarily prudent person to seek diagnosis, care, or treatment, or a condition for which medical advice or treatment was recommended by or received from a provider of health care services within six months preceding the effective date of coverage of an insured person.

b. A long-term care insurance policy shall not exclude coverage for a loss or confinement which is the result of a preexisting condition unless the loss or confinement begins within six months following the effective date of coverage of an insured person.

Sec. 17. Section 514G.7, subsection 3, paragraph c, Code 1995, is amended by striking the paragraph.

Sec. 18. Section 514G.7, subsection 6, Code 1995, is amended by striking the subsection and inserting in lieu thereof the following:

6. RIGHT TO RETURN AFTER EXAMINATION. An individual long-term care insurance policyholder has the right to return the policy within thirty days of its delivery and to have the premium refunded if, after examination, the insured person is not satisfied for any reason. Long-term care insurance policies must have a notice prominently printed on the first page or attached to the first page stating in substance that the policyholder has the right to return the policy within thirty days of its delivery and to have the premium refunded as provided in this subsection.

Sec. 19. Section 515.8, Code 1995, is amended to read as follows:

515.8 PAID-UP CAPITAL REQUIRED.

An insurance company other than a life insurance company shall not be incorporated to transact business upon the stock plan with less than two million five hundred thousand

dollars capital, the entire amount of which shall be fully paid up in cash and invested as provided by law. An insurance company other than a life insurance company shall not increase its capital stock unless the amount of the increase is fully paid up in cash. The stock shall be divided into shares of not less than one dollar each. An insurance company authorized to do business in Iowa that undergoes a change of control as defined under chapter 521A shall maintain the minimum capital requirements mandated by this section.

Sec. 20. Section 515.10, Code 1995, is amended to read as follows:

515.10 SURPLUS REQUIRED.

An insurance company other than a life insurance company shall have, in addition to the required paid-up capital, a surplus in cash or invested in securities authorized by law of not less than two million five hundred thousand dollars. An insurance company authorized to do business in Iowa that undergoes a change of control as defined under chapter 521A shall maintain the minimum surplus requirements mandated by this section.

Sec. 21. Section 515.12, subsection 5, Code 1995, is amended to read as follows:

5. The mutual company shall have in cash or in securities in which insurance companies are authorized to invest, surplus in an amount not less than five million dollars. The surplus so required may be advanced in accordance with section 515.19. A mutual company authorized to do business in Iowa that undergoes a change of control as defined under chapter 521A shall maintain the minimum surplus requirements mandated by this section.

However, the surplus requirements do not apply to a company which establishes and maintains a guaranty fund as provided by section 515.20.

Sec. 22. Section 515.94, Code 1995, is amended to read as follows:

515.94 COPY OF APPLICATION – DUTY TO ATTACH.

All insurance companies or associations shall, upon the issue or renewal of any policy, ~~attach to such policy, or endorse thereon~~ provide to the insured, a true copy of any application or representation of the ~~assured~~ insured which, by the terms of such policy, is made a part ~~thereof~~ of the policy, or of the contract of insurance, or referred to ~~therein~~ in the contract of insurance, or which may in any manner affect the validity of such policy.

Sec. 23. Section 515.109, Code 1995, is amended to read as follows:

515.109 FORMS OF POLICIES AND ENDORSEMENTS – APPROVAL.

1. The form of all policies, and of applications, and of agreements or endorsements modifying the provisions of policies, and of all permits and riders used generally throughout the state, issued or proposed to be issued by any insurance company doing business in this state under the provisions of this chapter, shall first be examined and approved by the commissioner of insurance.

2. The commissioner, upon a determination that the examination required under subsection 1 is unnecessary to achieve the purposes of this section, may exempt either of the following:

a. Any specified person by order, or any class of persons by rule.

b. Any specified risk by order, or any line or kind or* insurance or subdivision of insurance or any class of risk or combination of classes of risks by rule.

Sec. 24. Section 515A.15, Code 1995, is amended to read as follows:

515A.15 ASSIGNED RISKS.

Agreements ~~may~~ shall be made among insurers with respect to the equitable apportionment among them of insurance which may be afforded applicants who are in good faith entitled to but who are unable to procure such insurance through ordinary methods and such insurers may agree among themselves on the use of reasonable rate modifications for such insurance, ~~such~~ the agreements and rate modifications to be subject to the approval of the commissioner.

*The word "of" probably intended

For purposes of this section, "insurer" includes, in addition to insurers defined pursuant to section 515A.2, a self-insurance association formed on or after July 1, 1995, pursuant to section 87.4 except for an association comprised of cities or counties, or both, or an association comprised of community colleges as defined in section 260C.2, which have entered into an agreement pursuant to chapter 28E for the purpose of establishing a self-insured program for the payment of workers' compensation benefits.

Sec. 25. Section 515F.5, subsection 4, Code 1995, is amended to read as follows:

4. Under rules adopted under chapter 17A, the commissioner may, by written order, suspend or modify the requirement of filing as to any kind of insurance, or subdivision or combination of insurance, or as to classes of risks, which are unnecessary to achieve the purposes of this chapter and the rates for which cannot practicably be filed before they are used. The commissioner may make an examination as the commissioner deems advisable to ascertain whether rates affected by the order meet the standards set forth in section 515F.4.

Sec. 26. Section 518.14, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

518.14 INVESTMENTS.

1. GENERAL CONSIDERATIONS. The following considerations apply in the interpretation of this section:

a. This section applies to the investments of county mutual insurance associations.

b. The purpose of this section is to protect and further the interests of policyholders, claimants, creditors, and the public by providing standards for the development and administration of programs for the investment of the assets of associations organized under this chapter. These standards, and the investment programs developed by associations, shall take into account the safety of the association's principal, investment yield and growth, stability in the value of the investment, and liquidity necessary to meet the association's expected business needs, and investment diversification.

All investments made pursuant to this section shall have investment qualities and characteristics such that the speculative elements of the investments are not predominant.

c. Financial terms relating to county mutual insurance associations have the meanings assigned to them under statutory accounting methods. Financial terms relating to companies or associations other than county mutual insurance associations have the meanings assigned to them under generally accepted accounting principles.

d. Investments shall be valued in accordance with the valuation procedures established by the national association of insurance commissioners, unless the commissioner requires or finds another method of valuation reasonable under the circumstances.

e. If an investment qualifies under more than one subsection, an association may elect to hold the investment under the subsection of its choice. This section does not prevent an association from electing to hold an investment under a subsection different from the one under which it previously held the investment.

2. DEFINITIONS. For purposes of this section:

a. "Admitted assets", for purposes of computing percentage limitations on particular types of investments, means the assets which are authorized to be shown on the commissioner's annual statement blank as admitted assets as of the December 31 immediately preceding the date the association acquires the investment.

b. "Clearing corporation" means as defined in section 554.8102.

c. "Custodian bank" means as defined in section 554.8102.

d. "Issuer" means as defined in section 554.8201.

e. "Member bank" means a national bank, state bank, or trust company which is a member of the United States federal reserve system.

f. "National securities exchange" means an exchange registered under section 6 of the federal Securities Exchange Act of 1934 or an exchange regulated under the laws of Canada.

g. "Obligations" includes bonds, notes, debentures, transportation equipment certificates, domestic repurchase agreements, and obligations for the payment of money not in default as to payments of principal and interest on the date of investment, which constitute general obligations of the issuer or payable only out of certain revenues or certain funds pledged or otherwise dedicated for payment of principal and interest on the obligations. A lease is an obligation if the lease is assigned to the insurer and is nonterminable by the lessee upon foreclosure of any lien upon the leased property, and if rental payments are sufficient to amortize the investment over the primary lease term.

3. INVESTMENTS IN NAME OF ASSOCIATION OR NOMINEE AND PROHIBITIONS.

a. An association's investments shall be held in its own name or the name of its nominee, except as follows:

(1) Investments may be held in the name of a clearing corporation or of a custodian bank or in the name of the nominee of either on the following conditions:

(a) The clearing corporation, custodian bank, or nominee must be legally authorized to hold the particular investment for the account of others.

(b) When the investment is evidenced by a certificate and held in the name of a custodian bank or the nominee of a custodian bank, a written agreement shall provide that certificates so deposited shall at all times be kept separate and apart from other deposits with the depository, so that at all times they may be identified as belonging solely to the association making the deposit.

(c) If a clearing corporation is to act as depository, the investment may be merged or held in bulk in the name of the clearing corporation or its nominee with other investments deposited with the clearing corporation by any other person, if a written agreement between the clearing corporation and the association provides that adequate evidence of the deposit is to be obtained and retained by the association or a custodian bank.

(2) An association may loan stocks or obligations held by it under this chapter to a broker-dealer registered under the federal Securities Exchange Act of 1934 or to a member bank. The loan must be evidenced by a written agreement which provides all of the following:

(a) That the loan will be fully collateralized by cash or obligations issued or guaranteed by the United States or an agency or an instrumentality of the United States, and that the collateral will be adjusted as necessary each business day during the term of the loan to maintain the required collateralization in the event of market value changes in the loaned securities or collateral.

(b) That the loan may be terminated by the association at any time, and that the borrower will return the loaned stocks or obligations within five business days after termination.

(c) That the association has the right to retain the collateral or use the collateral to purchase investments equivalent to the loaned securities if the borrower defaults under the terms of the agreement, and that the borrower remains liable for any losses and expenses incurred by the association due to default that are not covered by the collateral.

(3) An association may participate through a member bank in the United States federal reserve book entry system, and the records of the member bank shall at all times show that the investments are held for the association or for specific accounts of the association.

(4) An investment may consist of an individual interest in a pool of obligations or a fractional interest in a single obligation if the certificate of participation or interest or the confirmation of participation or interest in the investment is issued in the name of the association, the name of the custodian bank, or the nominee of either, and, if the interest as evidenced by the certificate or confirmation is, if held by a custodian bank, kept separate and apart from the investments of others so that at all times the participation may be identified as belonging solely to the association making the investment.

(5) Transfers of ownership of investments held as described in paragraph "a", subparagraph (1), subparagraph subdivision (c), and subparagraphs (3) and (4), may be evidenced

by bookkeeping entry on the books of the issuer of the investment, its transfer or recording agent, or the clearing corporation without physical delivery of a certificate evidencing the associations's* investment.

b. Except as provided in paragraph "a", subparagraph (5), if an investment is not evidenced by a certificate, adequate evidence of the association's investment shall be obtained from the issuer or its transfer or recording agent and retained by the association, a custodian bank, or clearing corporation. Adequate evidence, for purposes of this paragraph, means a written receipt or other verification issued by the depository or issuer or a custodian bank which shows that the investment is held for the association.

4. INVESTMENTS. Except as otherwise permitted by this section, an association organized under this chapter shall only invest in the following:

a. UNITED STATES GOVERNMENT OBLIGATIONS. Obligations issued or guaranteed by the United States or an agency or instrumentality of the United States.

b. CERTAIN DEVELOPMENT BANK OBLIGATIONS. Obligations issued or guaranteed by the international bank for reconstruction and development, the Asian development bank, the inter-American development bank, the export-import bank, the world bank, or any United States government-sponsored organization of which the United States is a member, if the principal and interest is payable in United States dollars. An association shall not invest more than five percent of its total admitted assets in the obligations of any one of these banks or organizations, and shall not invest more than a total of ten percent of its total admitted assets in the obligations authorized by this paragraph.

c. STATE OBLIGATIONS. Obligations issued or guaranteed by a state, a political subdivision of a state, or an instrumentality of a state.

d. CANADIAN GOVERNMENT OBLIGATIONS. Obligations issued or guaranteed by Canada, by an agency or province of Canada, by a political subdivision of such province, or by an instrumentality of any of those provinces or political subdivisions.

e. CORPORATE AND BUSINESS TRUST OBLIGATIONS. Obligations issued, assumed, or guaranteed by a corporation or business trust organized under the laws of the United States or a state, or the laws of Canada or a province of Canada, provided that an association shall not invest more than five percent of its admitted assets in the obligations of any one corporation or business trust. Investments shall be made only in investment grade bonds.

f. STOCKS. Common stocks, common stock equivalents, mutual fund shares, securities convertible into common stocks or common stock equivalents, or preferred stocks issued or guaranteed by a corporation incorporated under the laws of the United States or a state, or the laws of Canada or a province of Canada. Aggregate investments in nondividend paying stocks shall not exceed five percent of surplus.

(1) Stocks purchased under this lettered paragraph shall not exceed fifty percent of surplus. With the approval of the commissioner, an association may invest any amount in common stocks, preferred stocks, or other securities of one or more subsidiaries provided that after such investments the association's surplus as regards policyholders will be reasonable in relation to the association's outstanding liabilities and adequate to its financial needs.

(2) An association shall not invest more than ten percent of its surplus in the stocks of any one corporation.

g. HOME OFFICE REAL ESTATE. Funds may be invested in a home office building, at the direction of the board of directors and with the prior approval of the commissioner of insurance. An association shall not invest more than twenty-five percent of its total admitted assets in such real estate. With the prior approval of the commissioner, an association may exceed the real estate investment limitation to effectuate a merger with, or the acquisition of, another association.

Sec. 27. Section 518.16, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

*According to enrolled Act

518.16 QUALIFICATION OF AGENTS.

A person shall not solicit any application for insurance for an association in this state without having procured from the commissioner of insurance a license authorizing the person to act as an agent pursuant to chapter 522.

Sec. 28. NEW SECTION. 518.26 LOANS TO OFFICERS PROHIBITED.

Assets or other funds shall not be loaned directly or indirectly to an officer, director, or employee of the association, or directly or indirectly to a relative of an officer, director, or an employee of the association.

Sec. 29. NEW SECTION. 518.27 FORM – APPROVAL.

The form of all policies, applications, agreements, and endorsements modifying the provisions of policies, and all permits and riders used in this state, issued or proposed to be issued by a county mutual insurance association doing business in this state under the provisions of this chapter, shall first be examined and approved by the commissioner of insurance.

Sec. 30. NEW SECTION. 518.28 FAILURE TO FILE COPY.

Upon the failure of a county mutual association to file a copy of its forms of policies or contracts pursuant to section 518.27, the commissioner of insurance may suspend its authority to transact business within the state until such forms of policies or contracts have been filed and approved.

Sec. 31. NEW SECTION. 518.29 DISAPPROVAL OF FILINGS.

If the commissioner finds that a filing does not meet the requirements of this chapter, written notice of disapproval shall be sent to the county mutual insurance association specifying in what respect the filing fails to meet the requirements of this chapter and stating that the filing is not effective. If a filing is disapproved by the commissioner, the association may request a hearing on the disapproval within thirty days. The association bears the burden of proving compliance with the standards established by this chapter.

If, at any time after a form has been approved, the commissioner finds that the form no longer meets the requirements of this chapter, the commissioner may order the discontinuance of the use of the form. The order of discontinuance shall be in writing and may be issued only after a hearing with at least ten days' prior notice to all county mutuals affected by the order. The order shall state the grounds upon which the order is based and when the order of discontinuance is effective.

Sec. 32. NEW SECTION. 518.30 CERTIFICATE SUSPENSION.

The commissioner of insurance may suspend a county mutual insurance association's certificate of authority to do business if the association neglects or fails to comply with this chapter.

Sec. 33. Section 518A.12, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

518A.12 INVESTMENTS.

1. GENERAL CONSIDERATIONS. The following considerations apply in the interpretation of this section:

a. This section applies to the investments of mutual casualty assessment insurance associations.

b. The purpose of this section is to protect and further the interests of policyholders, claimants, creditors, and the public by providing standards for the development and administration of programs for the investment of the assets of associations organized under this chapter. These standards, and the investment programs developed by companies, shall take into account the safety of the association's principal, investment yield and growth, stability in the value of the investment, and liquidity necessary to meet the association's expected business needs, and investment diversification.

All investments made pursuant to this section shall have investment qualities and characteristics such that the speculative elements of the investments are not predominant.

c. Financial terms relating to mutual casualty assessment insurance associations have the meanings assigned to them under statutory accounting methods. Financial terms relating to companies other than mutual casualty assessment insurance associations have the meanings assigned to them under generally accepted accounting principles.

d. Investments shall be valued in accordance with the valuation procedures established by the national association of insurance commissioners, unless the commissioner requires or finds another method of valuation reasonable under the circumstances.

e. If an investment qualifies under more than one subsection, an association may elect to hold the investment under the subsection of its choice. This section does not prevent an association from electing to hold an investment under a subsection different from the one under which it previously held the investment.

2. DEFINITIONS. For purposes of this section:

a. "Admitted assets", for purposes of computing percentage limitations on particular types of investments, means the assets which are authorized to be shown on the national association of insurance commissioner's annual statement blank as admitted assets as of the December 31 immediately preceding the date the association acquires the investment.

b. "Clearing corporation" means as defined in section 554.8102.

c. "Custodian bank" means as defined in section 554.8102.

d. "Issuer" means as defined in section 554.8201.

e. "Member bank" means a national bank, state bank, or trust company which is a member of the United States federal reserve system.

f. "National securities exchange" means an exchange registered under section 6 of the federal Securities Exchange Act of 1934 or an exchange regulated under the laws of Canada.

g. "Obligations" includes bonds, notes, debentures, transportation equipment certificates, domestic repurchase agreements, and obligations for the payment of money not in default as to payments of principal and interest on the date of investment, which constitute general obligations of the issuer or payable only out of certain revenues or certain funds pledged or otherwise dedicated for payment of principal and interest on the obligations. A lease is an obligation if the lease is assigned to the insurer and is nonterminable by the lessee upon foreclosure of any lien upon the leased property, and if rental payments are sufficient to amortize the investment over the primary lease term.

3. INVESTMENTS IN NAME OF ASSOCIATION OR NOMINEE AND PROHIBITIONS.

a. An association's investments shall be held in its own name or the name of its nominee, except as follows:

(1) Investments may be held in the name of a clearing corporation or of a custodian bank or in the name of the nominee of either on the following conditions:

(a) The clearing corporation, custodian bank, or nominee must be legally authorized to hold the particular investment for the account of others.

(b) When the investment is evidenced by a certificate and held in the name of a custodian bank or the nominee of a custodian bank, a written agreement shall provide that certificates so deposited shall at all times be kept separate and apart from other deposits with the depository, so that at all times they may be identified as belonging solely to the association making the deposit.

(c) If a clearing corporation is to act as depository, the investment may be merged or held in bulk in the name of the clearing corporation or its nominee with other investments deposited with the clearing corporation by any other person, if a written agreement between the clearing corporation and the association provides that adequate evidence of the deposit is to be obtained and retained by the association or a custodian bank.

(2) An association may loan stocks or obligations held by it under this chapter to a broker-dealer registered under the federal Securities Exchange Act of 1934 or to a member bank. The loan must be evidenced by a written agreement which provides all of the following:

(a) That the loan will be fully collateralized by cash or obligations issued or guaranteed by the United States or an agency or an instrumentality of the United States, and that the collateral will be adjusted as necessary each business day during the term of the loan to maintain the required collateralization in the event of market value changes in the loaned securities or collateral.

(b) That the loan may be terminated by the association at any time, and that the borrower will return the loaned stocks or obligations within five business days after termination.

(c) That the association has the right to retain the collateral or use the collateral to purchase investments equivalent to the loaned securities if the borrower defaults under the terms of the agreement, and that the borrower remains liable for any losses and expenses incurred by the association due to default that are not covered by the collateral.

(3) An association may participate through a member bank in the United States federal reserve book entry system, and the records of the member bank shall at all times show that the investments are held for the association or for specific accounts of the association.

(4) An investment may consist of an individual interest in a pool of obligations or a fractional interest in a single obligation if the certificate of participation or interest or the confirmation of participation or interest in the investment is issued in the name of the association, the name of the custodian bank, or the nominee of either, and, if the interest as evidenced by the certificate or confirmation is, if held by a custodian bank, kept separate and apart from the investments of others so that at all times the participation may be identified as belonging solely to the association making the investment.

(5) Transfers of ownership of investments held as described in paragraph "a", subparagraph (1), subparagraph subdivision (c), and subparagraphs (3) and (4), may be evidenced by bookkeeping entry on the books of the issuer of the investment, its transfer or recording agent, or the clearing corporation without physical delivery of a certificate evidencing the associations's* investment.

b. Except as provided in paragraph "a", subparagraph (5), if an investment is not evidenced by a certificate, adequate evidence of the association's investment shall be obtained from the issuer or its transfer or recording agent and retained by the association, a custodian bank, or clearing corporation. Adequate evidence, for purposes of this paragraph, means a written receipt or other verification issued by the depository or issuer or a custodian bank which shows that the investment is held for the association.

4. INVESTMENTS. Except as otherwise permitted by this section, an association organized under this chapter shall only invest in the following:

a. UNITED STATES GOVERNMENT OBLIGATIONS. Obligations issued or guaranteed by the United States or an agency or instrumentality of the United States.

b. CERTAIN DEVELOPMENT BANK OBLIGATIONS. Obligations issued or guaranteed by the international bank for reconstruction and development, the Asian development bank, the inter-American development bank, the export-import bank, the world bank, or any United States government-sponsored organization of which the United States is a member, if the principal and interest is payable in United States dollars. An association shall not invest more than five percent of its total admitted assets in the obligations of any one of these banks or organizations, and shall not invest more than a total of ten percent of its total admitted assets in the obligations authorized by this paragraph.

c. STATE OBLIGATIONS. Obligations issued or guaranteed by a state, a political subdivision of a state, or an instrumentality of a state.

d. CANADIAN GOVERNMENT OBLIGATIONS. Obligations issued or guaranteed by Canada, by an agency or province of Canada, by a political subdivision of such province, or by an instrumentality of any of those provinces or political subdivisions.

e. CORPORATE AND BUSINESS TRUST OBLIGATIONS. Obligations issued, assumed, or guaranteed by a corporation or business trust organized under the laws of the United States or a state, or the laws of Canada or a province of Canada, provided that an association

*According to enrolled Act

shall not invest more than five percent of its admitted assets in the obligations of any one corporation or business trust. Investments shall be made only in investment grade bonds.

f. STOCKS. Common stocks, common stock equivalents, mutual fund shares, securities convertible into common stocks or common stock equivalents, or preferred stocks issued or guaranteed by a corporation incorporated under the laws of the United States or a state, or the laws of Canada or a province of Canada. Aggregate investments in nondividend paying stocks shall not exceed five percent of surplus.

(1) Stocks purchased under this lettered paragraph shall not exceed fifty percent of surplus. With the approval of the commissioner, an association may invest any amount in common stocks, preferred stocks, or other securities of one or more subsidiaries provided that after such investments the association's surplus as regards policyholders will be reasonable in relation to the association's outstanding liabilities and adequate to its financial needs.

(2) An association shall not invest more than ten percent of its surplus in the stocks of any one corporation.

g. HOME OFFICE REAL ESTATE. Funds may be invested in a home office building, at the direction of the board of directors and with the prior approval of the commissioner of insurance. An association shall not invest more than twenty-five percent of its total admitted assets in such real estate. With the prior approval of the commissioner, an association may exceed the real estate investment limitation to effectuate a merger with, or the acquisition of, another association.

Sec. 34. Section 518A.17, unnumbered paragraph 3, Code 1995, is amended to read as follows:

Not less than fifty percent of such aggregate amount of assessments, and other sums paid by the members shall be returned to the members, either through the payment of losses or through discounts, credits, or dividends, to be credited on the assessments required for the current or succeeding year, or, at the discretion of the board of directors, may be set aside ~~in the emergency fund as defined in section 518A.12~~ as surplus to policyholders, but no sum less than forty percent of such aggregate assessments, and other sums paid by the members, shall be returned to the members through payment of such losses or through discounts, credits, or dividends during the current or succeeding year.

Sec. 35. NEW SECTION. 518A.44 LIMITATION ON RISKS.

An association shall not expose itself to loss on any one risk or hazard to an amount exceeding ten percent of its surplus to policyholders unless one of the following applies:

1. The excess is reinsured in some other good and reliable company licensed to sell insurance in this state.

2. The excess is reinsured by a group of incorporated or individual unincorporated insurers who are authorized to sell insurance in at least one state of the United States and who possess assets which are held in trust for the benefit of the American policyholders in the sum of not less than fifty million dollars, and a certificate of such reinsurance shall be furnished to the insured.

3. The excess is reinsured with a company which has, with respect to the ceding insurer, created a trust fund, made a deposit, or obtained letters of credit, on terms satisfactory to the commissioner.

Sec. 36. NEW SECTION. 518A.51 LOANS TO OFFICERS PROHIBITED.

Assets or other funds shall not be loaned directly or indirectly to an officer, director, or employee of the association, or directly or indirectly to a relative of an officer, director, or employee of the association.

Sec. 37. NEW SECTION. 518A.52 FORM – APPROVAL.

The form of all policies, applications, agreements, and endorsements modifying the provisions of policies, and all permits and riders used in this state, issued or proposed to be

issued by a mutual casualty assessment insurance association doing business in this state under the provisions of this chapter, shall first be examined and approved by the commissioner of insurance.

Sec. 38. NEW SECTION. 518A.53 FAILURE TO FILE COPY.

Upon the failure of a mutual casualty assessment insurance association to file a copy of its forms of policies or contracts pursuant to section 518A.52, the commissioner of insurance may suspend its authority to transact business within the state until such forms of policies or contracts have been filed and approved.

Sec. 39. NEW SECTION. 518A.54 DISAPPROVAL OF FILINGS.

If the commissioner finds that a filing does not meet the requirements of this chapter, written notice of disapproval shall be sent to the mutual casualty assessment insurance association specifying in what respect the filing fails to meet the requirements of this chapter and stating that the filing is not effective. If a filing is disapproved by the commissioner, the association may request a hearing on the disapproval within thirty days. The association bears the burden of proving compliance with the standards established by this chapter.

If, at any time after a form has been approved, the commissioner finds that the form no longer meets the requirements of this chapter, the commissioner may order the discontinuance of the use of the form. The order of discontinuance shall be in writing and may be issued only after a hearing with at least ten days' prior notice to all mutual casualty assessment insurance associations affected by the order. The order shall state the grounds upon which the order is based and when the order of discontinuance is effective.

Sec. 40. NEW SECTION. 518A.55 CERTIFICATE SUSPENSION.

The commissioner of insurance may suspend a mutual casualty assessment insurance association's certificate of authority to do business if the association neglects or fails to comply with this chapter.

Sec. 41. Section 521.1, Code 1995, is amended to read as follows:

521.1 DEFINITIONS.

"Company" or "companies" when used in this chapter means a company or association organized under chapter 508, 511, 515, 518, 518A, or 520, ~~except county mutuals~~ and includes a mutual insurance holding company organized pursuant to section 521A.14.

Sec. 42. Section 521.2, Code 1995, is amended to read as follows:

521.2 LIFE COMPANIES - CONSOLIDATION AND REINSURANCE.

~~No~~ A company organized under the laws of this state to do the business of life insurance, either on the stock, mutual, stipulated premium, or assessment plan, shall not consolidate with any other company or reinsure its risks, or any part ~~thereof~~ of such risks, with any other company, or assume or reinsure the whole or any part of the risks of any other company, except as ~~hereinafter~~ provided~~; provided that nothing contained~~ in this chapter. However, this chapter shall not be construed to prevent any company, as defined in section 521.1, from reinsuring a fractional part of any single risk.

Sec. 43. NEW SECTION. 521.16 APPLICABILITY OF CHAPTER.

Chapter 521A is applicable to a merger or consolidation made pursuant to this chapter, and the provisions of chapter 521A and this chapter shall apply exclusively with respect to such merger or consolidation.

Sec. 44. NEW SECTION. 521A.14 MUTUAL INSURANCE HOLDING COMPANIES.

1. a. A domestic mutual insurance company upon approval of the commissioner, may reorganize by forming an insurance holding company based upon a mutual plan and continuing the corporate existence of the reorganizing insurance company as a stock insurance company. The commissioner, after a public hearing as provided in section 521A.3,

subsection 4, paragraph "b", if satisfied that the interests of the policyholders are properly protected and that the plan of reorganization is fair and equitable to the policyholders, may approve the proposed plan of reorganization and may require as a condition of approval such modifications of the proposed plan of reorganization as the commissioner finds necessary for the protection of the policyholder's interests. The commissioner may retain consultants as provided in section 521A.3, subsection 4, paragraph "c". A reorganization pursuant to this section is subject to section 521A.3, subsections 1, 2, and 3. The commissioner shall retain jurisdiction over a mutual insurance holding company organized pursuant to this section to assure that policyholder interests are protected.

b. All of the initial shares of the capital stock of the reorganized insurance company shall be issued to the mutual insurance holding company. The membership interests of the policyholders of the reorganized insurance company shall become membership interests in the mutual insurance holding company. Policyholders of the reorganized insurance company shall be members of the mutual insurance holding company in accordance with the articles of incorporation and bylaws of the mutual insurance holding company. The mutual insurance holding company shall at all times own a majority of the voting shares of the capital stock of the reorganized insurance company.

2. a. A domestic mutual insurance company, upon the approval of the commissioner, may reorganize by merging its policyholders membership interests into a mutual insurance holding company formed pursuant to subsection 1 and continuing the corporate existence of the reorganizing insurance company as a stock insurance company subsidiary of the mutual insurance holding company. The commissioner, after a public hearing as provided in section 521A.3, subsection 4, paragraph "b", if satisfied that the interest of the policyholders are properly protected and that the merger is fair and equitable to the policyholders, may approve the proposed merger and may require as a condition of approval such modifications of the proposed merger as the commissioner finds necessary for the protection of the policyholder's interests. The commissioner may retain consultants as provided in section 521A.3, subsection 4, paragraph "c". A merger pursuant to this section is subject to section 521A.3, subsections 1, 2, and 3. The commissioner shall retain jurisdiction over the mutual insurance holding company organized pursuant to this section to assure that policyholder interests are protected.

b. All of the initial shares of the capital stock of the reorganized insurance company shall be issued to the mutual insurance holding company. The membership interests of the policyholders of the reorganized insurance company shall become membership interests in the mutual insurance holding company. Policyholders of the reorganized insurance company shall be members of the mutual insurance holding company in accordance with the articles of incorporation and bylaws of the mutual insurance holding company. The mutual insurance holding company shall at all times own a majority of the voting shares of the capital stock of the reorganized insurance company. A merger of policyholder's membership interests in a mutual insurance company into a mutual insurance holding company shall be deemed to be a merger of insurance companies pursuant to chapter 521 and chapter 521 is also applicable.

3. A mutual insurance holding company resulting from the reorganization of a domestic mutual insurance company organized under chapter 491 shall be incorporated pursuant to chapter 491. This requirement shall supersede any conflicting provisions of section 491.1. The articles of incorporation and any amendments to such articles of the mutual insurance holding company shall be subject to approval of the commissioner and the attorney general in the same manner as those of an insurance company.

4. A mutual insurance holding company is deemed to be an insurer subject to chapter 507C and shall automatically be a party to any proceeding under chapter 507C involving an insurance company which as a result of a reorganization pursuant to subsection 1 or 2 is a subsidiary of the mutual insurance holding company. In any proceeding under chapter 507C involving the reorganized insurance company, the assets of the mutual insurance

holding company are deemed to be assets of the estate of the reorganized insurance company for purposes of satisfying the claims of the reorganized insurance company's policyholders. A mutual insurance holding company shall not dissolve or liquidate without the approval of the commissioner or as ordered by the district court pursuant to chapter 507C.

5. a. Chapters 508B and 515G are not applicable to a reorganization or merger pursuant to this section.

b. Chapter 508B is applicable to demutualization of a mutual insurance holding company which resulted from the reorganization of a domestic mutual life insurance company organized under chapter 508 as if it were a mutual life insurance company.

c. Chapter 515G is applicable to demutualization of a mutual insurance holding company which resulted from the reorganization of a domestic mutual property and casualty insurance company organized under chapter 515 as if it were a mutual property and casualty insurance company.

6. A membership interest in a domestic mutual insurance holding company shall not constitute a security as defined in section 502.102.

Sec. 45. Section 521B.2, subsection 4, paragraph a, Code 1995, is amended to read as follows:

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

Sec. 46. 1994 Iowa Acts, chapter 1072, section 9, is amended to read as follows:

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 sections 507E.2, 507E.4, 507E.5, 507E.6, and 507E.8 of 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.

Sec. 47. Sections 518A.33, 518A.34, and 518A.42, Code 1995, are repealed.

Sec. 48. The Code editor is directed to codify new section 521A.14, as enacted in this Act, as a separate division of chapter 521A.

Approved May 22, 1995

CHAPTER 186

LOCAL OPTION SALES AND SERVICES TAX

S.F. 472

AN ACT relating to the local option sales and services tax by authorizing political subdivisions that will receive revenues from the tax to issue bonds in anticipation of the receipt of the revenues, by authorizing the imposition of the tax in certain cities located in two counties, and by setting the procedure for changing the use of revenues from the tax, and providing an effective date and a retroactive applicability date.

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

Section 1. Section 422B.1, subsection 1, Code 1995, is amended to read as follows:

1. A county may impose by ordinance of the board of supervisors local option taxes authorized by this chapter, subject to this section and subject to the exception provided in subsection 1A.

Sec. 2. Section 422B.1, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. a. A city whose corporate boundaries include areas of two counties may impose by ordinance of its city council a local sales and services tax if all of the following apply:

(1) All the residents of the city live in one county.

(2) The county in which the city residents reside has held an election on the question of the imposition of a local sales and services tax and a majority of those voting on the question in the city favored its imposition.

(3) The city has entered into an agreement on the distribution of the sales and services tax revenues collected from the area where the city tax is imposed with the county where such area is located.

b. The city council of a city authorized to impose a local sales and services tax pursuant to paragraph "a" shall only do so subject to all of the following restrictions:

(1) The tax shall only be imposed in the area of the city located in the county where none of its residents reside.

(2) The tax shall be at the same rate and become effective at the same time as the county tax imposed in the other area of the city.

(3) The tax once imposed shall continue to be imposed until the county imposed tax is reduced or increased in rate or repealed, and then the city imposed tax shall also be reduced or increased in rate or repealed in the same amount and be effective on the same date.

(4) The tax shall be imposed on the same basis as provided in section 422B.8 and notification requirements in section 422B.9 apply.

(5) The city shall assist the department of revenue and finance to identify the businesses in the area which are to collect the city imposed tax. The process shall be ongoing as long as the city tax is imposed.

c. The agreement on the distribution of the revenues collected from the city imposed tax shall provide that fifty percent of such revenues shall be remitted to the county in which the part of the city where the city tax is imposed is located.

d. The latest certified federal census preceding the election held by the county on the question of imposition of the local sales and services tax shall be used in determining if the city qualifies under paragraph "a", subparagraph (1) to impose its own tax and in determining the area where the city tax may be imposed under paragraph "b", subparagraph (1).

e. A city is not authorized to impose a local sales and services tax under this subsection after January 1, 1998. A city that has imposed a local sales and services tax under this subsection on or before January 1, 1998, may continue to collect the tax until such time as

the tax is repealed by the city and the fact that that area acquires residents after the tax is imposed shall not affect the imposition or collection of the tax.

Sec. 3. Section 422B.1, subsection 5, paragraph a, unnumbered paragraph 1, Code 1995, is amended to read as follows:

If a majority of those voting on the question of imposition of a local option tax favor imposition of a local option tax, the governing body of that county shall impose the tax at the rate specified for an unlimited period. However, in the case of a local sales and services tax, the county shall not impose the tax in any incorporated area or the unincorporated area if the majority of those voting on the tax in that area did not favor its imposition. For purposes of the local sales and services tax, all cities contiguous to each other shall be treated as part of one incorporated area and the tax shall be imposed in each of those contiguous cities only if the majority of those voting on the tax in the total area covered by the contiguous cities favored its imposition. The local option tax may be repealed or the rate increased or decreased or the use thereof changed after an election at which a majority of those voting on the question of repeal or rate or use change favored the repeal or rate or use change. The election at which the question of repeal or rate or use change is offered shall be called and held in the same manner and under the same conditions as provided in subsections 3 and 4 for the election on the imposition of the local option tax. However, in the case of a local sales and services tax where the tax has not been imposed countywide, the question of repeal or imposition or rate or use change shall be voted on only by the qualified electors of the areas of the county where the tax has been imposed or has not been imposed, as appropriate. However, the governing body of the incorporated area or unincorporated area where the local sales and services tax is imposed may, upon its own motion, request the county commissioner of elections to hold an election in the incorporated or unincorporated area, as appropriate, on the question of the change in use of local sales and services tax revenues. The election may be held at any time but not sooner than sixty days following publication of the ballot proposition. If a majority of those voting in the incorporated or unincorporated area on the change in use favor the change, the governing body of that area shall change the use to which the revenues shall be used. The ballot proposition shall list the present use of the revenues, the proposed use, and the date after which revenues received will be used for the new use.

Sec. 4. Section 422B.1, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 9. Notwithstanding subsection 8 or any other contrary provision of this chapter, a local option sales and services tax shall not be repealed or reduced in rate if obligations are outstanding which are payable as provided in section 422B.12, unless funds sufficient to pay the principal, interest, and premium, if any, on the outstanding obligations at and prior to maturity have been properly set aside and pledged for that purpose.

Sec. 5. Section 422B.10, subsection 1, Code 1995, is amended to read as follows:

1. The director shall credit the local sales and services tax receipts and interest and penalties from a county imposed tax to the county's account in the local sales and services tax fund and from a city imposed tax under section 422B.1, subsection 1A, to the city's account in the local sales and services tax fund. If the director is unable to determine from which county any of the receipts were collected, those receipts shall be allocated ~~amongst~~ among the possible counties based on allocation rules adopted by the director.

Sec. 6. Section 422B.10, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. From each city's account, the percent of revenues agreed to be distributed to the county in the agreement entered into as provided in section 422B.1, subsection 1A, paragraph "a", subparagraph (3) and paragraph "c", shall be deposited into

the appropriate county's account to be remitted as provided in subsections 3 and 4. The remaining revenues in the city's account shall be remitted to the city council. If a county does not have an account, its percent of the revenues shall be remitted directly to the county board of supervisors.

Sec. 7. NEW SECTION. 422B.12 ISSUANCE OF BONDS.

1. For purposes of this section unless the context otherwise requires:

a. "Bond issuer" or "issuer" means a city, a county, or a secondary recipient.

b. "Designated portion" means the portion of the local option sales and services tax revenues which is authorized to be expended for one or a combination of purposes under an adopted public measure.

c. "Secondary recipient" means a political subdivision of the state which is to receive revenues from a local option sales and services tax over a period of years pursuant to the terms of a chapter 28E agreement with one or more cities or counties.

2. An issuer of public bonds which is a recipient of revenues from a local option sales and services tax imposed pursuant to this chapter may issue bonds in anticipation of the collection of one or more designated portions of the local option sales and services tax and may pledge irrevocably an amount of the revenue derived from the designated portions for each of the years the bonds remain outstanding to the payment of the bonds. Bonds may be issued only for one or more of the purposes set forth on the ballot proposition concerning the imposition of the local option sales and services tax, except bonds shall not be issued which are payable from that portion of tax revenues designated for property tax relief. The bonds may be issued in accordance with the procedures set forth in either subsection 3 or 4.

3. The governing body of an issuer may authorize the issuance of bonds which are payable from the designated portion of the revenues of the local option sales and services tax, and not from property tax, by following the authorization procedures set forth for cities in section 384.83. Bonds may be issued for the purpose of refunding outstanding and previously issued bonds under this subsection without otherwise complying with the provisions of this subsection.

4. To authorize the issuance of bonds payable as provided in this subsection, the governing body of an issuer shall comply with all of the procedures as follows:

a. A bond issuer may institute proceedings for the issuance of bonds by causing a notice of the proposal to issue the bonds, including a statement of the amount and purpose of the bonds, together with the maximum rate of interest which the bonds are to bear, and the right to petition for an election, to be published at least once in a newspaper of general circulation within the political subdivision or unincorporated area at least ten days prior to the meeting at which it is proposed to take action for the issuance of the bonds.

If at any time before the date fixed for taking action for the issuance of the bonds, a petition signed by three percent of the registered voters of the bond issuer is filed, asking that the question of issuing the bonds be submitted to the registered voters, the governing body shall either by resolution declare the proposal to issue the bonds to have been abandoned or shall direct the county commissioner of elections to call a special election upon the question of issuing the bonds. The proposition of issuing bonds under this subsection is not approved unless the vote in favor of the proposition is equal to at least sixty percent of the vote cast. If a petition is not filed, or if a petition is filed and the proposition of issuing the bonds is approved at an election, the governing body acting on behalf of the issuer may proceed with the authorization and issuance of the bonds. Bonds may be issued for the purpose of refunding outstanding and previously issued bonds under this subsection without otherwise complying with the provisions of this subsection.

b. The provisions of chapter 76 apply to the bonds payable as provided in this subsection, except that the mandatory levy to be assessed pursuant to section 76.2 shall be at a rate to generate an amount which together with the receipts from the pledged designated portion of the local option sales and services tax is sufficient to pay the interest and principal

on the bonds. All amounts collected as a result of the levy assessed pursuant to section 76.2 and paid out in the first instance for bond principal and interest shall be repaid to the bond issuer which levied the tax from the first available designated portion of local option sales and services tax collections received in excess of the requirement for the payment of the principal and interest of the bonds and when repaid shall be applied in reduction of property taxes. The amount of bonds which may be issued under section 76.3 shall be the amount which could be retired from the actual collections of the designated portions of the local option sales and services tax for the last four calendar quarters, as certified by the director of revenue and finance. The amount of tax revenues pledged jointly by other cities or counties may be considered for the purpose of determining the amount of bonds which may be issued. If the local option sales and services tax has been in effect for less than four calendar quarters, the tax collected within the shorter period may be adjusted to project the collections of the designated portion for the full year for the purpose of determining the amount of the bonds which may be issued. The provisions of this section constitute separate authorization for the issuance of bonds and shall prevail in the event of conflict with any other provision of the Code limiting the amount of bonds which may be issued or the source of payment of the bonds. Bonds issued under this section shall not limit or restrict the authority of the bond issuer to issue bonds under other provisions of the Code.

5. A city or county, jointly with one or more other political subdivisions as provided in chapter 28E, may pledge irrevocably any amount derived from the designated portions of the revenues of the local option sales and services tax to the support or payment of bonds of an issuer, issued for one or more purposes set forth on the ballot proposition concerning the imposition of the local option sales and services tax or a political subdivision may apply the proceeds of its bonds to the support of any such purpose.

6. Bonds issued pursuant to this section shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, and shall not be subject to the provisions of any other law or charter relating to the authorization, issuance, or sale of bonds. Bonds issued pursuant to this section are declared to be issued for an essential public and governmental purpose. Bonds issued pursuant to this section shall be authorized by resolution of the governing body and may be issued in one or more series and shall bear the date or dates, be payable on demand or mature at the time or times, bear interest at the rate or rates not exceeding that permitted by chapter 74A, be in the denomination or denominations, be in the form, have the rank or priority, be executed in the manner, be payable in the medium of payment, at the place or places, be subject to the terms of redemption, with or without premium, be secured in the manner, and have the other characteristics, as may be provided by the resolution authorizing their issuance. The bonds may be sold at public or private sale at a price as may be determined by the governing body.

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

Sec. 9. RETROACTIVE APPLICABILITY DATE. This Act applies retroactively to local option sales and services taxes approved on or after July 1, 1994. Statutory procedures required for local option sales and services tax elections held on or after July 1, 1994, and before the effective date of this Act shall be deemed to fulfill the notice, proceedings, and election requirements contained in section 7 of this Act.

Approved May 22, 1995

CHAPTER 187

RESIDENTIAL SERVICE CONTRACTS – EXCLUSION FROM TAXATION
H.F. 566

AN ACT relating to the taxation of sales of residential service contracts under the state sales, services, and use taxes.

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

Section 1. Section 422.43, subsection 6, Code 1995, is amended to read as follows:

6. There is imposed a tax of five percent upon the gross receipts from the sales of optional service or warranty contracts, except residential service contracts regulated under chapter 523C, which provide for the furnishing of labor and materials and require the furnishing of any taxable service enumerated under this section. The gross receipts are subject to tax even if some of the services furnished are not enumerated under this section. For the purpose of this division, the sale of an optional service or warranty contract, other than a residential service contract regulated under chapter 523C, is a sale of tangible personal property. Additional sales, services, or use taxes shall not be levied on services, parts, or labor provided under optional service or warranty contracts which are subject to tax under this section.

Sec. 2. Section 423.1, subsection 10, Code 1995, is amended to read as follows:

10. "Tangible personal property" means tangible goods, wares, merchandise, optional service or warranty contracts, except residential service contracts regulated under chapter 523C, vulcanizing, recapping, or retreading services, engraving, photography, retouching, printing, or binding services, and gas, electricity, and water when furnished or delivered to consumers or users within this state.

Approved May 24, 1995

CHAPTER 188

NONPROFIT CORPORATIONS – REINCORPORATION AND OTHER MATTERS
S.F. 400

AN ACT providing for the reincorporation of nonprofit corporations and providing for retroactive applicability and effective dates.

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

Section 1. NEW SECTION. 504A.64A REINCORPORATION.

Notwithstanding section 504A.64, if the period of duration of incorporation of a domestic corporation organized or existing under chapter 504, as the chapter existed prior to July 1, 1990, or a predecessor chapter has expired, or if a permit held by a foreign corporation under the provisions of chapter 504, as the chapter existed prior to July 1, 1990, is no longer valid, but the corporation has continued to act as a nonprofit corporation as provided in the chapter under which it was organized, the trustees, directors, or members of the corporation may reincorporate under this chapter and thus become subject to its provisions, and all the property and rights of the corporation shall vest in the corporation as reincorporated for the use and benefit of the corporation. The corporation shall reincorporate in the same manner as though voluntarily electing to adopt the provisions of this chapter in accordance with section 504A.100. This section shall not apply to a corporation which has been dissolved pursuant to section 504A.87.

Sec. 2. Section 504A.100, subsection 13, Code 1995, is amended to read as follows:

13. Corporations existing under chapter 504 shall be subject to this chapter on July 1, 1990, except that the corporations shall be subject to sections 504A.8 and 504A.83 on January 1, ~~1995~~ 1997. A corporate existence of a corporation that is not in compliance on the records of the secretary of state with sections 504A.8 and 504A.83 on June 30, ~~1995~~ 1997, is terminated, effective July 1, ~~1995~~ 1997. A corporation whose existence is terminated pursuant to this subsection may be reinstated. When the reinstatement is effective, it relates back to and takes effect as of the effective date of the termination of its corporate existence as if such termination had never occurred. The secretary of state shall adopt rules governing the reinstatement of a corporation pursuant to this subsection.

Sec. 3. REPEAL. Section 504A.64A is repealed July 1, 2000.

Sec. 4. RETROACTIVE APPLICABILITY. Section 1 of this Act applies retroactively to July 1, 1990.

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

Approved May 24, 1995

CHAPTER 189

ELECTIONS

H.F. 494

AN ACT relating to the office of secretary of state, the conduct of elections, and the registration of voters in the state and relating to corrective and technical changes to Iowa's election laws.

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

Section 1. Section 43.49, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The votes of all write-in candidates who each received less than two percent of the votes cast for an office reported collectively under the heading "scattering".

Sec. 2. Section 43.53, Code 1995, is amended to read as follows:

43.53 NOMINEES FOR SUBDIVISION OFFICE - WRITE-IN CANDIDATES.

The nominee of each political party for any office to be filled by the voters of any township or other political subdivision within the county shall be the person receiving the highest number of votes cast in the primary election by the voters of that party for the office ~~and that~~. That person shall appear as the party's candidate for the office on the general election ballot. A person whose name is not printed on the official primary ballot shall not be declared nominated as a candidate for such office in the general election unless that person receives ~~the greater of~~ at least five votes ~~or a number of votes equal to at least five percent of the votes cast in the subdivision at the last preceding general election for the party's candidate for president of the United States or for governor, as the case may be~~. Nomination of a candidate for the office of county supervisor elected from a district within the county shall be governed by section 43.52 and not by this section.

Sec. 3. Section 43.63, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

43.63 CANVASS BY STATE BOARD.

Upon receipt of the abstracts of votes from the counties, the secretary of state shall immediately open the envelopes and canvass the results for all offices. The secretary of state shall invite to attend the canvass one representative from each political party which, at the last preceding general election, cast for its candidate for president of the United States or for governor, as the case may be, at least two percent of the total vote cast for all candidates for that office at that election, as determined by the secretary of state. The secretary of state shall notify the chairperson of each political party of the time of the canvass. However, the presence of a representative from a political party is not necessary for the canvass to proceed.

Not later than the twenty-seventh day after the primary election, the secretary of state shall present to the state board of canvassers abstracts showing the number of ballots cast by each political party for each office and a summary of the results for each office, showing the votes cast in each county. The state board of canvassers shall review the results compiled by the secretary of state and, if the results are accurately tabulated, the state board shall approve the canvass.

Sec. 4. Section 43.88, unnumbered paragraph 2, Code 1995, is amended to read as follows:

Nominations made to fill vacancies at a special election shall be certified to the proper official not less than twenty days prior to the date set for the special election. In the event the special election is to fill a vacancy in the general assembly while it is in session or within forty-five days of the convening of any session, the ~~time limit herein provided~~ nomination shall ~~not apply~~ be certified not less than fourteen days before the date of the special election.

Sec. 5. Section 44.4, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Nominations made pursuant to this chapter and chapter 45 which are required to be filed in the office of the state commissioner shall be filed in that office not more than ninety-nine days nor later than five p.m. on the eighty-first day before the date of the general election to be held in November. Nominations made for a special election called pursuant to section 69.14 shall be filed by five p.m. not less than twenty days before the date of an election called upon at least forty days' notice and not less than ~~seven~~ fourteen days before the date of an election called upon at least ~~ten~~ eighteen days' notice. Nominations made for a special election called pursuant to section 69.14A shall be filed by five p.m. not less than twenty days before the date of the election. Nominations made pursuant to this chapter and chapter 45 which are required to be filed in the office of the commissioner shall be filed in that office not more than ninety-two days nor later than five p.m. on the sixty-ninth day before the date of the general election. Nominations made pursuant to this chapter or chapter 45 for city office shall be filed not more than seventy-two days nor later than five p.m. on the forty-seventh day before the city election with the city clerk, who shall process them as provided by law.

Sec. 6. Section 47.8, subsection 1, Code 1995, is amended to read as follows:

1. ~~There is established a~~ A state voter registration commission is established which shall meet at least quarterly to make and review policy, adopt rules, and establish procedures to be followed by the registrar in discharging the duties of that office, and to promote interagency cooperation and planning. The commission shall consist of the state commissioner of elections or the state commissioner's designee, ~~and~~ the state chairpersons of the two political parties whose candidates for president of the United States or governor, as the case may be, received the greatest and next greatest number of votes in

the most recent general election, or their respective designees, ~~who~~ and a county commissioner of registration appointed by the president of the Iowa state association of county auditors, or an employee of the commissioner. The commission membership shall be balanced by political party affiliation pursuant to section 69.16. Members shall serve without additional salary or reimbursement.

The state commissioner of elections, or the state commissioner's designee, shall serve as chairperson of the state voter registration commission.

Sec. 7. Section 47.8, subsection 3, Code 1995, is amended to read as follows:

3. The registrar shall provide staff services to the commission and shall make available to it all information relative to the activities of the registrar's office in connection with ~~the~~ voter registration ~~of voters in this state~~ policy which may be requested by any commission member. The registrar shall also provide to the commission at no charge statistical reports for planning and analyzing voter registration services in the state.

PARAGRAPH DIVIDED. The commission may authorize the registrar to employ such additional staff personnel as it deems necessary to permit the duties of the registrar's office to be adequately and promptly discharged. Such personnel shall be employed pursuant to chapter 19A.

Sec. 8. Section 49.66, Code 1995, is amended to read as follows:

49.66 RESERVE SUPPLY OF BALLOTS.

The commissioner shall provide and retain at the commissioner's office an ample supply of ballots, in addition to those distributed to the several voting precincts~~, and if~~. If at any time the ballots furnished to any precinct shall be lost, destroyed, or if the chairperson of the precinct election officials determines that the supply of ballots will be exhausted before the polls are closed, ~~on written application, signed by a majority of~~ the chairperson of the precinct election officials of ~~such~~ the precinct~~, or signed and sworn to by one of such officials, the~~ shall immediately contact the commissioner by telephone. If no telephone is available, a messenger shall be sent to the commissioner with a written application for additional ballots. The application shall be signed by a majority of the precinct election officials. The commissioner shall keep written records of all requests for additional ballots and shall immediately cause to be delivered to ~~such~~ the officials, at the polling place, such additional supply of ballots as may be required, and sufficient to comply with the provisions of this chapter.

Sec. 9. Section 49.67, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

49.67 FORM OF RESERVE SUPPLY.

The number of reserve ballots for each precinct shall be determined by the commissioner.

If necessary, the commissioner or the commissioner's designee may make photocopies of official ballots to replace or replenish ballot supplies. The commissioner shall keep a record of the number of photocopied ballots made for each precinct, the name of the person who made the photocopies, and the date, time, and location at which the photocopies were made. These records shall be made on forms and following procedures prescribed by the secretary of state by administrative rule.

In any precinct where photocopied ballots are used, each photocopied ballot shall be initialed as required by section 49.82 by two precinct officials immediately before being issued to the voter. In partisan elections the two precinct officials shall be of different political parties.

Sec. 10. Section 50.24, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The county board of supervisors shall meet to canvass the vote on the first Monday or Tuesday after the day of each election to which this chapter is applicable, unless the law

authorizing the election specifies another date for the canvass. If that Monday or Tuesday is a public holiday, section 4.1, subsection 34 controls. Upon convening, the board shall open and canvass the tally lists and shall prepare abstracts stating, in words written at length, the number of votes cast in the county, or in that portion of the county in which the election was held, for each office and on each question on the ballot for the election. The board shall contact the chairperson of the special precinct board before adjourning and include in the canvass any absentee ballots which were received after the polls closed in accordance with section 53.17 and which were canvassed by the special precinct board after election day. The abstract shall further indicate the name of each person who received votes for each office on the ballot, and the number of votes each person named received for that office, and the number of votes for and against each question submitted to the voters at the election. The votes of all write-in candidates who each received less than two percent of the votes cast for an office shall be reported collectively under the heading "scattering".

Sec. 11. Section 50.36, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

50.36 ENVELOPES CONTAINING OTHER ABSTRACTS - CANVASS.

The secretary of state, upon receipt of the envelopes containing the abstracts of votes, shall open and canvass the abstracts for all offices except governor and lieutenant governor.

The secretary of state shall invite to attend the canvass one representative from each political party which, at the last preceding general election, cast for its candidate for president of the United States or for governor, as the case may be, at least two percent of the total vote cast for all candidates for that office at that election, as determined by the secretary of state. The secretary of state shall notify the chairperson of each political party of the time of the canvass. However, the presence of a representative from a political party is not necessary for the canvass to proceed.

Sec. 12. Section 50.37, Code 1995, is amended to read as follows:

50.37 STATE CANVASSING BOARD.

The executive council shall constitute a board of canvassers of all abstracts of votes required to be filed with the state commissioner, except for the offices of governor and lieutenant governor. ~~No member of such board shall take part in canvassing the votes for an office for which the member is a candidate.~~ Any clerical error found by the secretary of state or state board of canvassers shall be corrected by the county commissioner in a letter addressed to the state board of canvassers.

Sec. 13. Section 50.38, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

50.38 TIME OF STATE CANVASS.

Not later than twenty-seven days after the day of the election, the secretary of state shall present to the board of state canvassers abstracts of votes cast at the election showing the number of ballots cast for each office and a summary of the results for each office, showing the votes cast in each county. The state board of canvassers shall review the results compiled by the secretary of state and, if the results are accurately tabulated, the state board shall approve the canvass.

Sec. 14. NEW SECTION. 50.49 RECOUNTS FOR PUBLIC MEASURES.

A recount for any public measure shall be ordered by the board of canvassers if a petition requesting a recount is filed with the county commissioner not later than three days after the completion of the canvass of votes for the election at which the question appeared on the ballot. The petition shall be signed by the greater of not less than ten eligible electors or a number of eligible electors equaling one percent of the total number of votes cast upon the public measure. Each petitioner must be a person who was entitled to vote on the public measure in question or would have been so entitled if registered to vote.

The recount shall be conducted by a board which shall consist of:

1. A designee named in the petition requesting the recount.

2. A designee named by the commissioner at or before the time the board is required to convene.

3. A person chosen jointly by the members designated under subsections 1 and 2.

The commissioner shall convene the persons designated under subsections 1 and 2 not later than nine a.m. on the seventh day following the canvass of the election in question. If those two members cannot agree on the third member by eight a.m. on the ninth day following the canvass, they shall immediately notify the chief judge of the judicial district in which the canvass is occurring, who shall appoint the third member not later than five p.m. on the eleventh day following the canvass.

The petitioners requesting the recount shall post a bond as required by section 50.48, subsection 2. The amount of the bond shall be one thousand dollars for a public measure appearing on the ballot statewide or one hundred dollars for any other public measure. If the difference between the affirmative and negative votes cast on the public measure is less than the greater of fifty votes or one percent of the total number of votes cast for and against the question, a bond is not required.

The procedure for the recount shall follow the provisions of section 50.48, subsections 4 through 7, as far as possible.

Sec. 15. Section 53.2, unnumbered paragraph 4, Code 1995, is amended to read as follows:

~~If the~~ An application ~~is~~ for a primary election ballot ~~and the request is for a ballot of~~ which specifies a party different from that recorded on the 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 registered voter at the time of voting. Upon receipt of the properly completed form, the~~ shall be accepted as a change or declaration of party affiliation. The commissioner shall approve the change or declaration and enter a notation of the change on the registration records. A notice shall be sent with the ballot requested informing the voter that the voter's registration record will be changed to show that the voter is now affiliated with the party whose ballot the voter requested.

Sec. 16. Section 53.23, subsection 4, Code 1995, is amended to read as follows:

4. The room where members of the special precinct election board are engaged in counting absentee ballots during the hours the polls are open shall be policed so as to prevent any person other than those whose presence is authorized by this subsection from obtaining information about the progress of the count. The only persons who may be admitted to that room are the members of the board, one challenger representing each political party, one observer representing any nonparty political organization or any candidate nominated by petition pursuant to chapter 45 or any other nonpartisan candidate in a city or school election appearing on the ballot of the election in progress, one observer representing persons supporting a public measure appearing on the ballot and one observer representing persons opposed to such measure, and the commissioner or the commissioner's designee. It shall be unlawful for any of these persons to communicate or attempt to communicate, directly or indirectly, information regarding the progress of the count at any time before the polls are closed.

Sec. 17. Section 69.14, Code 1995, is amended to read as follows:

69.14 SPECIAL ELECTION TO FILL VACANCIES.

A special election to fill a vacancy shall be held for a representative in Congress, or senator or representative in the general assembly, when the body in which such vacancy exists is in session, or will convene prior to the next general election, and the governor shall order, not later than five days from the date the vacancy exists, a special election,

giving not less than forty days' notice of such election. In the event the special election is to fill a vacancy in the general assembly while it is in session or within forty-five days of the convening of any session, the time limit ~~herein~~ provided in this section shall not apply and the governor shall order such special election at the earliest practical time, giving at least ~~ten~~ eighteen days' notice ~~thereof~~ of the special election. Any special election called under this section must be held on a Tuesday and shall not be held on the same day as a school election within the district.

Sec. 18. Section 275.23A, subsection 1, Code 1995, is amended to read as follows:

1. School districts which have directors who represent director districts as provided in section 275.12, subsection 2, paragraphs "b", "c", "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.

Sec. 19. Section 277.4, unnumbered paragraph 2, Code 1995, 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 at least ten eligible electors, or a number of eligible electors equal in number to not less than one percent of the ~~qualified electors~~ registered voters of the school district ~~or one hundred eligible electors of the district, whichever is less~~. If the candidate is running for a seat ~~in~~ which is voted for only by the voters of a director district, the petition must be signed by at least ten eligible electors of the director district or a number of eligible electors equal in number to not less than one percent of the ~~qualified electors~~ registered voters in the director district ~~or one hundred eligible electors in the district, whichever is less~~. A petition filed under this section shall not be required to have more than one hundred signatures. 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. 20. Section 296.2, Code 1995, is amended to read as follows:

296.2 PETITION FOR ELECTION.

Before indebtedness can be contracted in excess of one and one-quarter percent of the assessed value of the taxable property, a petition signed by ~~a number~~ eligible electors equal in number to twenty-five percent of those voting at the last election of school officials shall be filed with the president of the board of directors, asking that an election be called, stating the amount of bonds proposed to be issued and the purpose or purposes for which the indebtedness is to be created, and that the purpose or purposes cannot be accomplished within the limit of one and one-quarter percent of the valuation. The petition may request the calling of an election on one or more propositions and a proposition may include one or more purposes.

Sec. 21. Section 384.12, subsection 20, paragraph a, Code 1995, is amended to read as follows:

a. The election may be held as specified ~~herein~~ in this subsection if notice is given by the city council, not later than ~~February 15~~ thirty-two days before the second Tuesday in March, to the county commissioner of elections that the election is to be held.

Approved May 24, 1995

CHAPTER 190

PERSONS WITH MENTAL RETARDATION – PAYMENT OF EXPENSES

H.F. 505

AN ACT relating to payment of expenses for persons with mental retardation.

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

Section 1. Section 222.60, Code 1995, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. Prior to a county of legal settlement approving the payment of expenses for a person under this section, the county may require that the person be diagnosed to determine if the person has mental retardation or that the person be evaluated to determine the appropriate level of services required to meet the person's needs relating to mental retardation. The diagnosis and the evaluation may be performed concurrently and shall be performed by an individual or individuals approved by the county who are qualified to perform the diagnosis or the evaluation. Following the initial approval for payment of expenses, the county of legal settlement may require that an evaluation be performed at reasonable time periods. The cost of a county-required diagnosis and an evaluation is at the county's expense. In the case of a person without legal settlement or whose legal settlement is unknown, the state may apply the diagnosis and evaluation provisions of this paragraph at the state's expense. A diagnosis or an evaluation under this section may be part of a county's single entry point process under section 331.440, provided that a diagnosis is performed only by an individual qualified as provided in this section.

NEW UNNUMBERED PARAGRAPH. A diagnosis of mental retardation under this section shall be made only when the onset of the person's condition was prior to the age of eighteen years and shall be based on an assessment of the person's intellectual functioning and level of adaptive skills. The diagnosis shall be made by an individual who is a psychologist or psychiatrist who is professionally trained to administer the tests required to assess intellectual functioning and to evaluate a person's adaptive skills.

NEW UNNUMBERED PARAGRAPH. A diagnosis of mental retardation shall be made in accordance with the criteria provided in the diagnostic and statistical manual of mental disorders, fourth edition, published by the American psychiatric association.

Sec. 2. SUPPLEMENTAL EXPENSE PAYMENT. If the amendments adopted by the department of human services in 1993 through 1995 in 441 Iowa administrative code, rules 22.1 and 24.1, which revise the definition of the term "persons with mental retardation," have the result of increasing costs to a county during the fiscal period beginning July 1, 1993, and ending June 30, 1995, the county shall report the increased costs to the department of human services. The department shall compile the county reports of increased costs to develop a total of the increased costs submitted by counties pursuant to this section. The total increased costs shall be included in a report submitted to the governor and the general assembly for budget consideration during the 1996 legislative session. If the total increased costs exceeds $2,000,000, the report shall include a recommendation for a supplemental appropriation for the amount in excess of $2,000,000 to be used for a supplemental expense payment to counties. The amount of a county's supplemental expense payment would be equal to the amount of the county's proportion of the total of the increased costs submitted applied to the amount of the supplemental appropriation. The council on human services shall adopt rules in consultation with the state-county management committee to establish forms and other requirements implementing the provisions of this section.

Approved May 25, 1995

CHAPTER 191

CRIMINAL AND JUVENILE JUSTICE

H.F. 528

†**AN ACT** relating to criminal and juvenile justice, including authorizing the suspension of the juvenile's motor vehicle license, authorizing a criminal justice agency to retain a copy of a juvenile's fingerprint card, providing that certain identifying information regarding juveniles involved in delinquent acts is a public record, exempting certain offenses from the jurisdiction of the juvenile court, placing a juvenile in short-term secure custody as a dispositional alternative, waiving a juvenile to adult court, the release or detention of certain criminal defendants pending sentencing or appeal following conviction, limiting the circumstances under which a juvenile may consume alcoholic beverages, providing for notice to parents when a juvenile is taken into custody for alcohol offenses, authorizing school districts to adopt a dress code policy, adding custody and adjudication information regarding juveniles to state criminal history files, establishing a juvenile justice task force, and enhancing or establishing penalties.

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

Section 1. Section 22.7, subsection 13, Code 1995, is amended to read as follows:

13. The records of a library which, by themselves or when examined with other public records, would reveal the identity of the library patron checking out or requesting an item or information from the library. The records shall be released to a criminal or juvenile justice agency only pursuant to an investigation of a particular person or organization suspected of committing a known crime. The records shall be released only upon a judicial determination that a rational connection exists between the requested release of information and a legitimate end and that the need for the information is cogent and compelling.

Sec. 2. Section 80.9, subsection 2, paragraph d, Code 1995, 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.

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

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 or juvenile 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 or juvenile 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. 3. Section 123.47, Code 1995, is amended to read as follows:

123.47 PERSONS UNDER THE AGE OF EIGHTEEN - PENALTY.

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 of or attempt to purchase alcoholic liquor, wine, or beer shall pay a twenty-five dollar penalty.

Sec. 4. Section 123.47B, Code 1995, is amended to read as follows:

123.47B 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 alcoholic liquor, wine, or beer in violation of

section 123.47 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 or a citation is issued pursuant to section 805.16, 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 notify a juvenile court officer who 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 or 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. 5. Section 124.415, Code 1995, 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 notify a juvenile court officer who 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. 6. Section 124.416, Code 1995, is amended to read as follows:

124.416 EXCEPTION TO NONBAILABLE OFFENSE.

Notwithstanding section 811.1, the court, ~~in its discretion,~~ after making the finding required by section 811.1, subsection 3, may admit a person convicted of a violation of section 124.401, subsection ~~1 or~~ 2, or of a violation of section 124.406, to bail if the prosecuting attorney in the action and the defendant's counsel jointly petition the court to admit the person to bail.

Sec. 7. Section 232.2, subsection 10, Code 1995, is amended to read as follows:

10. "Criminal or juvenile justice agency" means any agency which has as its primary responsibility the enforcement of the state's criminal laws or of local ordinances made pursuant to state law.

Sec. 8. Section 232.8, subsection 1, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Violations by a child, age sixteen or older, which subject the child to the provisions of section 124.401, subsection 1, paragraph "e" or "f", or violations of section 723A.2 which involve a violation of chapter 724, or violation of chapter 724 which constitutes a felony, or violations which constitute a forcible felony are excluded from the jurisdiction of the juvenile court and shall be prosecuted as otherwise provided by law unless the court transfers jurisdiction of the child to the juvenile court upon motion and for good cause. A child over whom jurisdiction has not been transferred to the juvenile court, and who is convicted of a violation excluded from the jurisdiction of the juvenile court under this paragraph, shall be sentenced pursuant to section 124.401B, 902.9, or 903.1.

Sec. 9. Section 232.22, subsection 1, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. A dispositional order has been entered under section 232.52 placing the child in secure custody in a facility defined in subsection 2, paragraph "a" or "b".

Sec. 10. Section 232.28, subsection 10, Code 1995, is amended to read as follows:

10. A complaint filed with the court or its designee pursuant to this section which alleges that a child ~~fourteen years of age or older~~ has committed a delinquent act which if committed by an adult would be an aggravated misdemeanor or a felony shall be a public record and shall not be confidential under section 232.147. The court, its designee, or law enforcement officials are authorized to release the complaint, including the identity of the child named in the complaint.

Sec. 11. Section 232.29, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The person performing the duties of intake 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 any informal adjustment regarding the child, fourteen years of age or older, for an act which would be an aggravated misdemeanor or felony if committed by an adult.

Sec. 12. Section 232.45A, Code 1995, is amended to read as follows:

232.45A WAIVER TO AND CONVICTION BY DISTRICT COURT - PROCESSING.

1. Once jurisdiction over a child has been waived by the juvenile court as provided in section 232.45, for the alleged commission of a felony, and once a conviction is entered by the district court, for all other offenses, the clerk of the juvenile court shall immediately send a certified copy of the findings required by section 232.45, subsection 8, and the judgment of conviction, as applicable, to the department of public safety. The department shall maintain a file on each child who has previously been waived to or waived to and convicted by the district court in a prosecution as an adult. The file shall be accessible by law enforcement officers on a twenty-four hour per day basis.

2. Once a child sixteen years of age or older has been waived to and convicted of an aggravated misdemeanor or a felony ~~by~~ in the district court, all criminal proceedings against the child for any aggravated misdemeanor or felony occurring subsequent to the date of the conviction of the child shall begin in district court, notwithstanding sections 232.8 and 232.45. A copy of the findings required by section 232.45, subsection 8, shall be made a part of the record in the district court proceedings.

3. If proceedings against a child for an aggravated misdemeanor or a felony who has previously been waived to and convicted of ~~such~~ an ~~offense by~~ aggravated misdemeanor or a felony in 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. 13. Section 232.52, subsection 2, paragraph a, Code 1995, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (5) The suspension of the motor vehicle license or operating privilege of the child for a period not to exceed one year. The order shall state whether a work permit may or shall not be issued to the child.

Sec. 14. Section 232.52, subsection 2, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. An order placing a child in secure custody for not more than two days in a facility under section 232.22, subsection 2, paragraph "a" or "b".

Sec. 15. Section 232.147, subsection 2, Code 1995, is amended to read as follows:

2. Official juvenile court records in cases alleging delinquency, including complaints

under section 232.28, shall be public records, subject to sealing under section 232.150. If the court has excluded the public from a hearing under division II of this chapter, the transcript of the proceedings shall not be deemed a public record and inspection and disclosure of the contents of the transcript shall not be permitted except pursuant to court order or unless otherwise provided in this chapter. Complaints under section 232.28 shall be released in accordance with section 232.28. Other official juvenile court records may be released under this section by a juvenile court officer.

Sec. 16. Section 232.148, subsections 1 and 2, are amended to read as follows:

1. Except as provided in this section, a child shall not be fingerprinted or photographed by a criminal or juvenile 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 or juvenile justice agency investigating the commission of a public offense other than a simple or serious misdemeanor. The criminal justice agency shall forward the fingerprints to the department of public safety for inclusion in the automated fingerprint identification system and may also retain a copy of the fingerprint card for comparison with latent fingerprints and the identification of repeat offenders. ~~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.~~

Sec. 17. Section 232.148, subsection 5, paragraph c, Code 1995, is amended by striking the paragraph.

Sec. 18. Section 232.149, subsection 2, Code 1995, is amended to read as follows:

2. Records and files of a criminal or juvenile justice agency concerning a child ~~other than fingerprint and photograph records and files shall not be open to inspection and their contents shall not be disclosed except as provided in this section and~~ involved in a delinquent act are public records, except that a criminal or juvenile justice agency shall not release the name of a child until a complaint is filed pursuant to section 232.28 and criminal history data is subject to the provisions of chapter 692. The records are subject to sealing under section 232.150 unless the juvenile court waives its jurisdiction over the child so that the child may be prosecuted as an adult for a public offense.

Sec. 19. Section 232.149, subsections 3 through 6, Code 1995, are amended by striking the subsections.

Sec. 20. NEW SECTION. 279.58 SCHOOL DRESS CODE POLICIES.

1. The general assembly finds and declares that the students and the administrative and instructional staffs of Iowa's public schools have the right to be safe and secure at school. Gang-related apparel worn at school draws attention away from the school's learning environment and directs it toward thoughts or expressions of violence, bigotry, hate, and abuse.

2. The board of directors of a school district may adopt, for the district or for an individual school within the district, a dress code policy that prohibits students from wearing gang-related or other specific apparel if the board determines that the policy is necessary for the health, safety, or positive educational environment of students and staff in the school environment or for the appropriate discipline and operation of the school. Adoption and enforcement of a dress code policy is not a violation of section 280.22.

Sec. 21. NEW SECTION. 280.17A PROCEDURES FOR HANDLING DANGEROUS WEAPONS.

The board of directors of a public school and the authorities in control of a nonpublic school shall prescribe procedures requiring school officials to report to local law enforcement agencies any dangerous weapon, as defined in section 702.7, possessed on school premises in violation of school policy or state law.

Sec. 22. NEW SECTION. 280.17B STUDENTS SUSPENDED OR EXPELLED FOR POSSESSION OF DANGEROUS WEAPONS.

The board of directors of a public school and the authorities in control of a nonpublic school shall prescribe procedures for continued school involvement with a student who is suspended or expelled for possession of a dangerous weapon, as defined in section 702.7, on school premises in violation of state law and for the reintegration of the student into the school following the suspension or expulsion.

Sec. 23. NEW SECTION. 280.21B EXPULSION - WEAPONS IN SCHOOL.

The board of directors of a school district and the authorities in charge of a nonpublic school which receives services supported by federal funds shall expel from school for a period of not less than one year a student who is determined to have brought a weapon to a school or knowingly possessed a weapon at a school under the jurisdiction of the board or the authorities. However, the superintendent or chief administering officer of a school or school district may modify expulsion requirements on a case-by-case basis. This section shall not be construed to prevent the board of directors of a school district or the authorities in charge of a nonpublic school that have expelled a student from the student's regular school setting from providing educational services to the student in an alternative setting. If both this section and section 282.4 apply, this section takes precedence over section 282.4. For purposes of this section, "weapon" means a firearm as defined in 18 U.S.C. § 921. This section shall be construed in a manner consistent with the federal Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.

Sec. 24. Section 331.653, subsection 58, Code 1995, is amended to read as follows:

58. Report information on crimes committed and delinquent acts committed, which would be an aggravated misdemeanor or felony if committed by an adult, and furnish disposition reports on persons arrested and juveniles taken into custody, for a delinquent act which would be an aggravated misdemeanor or felony if committed by an adult, and criminal complaints or information or juvenile delinquency petitions, alleging a delinquent act which would be an aggravated misdemeanor or felony if committed by an adult, filed in any court as provided in section 692.15.

Sec. 25. Section 507.10, subsection 4, paragraph b, subparagraph (1), unnumbered paragraph 2, Code 1995, is amended to read as follows:

This section does not require the division of insurance to disclose any information or records which would indicate or show the existence of any investigation or activity of a criminal or juvenile justice agency.

Sec. 26. Section 602.8102, subsection 125, Code 1995, is amended to read as follows:

125. Furnish a disposition of each criminal complaint or information or juvenile delinquency petition, alleging a delinquent act which would be an aggravated misdemeanor or felony if committed by an adult, filed in the district or juvenile court to the department of public safety as provided in section 692.15.

Sec. 27. Section 690.5, unnumbered paragraph 2, Code 1995, is amended to read as follows:

If a criminal or juvenile justice agency subject to fingerprinting and disposition requirements fails to comply with the requirements, the commissioner of public safety shall order that the agency's access to criminal history record information maintained by the repository be denied or restricted until the agency complies with the reporting requirements.

Sec. 28. Section 692.1, Code 1995, is amended by adding the following new subsection before subsection 1 and renumbering the subsequent subsection:

NEW SUBSECTION. 1. "Adjudication data" means information that an adjudication of delinquency for an act which would be an aggravated misdemeanor or felony if committed by an adult was entered against a juvenile and includes the date and location of the delinquent act and the place and court of adjudication.

Sec. 29. Section 692.1, subsection 5, Code 1995, is amended by adding the following new paragraphs:

NEW PARAGRAPH. e. Adjudication data.

NEW PARAGRAPH. f. Custody data.

Sec. 30. Section 692.1, subsection 7, Code 1995, is amended to read as follows:

7. "Criminal or juvenile justice agency" means an agency or department of any level of government or an entity wholly owned, financed, or controlled by one or more such agencies or departments which performs as its principal function the apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal or juvenile offenders.

Sec. 31. Section 692.1, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 7A. "Custody data" means information pertaining to the taking into custody, pursuant to section 232.19, of a juvenile for a delinquent act which would be an aggravated misdemeanor or felony if committed by an adult, and includes the date, time, place, and facts and circumstances of the delinquent act. Custody data includes warrants for the taking into custody for all delinquent acts outstanding and not served and includes the filing of a petition pursuant to section 232.35, the date and place of the alleged delinquent act, and the county of jurisdiction.

Sec. 32. Section 692.2, subsection 1, paragraph a, Code 1995, is amended to read as follows:

a. Criminal or juvenile justice agencies.

Sec. 33. Section 692.2, subsection 4, Code 1995, is amended to read as follows:

4. The provisions of this section and section 692.3 which relate to the requiring of an individually identified request prior to the dissemination or redissemination of criminal history data do not apply to the furnishing of criminal history data to the federal bureau of investigation or to the dissemination or redissemination of information that an arrest warrant has been or will be issued, and other relevant information including, but not limited to, the offense or delinquent act and the date and place of alleged commission, individually identifying characteristics of the person to be arrested or taken into custody, and the court or jurisdiction issuing the warrant.

Sec. 34. Section 692.2, subsection 6, unnumbered paragraph 2, Code 1995, is amended to read as follows:

In cases in which members of the department are participating in the investigation or arrest, or where officers of other criminal or juvenile justice agencies participating in the investigation or arrest consent, the department may disseminate criminal history data and intelligence data when the dissemination complies with section 692.3.

Sec. 35. Section 692.3, subsections 1 and 3, Code 1995, are amended to read as follows:

1. A peace officer, criminal or juvenile justice agency, or state or federal regulatory agency shall not redisseminate criminal history data outside the agency, received from the department or bureau, unless all of the following apply:

a. The data is for official purposes in connection with prescribed duties of a criminal or juvenile justice agency.

b. The agency maintains a list of the persons receiving the data and the date and purpose of the dissemination.

c. The request for data is based upon name, fingerprints, or other individual identification characteristics.

3. A peace officer, criminal or juvenile justice agency, or state or federal regulatory agency shall not redisseminate intelligence data outside the agency, received from the department or bureau or from any other source, except as provided in subsection 1.

Sec. 36. Section 692.4, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The department, bureau, or a criminal or juvenile justice agency may compile and disseminate criminal history data in the form of statistical reports derived from such information or as the basis of further study provided individual identities are not ascertainable.

Sec. 37. Section 692.8, Code 1995, is amended to read as follows:

692.8 INTELLIGENCE DATA.

Intelligence data contained in the files of the department of public safety or a criminal or juvenile 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 or juvenile justice agency. The department shall adopt rules to implement this paragraph.

Intelligence data in the files of the department may be disseminated only to a peace officer, criminal or juvenile justice agency, or state or federal regulatory agency, and only if the department is satisfied that the need to know and the intended use are reasonable. Whenever intelligence data relating to a defendant or juvenile who is the subject of a petition under section 232.35 for the purpose of sentencing or adjudication has been provided a court, the court shall inform the defendant or juvenile or the defendant's or juvenile's attorney that it is in possession of such data and shall, upon request of the defendant or juvenile or the defendant's or juvenile's attorney, permit examination of such data.

If the defendant or juvenile disputes the accuracy of the intelligence data, the defendant or juvenile shall do so by filing an affidavit stating the substance of the disputed data and wherein it is inaccurate. If the court finds reasonable doubt as to the accuracy of such information, it may require a hearing and the examination of witnesses relating thereto on or before the time set for sentencing or adjudication.

Sec. 38. Section 692.9, Code 1995, is amended to read as follows:

692.9 SURVEILLANCE DATA PROHIBITED.

No surveillance data shall be placed in files or manual or automated data storage systems by the department or bureau or by any peace officer or criminal or juvenile justice agency. Violation of the provisions of this section shall be a public offense punishable under section 692.7.

Sec. 39. Section 692.10, Code 1995, is amended to read as follows:

692.10 RULES.

The department shall adopt rules designed to assure the security and confidentiality of all systems established for the exchange of criminal history data and intelligence data between criminal or juvenile justice agencies and for the authorization of officers or employees to access a department or agency computer data storage system in which criminal intelligence data is stored.

Sec. 40. Section 692.11, Code 1995, is amended to read as follows:

692.11 EDUCATION PROGRAM.

The department shall require an educational program for its employees and the employees of criminal or juvenile justice agencies on the proper use and control of criminal history data and intelligence data.

Sec. 41. Section 692.12, Code 1995, is amended to read as follows:

692.12 DATA PROCESSING.

Nothing in this chapter shall preclude the use of the equipment and hardware of the data processing service center for the storage and retrieval of criminal history data. Files shall be stored on the computer in such a manner as the files cannot be modified, destroyed, accessed, changed or overlaid in any fashion by noncriminal or juvenile justice agency terminals or personnel. That portion of any computer, electronic switch or manual

terminal having access to criminal history data stored in the state computer must be under the management control of a criminal or juvenile justice agency.

Sec. 42. Section 692.13, Code 1995, is amended to read as follows:

692.13 REVIEW.

The department shall initiate periodic review procedures designed to determine compliance with the provisions of this chapter within the department and by criminal or juvenile justice agencies and to determine that data furnished to them is factual and accurate.

Sec. 43. Section 692.14, Code 1995, is amended to read as follows:

692.14 SYSTEMS FOR THE EXCHANGE OF CRIMINAL HISTORY DATA.

The department shall regulate the participation by all state and local agencies in any system for the exchange of criminal history data, and shall be responsible for assuring the consistency of such participation with the terms and purposes of this chapter.

Direct access to such systems shall be limited to such criminal or juvenile justice agencies as are expressly designated for that purpose by the department. The department shall, with respect to telecommunications terminals employed in the dissemination of criminal history data, insure that security is provided over an entire terminal or that portion actually authorized access to criminal history data.

Sec. 44. Section 692.15, Code 1995, is amended to read as follows:

692.15 REPORTS TO DEPARTMENT.

1. If it comes to the attention of a sheriff, police department, or other law enforcement agency that a public offense or delinquent act has been committed in its jurisdiction, the law enforcement agency shall report information concerning ~~such a~~ the public offense or delinquent act to the department on a form to be furnished by the department not more than thirty-five days from the time the public offense or delinquent act first comes to the attention of the law enforcement agency. The reports shall be used to generate crime statistics. The department shall submit statistics to the governor, the general assembly, and the division of criminal and juvenile justice planning of the department of human rights on a quarterly and yearly basis.

2. If a sheriff, police department, or other law enforcement agency makes an arrest or takes a juvenile into custody which is reported to the department, the ~~arresting~~ law enforcement agency making the arrest or taking the juvenile into custody and any other law enforcement agency which obtains custody of the arrested person or juvenile taken into custody shall furnish a disposition report to the department if the arrested person or juvenile taken into custody is transferred to the custody of another law enforcement agency or is released without having a complaint or information or petition under section 232.35 filed with any court.

3. The law enforcement agency making an arrest and securing fingerprints pursuant to section 690.2 or taking a juvenile into custody and securing fingerprints pursuant to section 232.148 shall fill out a final disposition report on each arrest on a form and in the manner prescribed by the commissioner of public safety. The final disposition report shall be forwarded to the county attorney in the county where the arrest or taking into custody occurred.

4. The county attorney of each county shall complete the final disposition report and submit it to the department within thirty days if a preliminary information or citation is dismissed without a new charge being filed. If an indictment is returned or a county attorney's information is filed, or a petition is filed under section 232.35, the final disposition form shall be forwarded to the clerk of the district court of that county.

5. If a criminal complaint or information or petition under section 232.35 is filed in any court, the clerk shall furnish a disposition report of the case.

6. Any disposition report shall be sent to the department within thirty days after disposition on a form provided by the department.

7. The hate crimes listed in section 729A.2 are subject to the reporting requirements of this section.

Sec. 45. Section 692.16, Code 1995, is amended to read as follows:

692.16 REVIEW AND REMOVAL.

At least every year the bureau shall review and determine current status of all Iowa arrests or takings into custody reported, which are at least one year old with no disposition data. Any Iowa arrest or taking of a juvenile into custody recorded within a computer data storage system which has no disposition data after four years shall be removed unless there is an outstanding arrest warrant or detainer on such charge.

Sec. 46. Section 692.17, Code 1995, is amended to read as follows:

692.17 EXCLUSIONS - PURPOSES.

Criminal history data in a computer data storage system shall not include arrest or disposition data or custody or adjudication data after the person has been acquitted or the charges dismissed. Criminal history data shall not include custody or adjudication data after the juvenile has reached twenty-one years of age, unless the juvenile was convicted of or plead guilty to a serious or aggravated misdemeanor or felony between age eighteen and age twenty-one. ~~For the purposes of this section, "criminal history data" includes information maintained by any criminal justice agency if the information otherwise meets the definition of criminal history data set forth in section 692.1 and also includes the source documents of the information included in the criminal history data and fingerprint records.~~

For the purposes of this section, "criminal history data" includes the following:

1. In the case of an adult, information maintained by any criminal justice agency if the information otherwise meets the definition of criminal history data in section 692.1, except that source documents shall be retained.

2. In the case of a juvenile, information maintained by any criminal or juvenile justice agency if the information otherwise meets the definition of criminal history data in section 692.1. In the case of a juvenile, criminal history data and source documents, other than fingerprint records, shall not be retained.

Fingerprint cards received that are used to establish a criminal history data record shall be retained in the automated fingerprint identification system when the criminal history data record is expunged.

Criminal history data may be collected for management or research purposes.

Sec. 47. Section 692.19, subsection 6, Code 1995, is amended to read as follows:

6. May conduct inquiries and investigations the commissioner finds appropriate to achieve the purposes of this chapter. Each criminal or juvenile justice agency in this state and each state and local agency otherwise authorized access to criminal history data is authorized and directed to furnish to the commissioner of public safety, upon the commissioner's request, statistical data, reports, and other information in its possession as the commissioner deems necessary to implement this chapter.

Sec. 48. Section 692.21, Code 1995, is amended to read as follows:

692.21 DATA TO ~~ARRESTING~~ AGENCY MAKING ARREST OR TAKING JUVENILE INTO CUSTODY.

The clerk of the district court shall forward conviction and disposition data to the criminal justice agency making the arrest or taking a juvenile into custody within thirty days of final court disposition of the case.

Sec. 49. Section 708.1, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Provided, that where the person doing any of the above enumerated acts is employed by a school district or accredited nonpublic school, or is an area education agency staff member who provides services to a school or school district, and intervenes in a fight or physical struggle, or other disruptive situation, that takes place in the presence of the employee or staff member performing employment duties in a school building, on school grounds, or at an official school function regardless

of the location, the act shall not be an assault, whether the fight or physical struggle or other disruptive situation is between students or other individuals if the degree and the force of the intervention is reasonably necessary to restore order and to protect the safety of those assembled.

Sec. 50. Section 709A.6, subsection 2, Code 1995, is amended to read as follows:

2. It is unlawful for a person to act with, enter into a common scheme or design with, conspire with, recruit or use a person under the age of eighteen, through threats, monetary payment, or other means, to commit an indictable offense for the profit of the person acting with, entering into the common scheme or design with, conspiring with, recruiting or using the juvenile. A person who violates this section commits a class ~~"D"~~ "C" felony.

Sec. 51. Section 723A.1, subsection 1, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. An offense constituting a violation of chapter 724.

Sec. 52. NEW SECTION. 723A.3 GANG RECRUITMENT - PENALTY.

1. A person who solicits, recruits, entices, or intimidates a minor to join a criminal street gang commits a class "C" felony.

2. A person who conspires to solicit, recruit, entice, or intimidate a minor to join a criminal street gang commits a class "D" felony.

Sec. 53. NEW SECTION. 724.4B CARRYING WEAPONS ON SCHOOL GROUNDS - PENALTY - EXCEPTIONS.

1. A person who goes armed with, carries, or transports a firearm of any kind, whether concealed or not, on the grounds of a school commits a class "D" felony. For the purposes of this section, "school" means a public or nonpublic school as defined in section 280.2.

2. Subsection 1 does not apply to the following:

a. A person listed under section 724.4, subsection 4, paragraphs "b" through "f" or "j".

b. A person who has been specifically authorized by the school to go armed, carry, or transport a firearm on the school grounds, including for purposes of conducting an instructional program regarding firearms.

Sec. 54. NEW SECTION. 803.6 TRANSFER OF JURISDICTION - JUVENILE.

1. The court, in the case of a juvenile who is alleged to have committed a criminal offense listed in section 232.8, subsection 1, paragraph "c", may direct a juvenile court officer to provide a report regarding whether the child should be transferred to juvenile court for adjudication and disposition as a juvenile.

2. If the court believes that transfer may be appropriate the court shall hold a hearing on whether the child should be transferred. A notice of the time and place of the transfer hearing shall be given to all parties to the case. Prior to the hearing, the court shall provide the defendant's counsel and the county attorney with access to the report provided by the juvenile court officer and to all written material to be considered by the court.

3. After the hearing, the court may transfer jurisdiction to the juvenile court if the court determines that waiver to the criminal court would be inappropriate under the criteria set forth in section 232.45, subsection 6, paragraph "c", and section 232.45, subsection 7.

4. If after the hearing the court transfers jurisdiction over the defendant to the juvenile court for the alleged commission of the public offense, the court shall forward the transfer order together with all papers, documents, and a transcript of all testimony filed or admitted into evidence in connection with the case to the clerk of the juvenile court in the same manner as provided in section 232.8, subsection 2.

5. A defendant transferred to the jurisdiction of the juvenile court shall be placed in detention under section 232.22.

Sec. 55. Section 808A.1, subsection 1, paragraph d, Code 1995, is amended to read as follows:

d. A school locker, desk, or other facility or space issued or assigned to, or chosen by, the student for the storage of personal belongings of any kind, which the student locks or is permitted to lock. ~~School officials may conduct periodic inspections of all school lockers. However, the school district shall provide notice to the students, at least twenty-four hours prior to the inspection, of the date and time of the inspection.~~

Sec. 56. Section 808A.2, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. Notwithstanding subsection 1, paragraphs "a" through "c", as they apply to searches of protected student areas, school officials may conduct periodic inspections of all, or a randomly selected number of, school lockers. However, the school district shall provide written notice to each student, and the adult who enrolls the student at the school, that school officials may conduct periodic inspections of all school lockers without prior notice. An inspection under this subsection shall only occur in the presence of the students whose lockers are being inspected.

Sec. 57. TASK FORCE. A youthful offender jurisdiction task force is established to develop a plan for a seamless system of shared jurisdiction between courts presiding over both juvenile and criminal proceedings. The intent of this shared jurisdiction would be to improve sanctions and interventions for juveniles who commit serious crimes.

The membership of the task force shall consist of the director of the department of corrections or the director's designee; the attorney general or the attorney general's designee; a director of a judicial district department of correctional services designated by the governor; the director of human services or the director's designee; the administrator of the criminal and juvenile justice planning division of the department of human rights or the administrator's designee; a chief juvenile court officer, a judge currently handling primarily juvenile cases, and a judge currently handling primarily criminal cases designated by the governor in consultation with the chief justice of the supreme court; the state public defender or the state public defender's designee; a faculty member at a college or university in Iowa which offers a major in criminology and criminalistics who has expertise in juvenile justice issues; two members of the senate, one each appointed by the majority and minority leaders and two members of the house of representatives, appointed by the speaker of the house of representatives after consultation with the majority and minority leaders; and a county attorney designated by the governor.

In developing its plan, the task force shall review the youthful offender program plan prepared by the department of corrections pursuant to 1990 Iowa Acts, chapter 1239, and the provisions for a youthful offender program as proposed in 1992 Iowa Acts, chapter 1231. The task force's plan shall include recommendations to implement policies and procedures that allow for the provision of supervision and services to persons whose jurisdiction begins in juvenile court, but who, because of the nature of their offense and their responsiveness to juvenile court dispositions, require services and supervision beyond current juvenile court jurisdiction time limits. The plan also shall identify the impact of its recommendations on the caseloads and resources of the courts, the department of human services, the department of corrections, the judicial district departments of correctional services, and other affected state and local agencies and programs.

The division of criminal and juvenile justice planning of the department of human rights shall convene and coordinate the activities of the task force. The task force shall submit its plan to the governor and general assembly by October 1, 1995.

Sec. 58. 1995 Iowa Acts, House File 471,* section 7, is amended to read as follows:

SEC. 7. INTERIM STUDY COMMITTEE. The legislative council is requested to establish an interim committee to study currently available sentencing and incarceration options. The study may include but shall not be limited to a review of available jail, community corrections, and prison beds; the potential impact of the use of split sentencing on jail, community corrections, and prison bed space; security needs and costs associated with

*House File 471 vetoed by the governor

the implementation of hard labor requirements for persons incarcerated in corrections institutions; ~~and~~ the nature and costs associated with other sentencing options and the utilization, cost, and effectiveness of placing a juvenile in secure custody under section 232.52, subsection 2, paragraph "g", if enacted in House File 528. The committee shall coordinate the study with juvenile court services personnel to obtain the information regarding juveniles. A report regarding placing juveniles in secure custody shall be made to the general assembly by January 1, 1996. A follow-up report shall be made by June 30, 1996. In addition to legislative members, the membership of the interim committee shall include the following public members:

1. A representative from the board of parole.
2. A representative from the division of criminal and juvenile justice planning of the department of human rights.
3. A representative from an association of sheriffs and deputy sheriffs.
4. A representative from the department of corrections.
5. A representative from a county board of supervisors.

The committee shall submit findings and any recommendations in a report to the general assembly by January 1, 1996.

Approved May 25, 1995

CHAPTER 192

PIPELINES AND UNDERGROUND HAZARDOUS LIQUID STORAGE

H.F. 303

AN ACT relating to pipelines and underground storage of hazardous liquids, and providing penalties and effective and retroactive applicability date provisions.

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

Section 1. Section 6B.42, subsection 1, Code 1995, is amended to read as follows:

1. A utility or railroad subject to section 327C.2, ~~chapter 479, or chapter~~ or chapters 476, 478, 479, and 479B, authorized by law to acquire property by condemnation, which acquires the property of a person or displaces a person for a program or project which has received or will receive federal financial assistance as defined in section 316.1, shall provide to the person in addition to any other sums of money in payment of just compensation, the payments and assistance required by law, in accordance with chapter 316.

Sec. 2. Section 306A.3, Code 1995, is amended to read as follows:

306A.3 AUTHORITY TO ESTABLISH CONTROLLED-ACCESS FACILITIES – UTILITY ACCOMMODATION POLICY.

Cities and highway authorities having jurisdiction and control over the highways of the state, as provided by chapter 306, acting alone or in co-operation with each other or with any federal, state, or local agency or any other state having authority to participate in the construction and maintenance of highways, are ~~hereby~~ authorized to plan, designate, establish, regulate, vacate, alter, improve, maintain, and provide controlled-access facilities for public use ~~wherever such authority or authorities are of the opinion that~~ if traffic conditions, present or future, will justify ~~such~~ special facilities; provided, that within ~~cities~~ a city such authority shall be subject to ~~such~~ municipal consent as may be provided by law. ~~Said cities and highway authorities, in~~ In addition to the specific powers granted in this chapter, cities and highway authorities shall ~~also~~ have ~~and may exercise, relative to~~

~~controlled-access facilities,~~ any ~~and all~~ additional authority ~~now or hereafter~~ vested in them relative to highways or streets within their respective jurisdictions. ~~Said cities~~ Cities and highway authorities may regulate, restrict, or prohibit the use of ~~such~~ controlled-access facilities by ~~the~~ various classes of vehicles or traffic in a manner consistent with section 306A.2.

The department shall adopt rules, pursuant to chapter 17A, embodying a utility accommodation policy which imposes reasonable restrictions on placements occurring on or after the effective date of the rules, on primary road rights-of-way. The rules may require utilities to give notice to the department prior to installation of a utility system on a primary road right-of-way and obtain prior permission from the department for the proposed installation. The rules shall recognize emergency situations and the need for immediate installation of service extensions subject to the standards adopted by the department and the utilities board. The rules shall be no less stringent than the standards adopted by the utilities board pursuant to chapters 478, 479, ~~and~~ 479A, and 479B. This paragraph shall not be construed as granting the department authority which has been expressly granted to the utilities board to determine the route of utility installations. If the department requires a utility company permit, the department shall be required to act upon the permit application within thirty days of its filing. In cases of federal-aid highway projects on nonprimary highways, the local authority with jurisdiction over the highway and the department shall comply with all federal regulations and statutes regarding utility accommodation.

Sec. 3. Section 474.1, unnumbered paragraph 3, Code 1995, is amended to read as follows:

As used in this chapter and chapters 475A, 476, 476A, 478, 479, ~~and~~ 479A, and 479B, "division" and "utilities division" mean the utilities division of the department of commerce.

Sec. 4. Section 474.9, Code 1995, is amended to read as follows:

474.9 GENERAL JURISDICTION OF UTILITIES BOARD.

The utilities board has general supervision of all pipelines and all lines for the transmission, sale, and distribution of electrical current for light, heat, and power pursuant to chapters 476, 476A, 478, 479, ~~and~~ 479A, and 479B and has other duties as provided by law.

Sec. 5. Section 479.1, Code 1995, is amended to read as follows:

479.1 PURPOSE.

It is the purpose of the ~~legislature~~ general assembly in enacting this law to confer upon the utilities board the power and authority to supervise the transportation or transmission of any solid, liquid, or gaseous substance, except water, within or through this state by pipeline, whether specifically mentioned in this chapter or not, and the power and authority to supervise the underground storage of gas, to protect the safety and welfare of the public in its use of public or private highways, grounds, waters, and streams of any kind in this state. However, this chapter does not apply to interstate natural gas or hazardous liquid pipelines, pipeline companies, and underground storage, as these terms are defined in ~~chapter~~ chapters 479A and 479B.

Sec. 6. Section 479.2, Code 1995, is amended to read as follows:

479.2 DEFINITIONS.

As used in this chapter:

1. "Board" means the utilities board within the utilities division of the department of commerce.

2. "Pipeline" ~~as used in this chapter~~ means a pipe, pipes, or pipelines used for the transportation or transmission of a solid, liquid, or gaseous substance, except water, within or through this state. However, the term does not include interstate pipe, pipes, or pipelines used for the transportation or transmission of natural gas or hazardous liquids.

3. "Pipeline company" ~~as used in this chapter~~ means a person engaged in or organized for the purpose of owning, operating, or controlling pipelines for the transportation or transmission of any solid, liquid, or gaseous substance, except water, within or through this state. However, the term does not include a person owning, operating, or controlling interstate pipelines for the transportation or transmission of natural gas or hazardous liquids.

~~The term "board" when used in this chapter means the utilities board within the utilities division of the department of commerce.~~

4. ~~The term "underground~~ "Underground storage" ~~insofar as this chapter is concerned shall include and mean~~ means storage of gas in a subsurface stratum or formation of the earth.

Sec. 7. Section 479.5, Code 1995, is amended to read as follows:

479.5 APPLICATION FOR PERMIT.

~~Any~~ A pipeline company ~~engaging in its said~~ doing business in this state shall file with the board its verified petition asking for a permit to construct, maintain and operate its pipeline or lines along, over or across the public or private highways, grounds, waters and streams of any kind of this state. Any pipeline company now owning or operating a pipeline in this state shall be issued a permit by the board upon supplying the information as provided for in section 479.6.

~~Any~~ A pipeline company ~~engaging in its said~~ doing business in this state and proposing to engage in underground storage of gas within this state shall file with the board its verified petition asking for a permit to construct, maintain and operate facilities for the underground storage of gas to include the construction, placement, maintenance and operation of machinery, appliances, fixtures, wells, pipelines, and stations necessary for the construction, maintenance and operation of ~~such~~ the gas underground storage facilities.

~~As conditions precedent to the filing of a petition with the board requesting a permit, and not less than thirty days prior to the filing of such petition, the person, company, or corporation~~ A pipeline company shall hold informational meetings in each county in which real property or property rights ~~therein~~ will be affected at least thirty days prior to filing the petition for a new pipeline. A member of the board, ~~the counsel of the board, or a hearing examiner~~ or a person designated by the board shall serve as the presiding officer at each meeting and present an agenda for ~~such~~ the meeting which shall include a summary of the legal rights of the affected landowners. No formal record of the meeting shall be required.

The meeting shall be held at a location reasonably accessible to all persons, companies, or corporations which may be affected by the granting of the permit.

The ~~person~~ pipeline company seeking the permit for a new pipeline shall give notice of the informational meeting to each person determined to be a landowner affected by the proposed project and each person in possession of or residing on the property. For the purposes of the informational meeting, "landowner" means a person listed on the tax assessment rolls as responsible for the payment of real estate taxes imposed on the property and "pipeline" means a line transporting a solid, liquid, or gaseous substance, except water, under pressure in excess of one hundred fifty pounds per square inch and extending a distance of not less than five miles or having a future anticipated extension of an overall distance of five miles.

The notice shall set forth the name of the applicant; the applicant's principal place of business; the general description and purpose of the proposed project; the general nature of the right of way desired; a map showing the route of the proposed project; that the landowner has a right to be present at such meeting and to file objections with the board; and a designation of the time and place of the meeting; and shall be served by certified mail with return requested not less than thirty days previous to the time set for the meeting; and shall be published once in a newspaper of general circulation in the county. ~~Such~~

The publication shall be considered notice to landowners whose residence is not known and to each person in possession of or residing on the property provided a good faith effort to notify can be demonstrated by the pipeline company.

~~No person, company, or corporation~~ A pipeline company seeking rights under this chapter shall not negotiate or purchase any easements or other interests in land in any county known to be affected by the proposed project prior to the informational meeting.

Sec. 8. Section 479.23, Code 1995, is amended to read as follows:

479.23 EXTENSION OF PERMIT.

~~Any~~ A pipeline company ~~owning a permit granted under this chapter desiring to acquire an extension of such permit~~ may petition the board ~~in the same manner provided for the granting of such permit and the same proceeding shall be had as on an original application~~ for the extension of a permit granted under this chapter by filing a petition containing the information required by section 479.6, subsections 1 through 4, 6, and 7, and section 479.26.

Sec. 9. Section 479.24, Code 1995, is amended to read as follows:

479.24 EMINENT DOMAIN.

~~Any~~ A pipeline company ~~having secured a~~ granted a pipeline permit ~~for pipelines as in~~ under this chapter ~~provided~~ shall ~~thereupon~~ be vested with the right of eminent domain to ~~such~~ the extent ~~as may be~~ necessary and as prescribed and approved by ~~said~~ the board, not exceeding seventy-five feet in width for right of way and not exceeding one acre in any one location in addition to right of way for the location of pumps, pressure apparatus, or other stations or equipment necessary to the proper operation of its ~~said~~ pipeline ~~or lines~~. The board may grant additional eminent domain rights where the pipeline company has presented sufficient evidence to adequately demonstrate that a greater area is required for the proper construction, operation, and maintenance of the pipeline or for the location of pumps, pressure apparatus, or other stations or equipment necessary to the proper operation of its pipeline.

~~Any~~ A pipeline company having secured a permit for underground storage of gas ~~as in this chapter provided~~ shall be vested with the right of eminent domain to ~~such~~ the extent ~~as may be~~ necessary and as prescribed and approved by ~~said~~ the board in order to appropriate for its use for the underground storage of gas any subsurface stratum or formation in any land which the board shall have found to be suitable and in the public interest for the underground storage of gas, and ~~in connection therewith~~ may appropriate ~~such~~ other interests in property, as may be required to adequately ~~to~~ examine, prepare, maintain, and operate ~~such~~ the underground gas storage facilities. ~~The right of appropriation hereby granted shall be without prejudice to the rights of the owner of said lands or of other rights or interests therein to drill or bore through the underground stratum or formation so appropriated in such manner as shall comply with orders, rules of the board issued for the purpose of protecting underground storage strata or formations against pollution and against the escape of gas therefrom and shall be without prejudice to the rights of the owner of said lands or other rights or interest therein as to all other uses thereof.~~

~~If agreement cannot be made with the private owner of lands as to damages caused by the construction of said pipeline or gas storage facilities, the same proceedings shall be taken as provided for taking private property for works of internal improvement.~~

~~Nothing in this~~ This chapter ~~shall~~ does not authorize the construction of a pipeline longitudinally on, over or under any railroad right of way or public highway, or at other than an approximate right angle to ~~such~~ a railroad track or public highway without the consent of ~~such~~ the railroad company, the state department of transportation, or the county board of supervisors, ~~as the case may be, nor shall any provision of~~ and this chapter does not authorize or give the right of condemnation or eminent domain for such purposes.

Sec. 10. Section 479.25, Code 1995, is amended to read as follows:

479.25 DAMAGES.

~~Pipeline companies~~ A pipeline company operating ~~pipelines~~ a pipeline or a gas storage

area shall have reasonable access to the ~~same~~ pipeline or gas storage area for the purpose of constructing, ~~reconstructing, enlarging, repairing~~ operating, maintaining, or locating ~~their~~ pipes, pumps, pressure apparatus or other stations, wells, devices, or equipment used in or upon ~~such line~~ the pipeline or gas storage area~~, but~~; shall pay ~~to~~ the owner of ~~such lands~~ the land for the right of entry ~~thereon~~ and the owner of crops ~~thereon~~ for all damages caused by entering, using, or occupying ~~said lands for said purposes~~ the land; and shall pay to the owner ~~or owners of such lands~~ all damages caused ~~after~~ by the completion of construction of ~~said~~ the pipeline ~~on account of~~ due to wash or erosion of the soil at or along the location of ~~said~~ the pipeline ~~by reason of the construction thereof upon said lands on account of~~ and due to the settling of the soil along and above ~~said~~ the pipeline~~, provided, that nothing herein contained shall~~. However, this section shall not prevent the execution of an agreement between the pipeline company and the owner of ~~said~~ land or crops with reference to the use ~~thereof~~ of the land.

Sec. 11. Section 479.27, Code 1995, is amended to read as follows:

479.27 VENUE ~~— SERVICE OF ORIGINAL NOTICE~~.

In all cases arising under this chapter, the district court of any county~~, through~~ in which ~~said~~ property of a pipeline company is located~~,~~ shall have jurisdiction~~; and service of original notice on the pipeline company therein shall be had and made upon the chairperson of the board~~.

Sec. 12. Section 479.29, subsection 1, Code 1995, is amended to read as follows:

1. The board shall, pursuant to chapter 17A, adopt rules establishing standards for the protection of underground improvements during the construction of pipelines, to protect soil conservation and drainage structures from being permanently damaged by pipeline construction and for the restoration of agricultural lands after pipeline construction. To ensure that all interested persons are informed of this rule-making procedure and are afforded a right to participate, the board shall schedule an opportunity for oral presentations on the proposed rule making, and, in addition to the requirements of section 17A.4, shall distribute copies of the notice of intended action and opportunity for oral presentations to each county board of supervisors. Any county board of supervisors may, under the provisions of chapter 17A, and subsequent to the rule-making proceedings, petition under those provisions for additional rule making to establish standards to protect soil conservation practices, structures and drainage structures within that county. Upon the request of the petitioning county the board shall schedule a hearing to consider the merits of the petition. ~~These rules~~ Rules adopted under this section shall not apply within the boundaries of a city, unless the land is used for agricultural purposes.

Sec. 13. Section 479.30, Code 1995, is amended to read as follows:

479.30 ENTRY FOR LAND SURVEYS.

~~A~~ After the informational meeting or after the filing of a petition if no informational meeting is required, a pipeline company may enter upon private land for the purpose of ~~making land surveys~~ surveying and examining the land to determine the direction or depth of ~~pipelines, not to exceed a depth of twenty-five feet, after receipt of a permit to construct, maintain and operate its pipeline~~ a pipeline by giving ten days' written notice by restricted certified mail to the landowner as defined in section 479.5 and to any person residing on or in possession of the land. The entry for land surveys authorized in this section shall not be deemed a trespass and may be aided by injunction. The pipeline company shall pay the actual damages caused by the entry, ~~and~~ survey, and examination.

Sec. 14. Section 479.31, unnumbered paragraph 1, Code 1995, is amended to read as follows:

~~Any~~ A person who violates ~~any provision of~~ this chapter or any ~~regulation~~ rule or order issued pursuant to this chapter shall be subject to a civil penalty ~~of~~ levied by the board not to exceed ten thousand dollars for each violation. Each day that the violation continues

shall constitute a separate offense. However, the maximum civil penalty shall not exceed five hundred thousand dollars for any related series of violations. Civil penalties collected pursuant to this section shall be credited to and are appropriated for the Iowa energy center created in section 266.39C.

Sec. 15. Section 479.41, Code 1995, is amended to read as follows:

479.41 ARBITRATION AGREEMENTS.

If an easement or other written agreement between a landowner and a pipeline company provides for the determination through arbitration of the amount of monetary damages sustained by a landowner and caused by the construction, maintenance, or repair of a pipeline, and if either ~~person~~ party has not appointed its arbitrator or agreed to an arbitrator under the agreement within thirty days after the other ~~person~~ party has invoked the arbitration provisions of the agreement by written notice to the other party by restricted certified mail, the landowner or the pipeline company may petition a judicial magistrate in the county where the real property is located for the appointment of an arbitrator to serve in the stead of the arbitrator who would have been appointed or agreed to by the other ~~person~~ party. Before filing the petition the landowner or pipeline company shall give notice of the petitioning of the judicial magistrate by restricted certified mail to the other ~~person~~ party and file proof of mailing with the petition. If after hearing, the magistrate finds that the landowner or pipeline company has not been diligent in appointing or reasonable in agreeing to an arbitrator, the magistrate shall appoint an impartial arbitrator who shall have all of the powers and duties of an arbitrator appointed or agreed to by the other ~~person~~ party under the agreement.

For purposes of this section only, "landowner" means the persons who signed the easement or other written agreement, their heirs, successors, and assigns.

Sec. 16. Section 479.42, Code 1995, is amended to read as follows:

479.42 SUBSEQUENT PIPELINES.

A pipeline company shall not install a subsequent pipeline upon its existing easement when a damage claim from the installation of its previous pipeline on that easement has not been ~~determined by negotiation, arbitration or action of the courts. This section does not apply if~~ resolved, unless the damage claim is under litigation, ~~or~~ arbitration, or a proceeding pursuant to section 479.46.

With the exception of claims for damage to drain tile and future crop deficiency, for this section to apply, landowners and tenants must submit in writing their claims for damages caused by installation of the pipeline within one year of final cleanup on the real property.

Sec. 17. Section 479.46, subsections 1, 2, and 3, Code 1995, are amended to read as follows:

1. The county board of supervisors shall determine when installation of a pipeline has been completed in that county for the purposes of this section. ~~Between seventy-five and one hundred~~ Not less than ninety days after the completion of installation, and if an agreement cannot be made as to damages, a landowner whose land was affected by the installation of the pipeline or a pipeline company may file with the board of supervisors a petition asking that a compensation commission determine the damages arising from the installation of the pipeline.

2. If the board of supervisors by resolution approves the petition, the landowner or pipeline company shall commence the proceeding by filing an application with the chief judge of the judicial district of the county for the appointment of a compensation commission as provided in section 6B.4.

The application shall contain the following:

a. The name and address of the ~~petitioning landowner~~ applicant and a description of the land on which the damage is claimed to have occurred.

b. A description of the nature of the damage claimed to have occurred and the amount of the damage claimed.

c. The name and address of the pipeline company claimed to have caused the damage

or the name and address of the affected landowner.

3. After the commissioners have been appointed, the ~~landowner~~ applicant shall serve notice on the pipeline company or the landowner stating the following:

a. That a compensation commission has been appointed to determine the damages caused by the installation of the pipeline.

b. The name and address of the ~~landowner~~ applicant and a description of the land on which the damage is claimed to have occurred.

c. The date, time, and place when the commissioners will view the premises and proceed to appraise the damages and that the pipeline company or the landowner may appear before the commissioners.

Sections 6B.10 to 6B.13 apply to this notice. If more than one landowner petitions the county board of supervisors, the application to the chief judge, notice to the pipeline company, and appraisement of damages shall be consolidated into one application, notice, and appraisement. The county attorney may assist in co-ordinating the consolidated application and notice, but does not become an attorney for the landowners by doing so.

Sec. 18. Section 479.47, Code 1995, is amended to read as follows:

479.47 SUBSEQUENT TILING.

All additional costs of new tile construction caused by an existing pipeline shall be paid by the pipeline company. ~~The additional costs shall be paid by the pipeline company upon presentation of an invoice, verified by the county engineer or soil and water conservation district conservationist and specifically showing the added costs caused by the presence of the pipeline. A copy of the county engineer's or district conservationist's verification of additional costs shall accompany the invoice to the pipeline company.~~ To receive compensation under this section, the landowner or agent of the landowner shall either present an invoice specifying the additional costs caused by the presence of the pipeline which is accompanied by a written verification of the additional costs by the county engineer or soil and water conservation district conservationist or reach an agreement with the pipeline company on the project design and share of the cost to be paid by the pipeline company during the planning of the tiling project.

Sec. 19. Section 479A.11, Code 1995, is amended to read as follows:

479A.11 DAMAGES.

~~Pipeline companies~~ A pipeline company operating pipelines or underground storage shall be given reasonable access to the pipelines and storage areas for the purpose of constructing, ~~reconstructing, enlarging, repairing,~~ operating, maintaining, or locating their pipes, pumps, pressure apparatus, or other stations, wells, devices, or equipment used in or upon a pipeline or storage area, but shall pay the owner of the lands for the right of entry and the owner of crops on the land all damages caused by entering, using, or occupying the lands for these purposes; and shall pay to the owner of the lands, after the completion of construction of the pipeline or storage, all damages caused by settling of the soil along and above the pipeline, and wash or erosion of the soil along the pipeline due to the construction of the pipeline. However, this section does not prevent the execution of an agreement with other terms between the pipeline company and the owner of the land or crops with reference to their use.

Sec. 20. Section 479A.13, Code 1995, is amended to read as follows:

479A.13 JURISDICTION ~~— SERVICE OF ORIGINAL NOTICE~~.

In all cases arising under this chapter, the district court of any county in which property of a pipeline company is located, has jurisdiction of a case involving that company~~, and service of original notice on the pipeline company may be made by serving the chairperson of the board~~.

Sec. 21. Section 479A.14, subsection 1, Code 1995, is amended to read as follows:

1. The board shall adopt rules establishing standards to protect underground improve-

ments during the construction of pipelines, to protect soil conservation and drainage structures from being permanently damaged by pipeline construction, and for the restoration of agricultural lands after pipeline construction. To ensure that all interested persons are informed of this rulemaking procedure and are afforded a right to participate, the board shall schedule an opportunity for oral presentations on the proposed rulemaking and, in addition to the requirements of section 17A.4, shall distribute copies of the notice of intended action and opportunity for oral presentations to each county board of supervisors. A county board of supervisors may, under chapter 17A and subsequent to the rulemaking proceedings, petition for additional rulemaking to establish standards to protect soil conservation practices, structures, and drainage structures within that county. Upon the request of the petitioning county, the board shall schedule a hearing to consider the merits of the petition. Rules adopted under this section do not apply within the boundaries of a city, unless the land is used for agricultural purposes.

Sec. 22. Section 479A.15, Code 1995, is amended to read as follows:

479A.15 ENTRY FOR LAND SURVEYS.

A pipeline company may enter upon private land for the purpose of ~~making land surveys~~ surveying and examining the land to determine direction or depth of ~~pipelines~~ a pipeline by giving ten days' written notice by restricted certified mail to the landowner and to any person residing on or in possession of the land. For purposes of this section only, "landowner" means a person listed on the tax assessment rolls as responsible for the payment of real estate taxes imposed on the property. The entry for land surveys authorized in this section is not a trespass and may be aided by injunction. The pipeline company shall pay the actual damages caused by the entry and survey.

Sec. 23. Section 479A.16, unnumbered paragraph 1, Code 1995, is amended to read as follows:

A person who violates ~~a provision of~~ this chapter or a rule or ~~standards~~ an order issued pursuant to this chapter is subject to a civil penalty levied by the board not to exceed one thousand dollars for each violation. Each day that the violation continues constitutes a separate offense. However, the civil penalty shall not exceed two hundred thousand dollars for any related series of violations. Civil penalties collected pursuant to this section shall be credited to and are appropriated for the Iowa energy center created in section 266.39C.

Sec. 24. Section 479A.20, Code 1995, is amended to read as follows:

479A.20 ARBITRATION AGREEMENTS.

Notwithstanding conflicting provisions of chapter 679A, if an easement or other written agreement between a landowner and a pipeline company provides for the determination through arbitration of the amount of monetary damages sustained by a landowner and caused by the construction, maintenance, or repair of a pipeline, and if either ~~person~~ party has not appointed its arbitrator or agreed to an arbitrator under the agreement within thirty days after the other ~~person~~ party has invoked the arbitration provisions of the agreement by written notice to the other party by restricted certified mail, the landowner or the pipeline company may petition a magistrate in the county where the real property is located for the appointment of an arbitrator to serve in place of the arbitrator who would have been appointed or agreed to by the other ~~person~~ party. Before filing the petition the landowner or pipeline company shall give notice of the petitioning of the magistrate by restricted certified mail to the other ~~person~~ party and file proof of mailing with the petition. If, after hearing, the magistrate finds that the landowner or pipeline company has not been diligent in appointing or reasonable in agreeing to an arbitrator, the magistrate shall appoint an impartial arbitrator who shall have all of the powers and duties of an arbitrator appointed or agreed to by the other ~~person~~ party under the agreement.

For purposes of this section only, "landowner" means the persons who signed the ease-

ment or other written agreement, their heirs, successors, and assigns.

Sec. 25. Section 479A.21, Code 1995, is amended to read as follows:

479A.21 SUBSEQUENT PIPELINES.

A pipeline company shall not install a subsequent pipeline upon its existing easement when a damage claim from the installation of its previous pipeline on that easement has not been ~~determined by negotiation, arbitration, or action of the courts. However, this section does not apply if the damage~~ resolved unless that claim is under litigation or arbitration or is the subject of a proceeding pursuant to section 479A.25.

Sec. 26. Section 479A.25, subsections 1, 2, and 3, Code 1995, are amended to read as follows:

1. The county board of supervisors shall determine when installation of a pipeline has been completed in that county for the purposes of this section. ~~Within one year of~~ Not less than ninety days after the completion of installation, and if an agreement cannot be made as to damages, a landowner whose land was affected by the installation of the pipeline or the pipeline company may file with the board of supervisors a petition asking that a compensation commission determine the damages arising from the installation of the pipeline.

2. If the board of supervisors by resolution approves the petition, the landowner or pipeline company shall commence the proceeding by filing an application with the chief judge of the judicial district of the county for the appointment of a compensation commission as provided in section 6B.4.

The application shall contain all of the following:

a. The name and address of the ~~petitioning landowner~~ applicant and a description of the land on which the damage is claimed to have occurred.

b. A description of the nature of the damage claimed to have occurred and the amount of the damage claimed.

c. The name and address of the pipeline company claimed to have caused the damage or the name and address of the affected landowner.

3. After the commissioners have been appointed, the ~~landowner~~ applicant shall serve notice on the pipeline company or the landowner stating all of the following:

a. That a compensation commission has been appointed to determine the damages caused by the installation of the pipeline.

b. The name and address of the ~~landowner~~ applicant and a description of the land on which the damage is claimed to have occurred.

c. The place, date, and time when the commissioners will view the premises and proceed to appraise the damages and that the pipeline company or landowner may appear before the commissioners.

~~d. That the pipeline company may appear before the commissioners.~~

Sections 6B.10 to 6B.13 apply to this notice. If more than one landowner petitions the county board of supervisors, the application to the chief judge, notice to the pipeline company, and appraisement of damages shall be consolidated into one application, notice, and appraisement. The county attorney may assist in coordinating the consolidated application and notice, but does not become an attorney for the landowners by doing so.

Sec. 27. Section 479A.26, Code 1995, is amended to read as follows:

479A.26 SUBSEQUENT TILING.

Additional costs of new tile construction caused by an existing pipeline shall be paid by the pipeline company. ~~The additional costs shall be paid by the pipeline company upon presentation of an invoice, verified by the county engineer or soil and water conservation district conservationist and specifically showing the added costs caused by the presence of the pipeline. A copy of the county engineer's or district conservationist's verification of additional costs shall accompany the invoice to the pipeline company.~~ To receive compensation under this section, the landowner or agent of the landowner shall either

present an invoice specifying the additional costs caused by the presence of the pipeline which is accompanied by a written verification of the additional costs by the county engineer or soil and water conservation district conservationist or reach an agreement with the pipeline company on the project design and share of the cost to be paid by the pipeline company during the planning of the tiling project.

Sec. 28. NEW SECTION. 479B.1 PURPOSE - AUTHORITY.

It is the purpose of the general assembly in enacting this law to grant the utilities board the authority to implement certain controls over hazardous liquid pipelines to protect landowners and tenants from environmental or economic damages which may result from the construction, operation, or maintenance of a hazardous liquid pipeline or underground storage facility within the state, to approve the location and route of hazardous liquid pipelines, and to grant rights of eminent domain where necessary.

Sec. 29. NEW SECTION. 479B.2 DEFINITIONS.

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

1. "Board" means the utilities board within the utilities division of the department of commerce.
2. "Hazardous liquid" means crude oil, refined petroleum products, liquefied petroleum gases, anhydrous ammonia, liquid fertilizers, liquefied carbon dioxide, alcohols, and coal slurries.
3. "Pipeline" means an interstate pipe or pipeline and necessary appurtenances used for the transportation or transmission of hazardous liquids.
4. "Pipeline company" means a person engaged in or organized for the purpose of owning, operating, or controlling pipelines for the transportation or transmission of any hazardous liquid or underground storage facilities for the underground storage of any hazardous liquid.
5. "Underground storage" means storage of hazardous liquid in a subsurface stratum or formation of the earth.
6. "Utilities division" means the utilities division of the department of commerce.

Sec. 30. NEW SECTION. 479B.3 CONDITIONS ATTENDING OPERATION.

A pipeline company shall not construct, maintain, or operate a pipeline or underground storage facility under, along, over, or across any public or private highways, grounds, waters, or streams of any kind in this state except in accordance with this chapter.

Sec. 31. NEW SECTION. 479B.4 APPLICATION FOR PERMIT INFORMATIONAL MEETING - NOTICE.

A pipeline company doing business in this state shall file a verified petition with the board asking for a permit to construct, maintain, and operate a new pipeline along, over, or across the public or private highways, grounds, waters, and streams of any kind in this state. Any pipeline company now owning or operating a pipeline or underground storage facility in this state shall be issued a permit by the board upon supplying the information as provided for in section 479B.5, subsections 1 through 5, and meeting the requirements of section 479B.13.

A pipeline company doing business in this state and proposing to store hazardous liquid underground within this state shall file with the board a verified petition asking for a permit to construct, maintain, and operate facilities for the underground storage of hazardous liquid which includes the construction, placement, maintenance, and operation of machinery, appliances, fixtures, wells, pipelines, and stations necessary for the construction, maintenance, and operation of the underground storage facilities.

The pipeline company shall hold informational meetings in each county in which real property or property rights will be affected at least thirty days prior to filing the petition for a new pipeline. A member of the board, or a person designated by the board, shall serve as the presiding officer at each meeting and present an agenda for the meeting

which shall include a summary of the legal rights of the affected landowners. No formal record of the meeting shall be required. The meeting shall be held at a location reasonably accessible to all persons who may be affected by granting the permit.

The pipeline company seeking the permit for a new pipeline shall give notice of the informational meeting to each landowner affected by the proposed project and each person in possession of or residing on the property. For the purposes of the informational meeting, "landowner" means a person listed on the tax assessment rolls as responsible for the payment of real estate taxes imposed on the property and "pipeline" means a line transporting a hazardous liquid under pressure in excess of one hundred fifty pounds per square inch and extending a distance of not less than five miles or having a future anticipated extension of an overall distance of five miles.

The notice shall set forth the following: the name of the applicant, the applicant's principal place of business, the general description and purpose of the proposed project, the general nature of the right-of-way desired, a map showing the route or location of the proposed project, that the landowner has a right to be present at the meeting and to file objections with the board, and a designation of the time and place of the meeting. The notice shall be sent by restricted certified mail and shall be published once in a newspaper of general circulation in the county not less than thirty days before the date set for the meeting. The publication shall be considered notice to landowners whose residence is not known and to each person in possession of or residing on the property provided a good faith effort to notify can be demonstrated by the pipeline company.

A pipeline company seeking rights under this chapter shall not negotiate or purchase an easement or other interest in land in a county known to be affected by the proposed project prior to the informational meeting.

Sec. 32. NEW SECTION. 479B.5 PETITION.

A petition for a permit shall state all of the following:

1. The name of the individual, firm, corporation, company, or association applying for the permit.
2. The applicant's principal office and place of business.
3. A legal description of the route of the proposed pipeline and a map of the route.
4. A general description of the public or private highways, grounds, waters, streams, and private lands of any kind along, over, or across which the proposed pipeline will pass.
5. If permission is sought to construct, maintain, and operate facilities for the underground storage of hazardous liquids the petition shall include the following additional information:

a. A description and a map of the public or private highways, grounds, waters, streams, and private lands of any kind under which the storage is proposed.

b. Maps showing the location of proposed machinery, appliances, fixtures, wells, and stations necessary for the construction, maintenance, and operation of the hazardous liquid storage facilities.

6. The possible use of alternative routes.
7. The relationship of the proposed project to the present and future land use and zoning ordinances.
8. The inconvenience or undue injury which may result to property owners as a result of the proposed project.
9. An affidavit attesting to the fact that informational meetings were held in each county affected by the proposed project and the time and place of each meeting.

Sec. 33. NEW SECTION. 479B.6 HEARING - NOTICE.

After the petition is filed, the board shall fix a date for a hearing and shall publish notice for two consecutive weeks, in a newspaper of general circulation in each county through which the proposed pipeline or hazardous liquid storage facilities will extend.

The hearing shall not be less than ten days nor more than thirty days from the date of the

last publication of the notice. If the pipeline exceeds five miles in length, the hearing shall be held in the county seat of the county located at the midpoint of the proposed pipeline or the county in which the proposed hazardous liquid storage facility would be located.

Sec. 34. NEW SECTION. 479B.7 OBJECTIONS.

A person, including a governmental entity, whose rights or interests may be affected by the proposed pipeline or hazardous liquid storage facilities may file written objections.

All objections shall be on file with the board not less than five days before the date of hearing on the application. However, the board may permit the filing of the objections later than five days before the hearing, in which event the applicant must be granted a reasonable time to meet the objections.

Sec. 35. NEW SECTION. 479B.8 EXAMINATION - TESTIMONY.

The board may examine the proposed route of the pipeline and location of the underground storage facility. At the hearing the board shall consider the petition and any objections and may hear testimony to assist the board in making its determination regarding the application.

Sec. 36. NEW SECTION. 479B.9 FINAL ORDER - CONDITION.

The board may grant a permit in whole or in part upon terms, conditions, and restrictions as to location and route as it determines to be just and proper. A permit shall not be granted to a pipeline company unless the board determines that the proposed services will promote the public convenience and necessity.

Sec. 37. NEW SECTION. 479B.10 COSTS AND FEES.

The applicant shall pay all costs of the informational meetings, hearing, and necessary preliminary investigation including the cost of publishing notice of hearing, and shall pay the actual unrecovered costs directly attributable to inspections conducted by the board.

Sec. 38. NEW SECTION. 479B.11 INSPECTION FEE.

If the board enters into agreements with the United States department of transportation pursuant to section 479B.23, a pipeline company shall pay an annual fee of fifty cents per mile of pipeline or fraction thereof for each inch of diameter of the pipeline located in the state. The inspection fee shall be paid to the board between January 1 and February 1 for the calendar year.

The board shall collect all fees. Failure to pay any fee within thirty days from the due date shall be grounds for revocation of the permit or assessment of civil penalties.

Sec. 39. NEW SECTION. 479B.12 USE OF FUNDS.

All moneys received under this chapter, other than civil penalties collected pursuant to section 479B.21, shall be remitted monthly to the treasurer of state and credited to the general fund of the state.

Sec. 40. NEW SECTION. 479B.13 FINANCIAL CONDITION OF PERMITTEE BOND.

Before a permit is granted under this chapter the applicant must satisfy the board that the applicant has property within this state other than pipelines or underground storage facilities, subject to execution of a value in excess of two hundred fifty thousand dollars, or the applicant must file and maintain with the board a surety bond in the penal sum of two hundred fifty thousand dollars with surety approved by the board, conditioned that the applicant will pay any and all damages legally recovered against it growing out of the construction, maintenance, or operation of its pipeline or underground storage facilities in this state. When the pipeline company deposits with the board security satisfactory to the board as a guaranty for the payment of the damages, or furnishes to the board satisfactory proofs of its solvency and financial ability to pay the damages, the pipeline company is relieved of the provisions requiring bond.

Sec. 41. NEW SECTION. 479B.14 PERMITS - LIMITATIONS - SALE OR TRANSFER - RECORDS - EXTENSION.

The board shall prepare and issue permits. The permit shall show the name and address of the pipeline company to which it is issued and identify the decision and order of the board under which the permit is issued. The permit shall be signed by the chairperson of the board and the official seal of the board shall be affixed to it.

The board shall not grant an exclusive right to any pipeline company to construct, maintain, or operate its pipeline along, over, or across any public or private highway, grounds, waters, or streams. The board shall not grant a permit for longer than twenty-five years.

A permit shall not be sold until the sale is approved by the board.

If a transfer of a permit is made before the construction for which it was issued is completed in whole or in part, the transfer shall not be effective until the pipeline company to which it was issued files with the board a notice in writing stating the date of the transfer and the name and address of the transferee.

The board shall keep a record of all permits granted by it, showing when and to whom granted and the location and route of the pipeline or underground storage facility, and if the permit has been transferred, the date and the name and address of the transferee.

A pipeline company may petition the board for an extension of a permit granted under this section by filing a petition containing the information required by section 479B.5, subsections 1 through 5, and meeting the requirements of section 479B.13.

Sec. 42. NEW SECTION. 479B.15 ENTRY FOR LAND SURVEYS.

After the informational meeting or after the filing of a petition if no informational meeting is required, a pipeline company may enter upon private land for the purpose of surveying and examining the land to determine direction or depth of pipelines by giving ten days' written notice by restricted certified mail to the landowner as defined in section 479B.4 and to any person residing on or in possession of the land. The entry for land surveys shall not be deemed a trespass and may be aided by injunction. The pipeline company shall pay the actual damages caused by the entry, survey, and examination.

Sec. 43. NEW SECTION. 479B.16 EMINENT DOMAIN.

A pipeline company granted a pipeline permit shall be vested with the right of eminent domain, to the extent necessary and as prescribed and approved by the board, not exceeding seventy-five feet in width for right-of-way and not exceeding one acre in any one location in addition to right-of-way for the location of pumps, pressure apparatus, or other stations or equipment necessary to the proper operation of its pipeline. The board may grant additional eminent domain rights where the pipeline company has presented sufficient evidence to adequately demonstrate that a greater area is required for the proper construction, operation, and maintenance of the pipeline or for the location of pumps, pressure apparatus, or other stations or equipment necessary to the proper operation of its pipeline.

A pipeline company granted a permit for underground storage of hazardous liquid shall be vested with the right of eminent domain to the extent necessary and as prescribed and approved by the board in order to appropriate for its use for the underground storage of hazardous liquid any subsurface stratum or formation in any land which the board shall have found to be suitable and in the public interest for the underground storage of hazardous liquid, and may appropriate other interests in property, as may be required adequately to examine, prepare, maintain, and operate the underground storage facilities.

This chapter does not authorize the construction of a pipeline longitudinally on, over, or under any railroad right-of-way or public highway, or at other than an approximate right angle to a railroad track or public highway without the consent of the railroad company, the state department of transportation, or the county board of supervisors, and this chapter does not authorize or give the right of condemnation or eminent domain for such purposes.

Sec. 44. NEW SECTION. 479B.17 DAMAGES.

A pipeline company operating a pipeline or an underground storage facility shall have reasonable access to the pipeline or underground storage facility for the purpose of constructing, operating, maintaining, or locating pipes, pumps, pressure apparatus, or other stations, wells, devices, or equipment used in or upon the pipeline or underground storage facility. A pipeline company shall pay the owner of the land for the right of entry and the owner of crops for all damages caused by entering, using, or occupying the lands and shall pay to the owner all damages caused by the completion of construction of the pipeline due to wash or erosion of the soil at or along the location of the pipeline and due to the settling of the soil along and above the pipeline. However, this section does not prevent the execution of an agreement between the pipeline company and the owner of the land or crops with reference to the use of the land.

Sec. 45. NEW SECTION. 479B.18 VENUE.

In all cases arising under this chapter, the district court of any county in which property of a pipeline company is located has jurisdiction of a case involving the pipeline company.

Sec. 46. NEW SECTION. 479B.19 ORDERS - ENFORCEMENT.

If the pipeline company fails to obey an order within the period of time determined by the board, the board may commence an equitable action in the district court of the county where the pipeline, device, apparatus, equipment, or underground storage facility is located to compel compliance with its order. If, after trial, the court finds that the order is reasonable, equitable, and just, the court shall decree a mandatory injunction compelling obedience to and compliance with the order and may grant other relief as may be just and proper. Appeal from the decree may be taken in the same manner as in other actions.

Sec. 47. NEW SECTION. 479B.20 LAND RESTORATION STANDARDS.

1. The board, pursuant to chapter 17A, shall adopt rules establishing standards for the protection of underground improvements during the construction of pipelines or underground storage facilities, to protect soil conservation and drainage structures from being permanently damaged by construction of the pipeline or underground storage facility, and for the restoration of agricultural lands after pipeline or underground storage facility construction. To ensure that all interested persons are informed of this rulemaking procedure and are afforded a right to participate, the board shall schedule an opportunity for oral presentations on the proposed rulemaking, and, in addition to the requirements of section 17A.4, shall distribute copies of the notice of intended action and opportunity for oral presentations to each county board of supervisors. Any county board of supervisors may, under the provisions of chapter 17A, and subsequent to the rulemaking proceedings, petition under those provisions for additional rulemaking to establish standards to protect soil conservation practices, structures, and drainage structures within that county. Upon the request of the petitioning county, the board shall schedule a hearing to consider the merits of the petition. Rules adopted under this section shall not apply within the boundaries of a city unless the land is used for agricultural purposes.

2. The county board of supervisors shall cause an on-site inspection for compliance with the standards adopted under this section to be performed at any pipeline construction project in the county. A professional engineer familiar with the standards adopted under this section and registered under chapter 542B shall be responsible for the inspection. A county board of supervisors may contract for the services of a professional engineer for the purposes of the inspection. The reasonable costs of the inspection shall be paid by the pipeline company.

3. If the inspector determines that there has been a violation of the standards adopted under this section, the inspector shall give oral notice, followed by written notice, to the pipeline company and the contractor operating for the pipeline company and order corrective action to be taken in compliance with the standards. The costs of the corrective action shall be borne by the contractor operating for the pipeline company.

4. As a part of the inspection process, the inspector shall ascertain that the trench

excavation has been filled in a manner to provide that the topsoil has been replaced on top and rocks and debris have been removed from the topsoil of the easement area. An existing topsoil layer extending at least one foot in width on either side of the pipeline excavation at a maximum depth of twelve inches shall be removed separately and shall be stockpiled and preserved separately during subsequent construction operations, unless other means for separating the topsoil are provided in the easement. The topsoil shall be replaced so the upper portion of the pipeline excavation and the crowned surface shall contain only the topsoil originally removed.

5. Adequate inspection of underground improvements altered during construction of the pipeline shall be conducted at the time of the replacement or repair of the underground improvements. An inspector shall be present on the site at all times at each phase and separate activity of the opening of the trench, the restoration of underground improvements, and backfilling. The pipeline company and its contractor shall keep all county inspectors continually informed of the work schedule and any schedule changes.

6. If the pipeline company or its contractor does not comply with the orders of the inspector for compliance with the standards, the county board of supervisors may direct the county attorney to petition the district court for an order requiring corrective action to be taken in compliance with the standards adopted under this section.

7. The pipeline company shall allow landowners and inspectors to view the proposed center line of the pipeline prior to commencing trenching operations to ensure that construction takes place in its proper location.

8. An inspector may temporarily halt the construction if the construction is not in compliance with the law or the terms of the agreement with the pipeline company regarding topsoil removal and replacement, drainage structures, soil moisture conditions, or the location of construction until the inspector consults with the supervisory personnel of the pipeline company. If the construction is then continued over the inspector's objection and is found not to be in compliance with the law or agreement and is found to cause damage, any civil penalty recovered under section 479B.21 as a result of that violation shall be paid to the landowner.

9. The board shall instruct inspectors appointed by the board of supervisors regarding the content of the statutes and rules and the inspector's responsibility to require construction conforming with the standards provided by this chapter.

10. Any underground drain tile damaged, cut, or removed shall be temporarily repaired and maintained as necessary to allow for its proper function during construction of the pipeline or underground storage facility. If temporary repair is not determined to be necessary, the exposed tile shall nonetheless be screened or otherwise protected to prevent the entry of any foreign material or small animals into the tile line system.

11. This section does not preclude the application of provisions for protecting or restoring property contained in agreements independently executed by the pipeline company and the landowner if the provisions are not inconsistent with state law or with rules adopted by the board.

Sec. 48. NEW SECTION. 479B.21 CIVIL PENALTY.

A person who violates this chapter or any rule or order issued pursuant to this chapter shall be subject to a civil penalty levied by the board in an amount not to exceed one thousand dollars for each violation. Each day that the violation continues shall constitute a separate offense. However, the maximum civil penalty shall not exceed two hundred thousand dollars for any related series of violations. Civil penalties collected pursuant to this section shall be credited to and are appropriated for the use of the Iowa energy center created in section 266.39C.

A civil penalty may be compromised by the board. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the pipeline company charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance, after notification of a violation,

shall be considered. The amount of the penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owed by the state to the person charged, or may be recovered in a civil action.

Sec. 49. NEW SECTION. 479B.22 REHEARING - JUDICIAL REVIEW.

Rehearing procedure for any person aggrieved by actions of the board under this chapter shall be as provided in section 476.12. Judicial review may be sought in accordance with the terms of chapter 17A.

Sec. 50. NEW SECTION. 479B.23 AUTHORIZED FEDERAL AID.

The board may enter into agreements with and receive moneys from the United States department of transportation for the inspection of pipelines to determine compliance with applicable standards of pipeline safety, and for enforcement of the applicable standards of pipeline safety as provided by 49 U.S.C. § 60101 et seq.

Sec. 51. NEW SECTION. 479B.24 CANCELLATION.

A pipeline company seeking to acquire an easement or other property interest for the construction, maintenance, or operation of a pipeline or underground storage facility shall do all of the following:

1. Allow the landowner or a person serving in a fiduciary capacity on the landowner's behalf to cancel an agreement granting an easement or other interest by restricted certified mail to the pipeline company's principal place of business if received by the pipeline company within seven days, excluding Saturday and Sunday, of the date of the agreement and inform the landowner or the fiduciary in writing of the right to cancel prior to the signing of the agreement by the landowner or the fiduciary.
2. Provide the landowner or a person serving in a fiduciary capacity in the landowner's behalf with a form in duplicate for the notice of cancellation.
3. Not record an agreement until after the period for cancellation has expired.
4. Not include in the agreement a waiver of the right to cancel in accordance with this section. The landowner or a person serving in a fiduciary capacity in the landowner's behalf may exercise the right of cancellation only once for each pipeline project.

Sec. 52. NEW SECTION. 479B.25 ARBITRATION AGREEMENTS.

If an easement or other written agreement between a landowner and a pipeline company provides for the determination through arbitration of the amount of monetary damages sustained by a landowner and caused by the construction, maintenance, or repair of a pipeline or underground storage facility, and if either party has not appointed its arbitrator or agreed to an arbitrator under the agreement within thirty days after the other party has invoked the arbitration provisions of the agreement by written notice to the other party by restricted certified mail, the landowner or the pipeline company may petition a magistrate in the county where the real property is located for the appointment of an arbitrator to serve in the stead of the arbitrator who would have been appointed or agreed to by the other party. Before filing the petition the landowner or pipeline company shall give notice of the petitioning of the magistrate by restricted certified mail to the other party and file proof of mailing with the petition.

If after hearing, the magistrate finds that the landowner or pipeline company has not been diligent in appointing or reasonable in agreeing to an arbitrator, the magistrate shall appoint an impartial arbitrator who shall have all of the powers and duties of an arbitrator appointed or agreed to by the other party under the agreement.

For purposes of this section only, "landowner" means the person who signed the easement or other written agreement, or the person's heirs, successors, and assigns.

Sec. 53. NEW SECTION. 479B.26 SUBSEQUENT PIPELINE OR UNDERGROUND STORAGE FACILITY.

A pipeline company shall not construct a subsequent pipeline or underground storage

facility upon its existing easement when a damage claim from the installation of its previous pipeline on that easement has not been resolved unless that claim is under litigation or arbitration, or is the subject of a proceeding pursuant to section 479B.30.

With the exception of claims for damage to drain tile and future crop deficiency, for this section to apply, landowners and tenants must submit their claims in writing for damages caused by construction of the pipeline or underground storage facility within one year of final cleanup on the real property by the pipeline company.

Sec. 54. NEW SECTION. 479B.27 DAMAGE AGREEMENT.

A pipeline company shall not construct a pipeline or underground storage facility until a written statement is on file with the board as to how damages resulting from the construction of the pipeline shall be determined and paid, except in cases of eminent domain. The pipeline company shall provide a copy of the statement to the landowner.

Sec. 55. NEW SECTION. 479B.28 NEGOTIATED FEE.

In lieu of a one-time lump sum payment for an easement or other property interest allowing a pipeline to cross property or allowing underground storage of hazardous liquids, a landowner and the pipeline company may negotiate an annual fee, to be paid over a fixed number of years. Unless the easement provides otherwise, the annual fee shall run with the land and shall be payable to the owner of record.

Sec. 56. NEW SECTION. 479B.29 PARTICULAR DAMAGE CLAIMS.

1. The loss of gain by or the death or injury of livestock caused by the interruption or relocation of normal feeding of the livestock caused by the construction or repair of a pipeline or underground storage facility is a compensable loss and shall be recognized by a pipeline company.

2. A claim for damage for future crop deficiency within the easement strip shall not be precluded from renegotiation under section 6B.52 on the grounds that it was apparent at the time of settlement unless the settlement expressly releases the pipeline company from claims for damage to the productivity of the soil. The landowner shall notify the pipeline company in writing thirty days prior to harvest in each year to assess crop deficiency.

Sec. 57. NEW SECTION. 479B.30 DETERMINATION OF CONSTRUCTION DAMAGES.

1. The county board of supervisors shall determine when construction of a pipeline or underground storage facility has been completed in that county for the purposes of this section. Not less than ninety days after the completion of construction and if an agreement cannot be made as to damages, a landowner whose land was affected by the construction of the pipeline or underground storage facility or the pipeline company may file with the board of supervisors a petition asking that a compensation commission determine the damages arising from construction of the pipeline.

2. If the board of supervisors by resolution approves the petition, the landowner or pipeline company shall commence the proceeding by filing an application with the chief judge of the judicial district for the county for the appointment of a compensation commission as provided in section 6B.4. The application shall contain all of the following information:

a. The name and address of the applicant and a description of the land on which the damage is claimed to have occurred.

b. A description of the nature of the damage claimed to have occurred and the amount of the damage claimed.

c. The name and address of the pipeline company claimed to have caused the damage or the name and address of the affected landowner.

3. After the commissioners have been appointed, the applicant shall serve notice on the pipeline company or the landowner stating all of the following:

a. That a compensation commission has been appointed to determine the damages caused

by the construction of the pipeline or underground storage facility.

b. The name and address of the applicant and a description of the land on which the damage is claimed to have occurred.

c. The date, time, and place when the commissioners will view the premises and proceed to appraise the damages and that the pipeline company or landowner may appear before the commissioners.

Sections 6B.10 to 6B.13 apply to this notice. If more than one landowner petitions the county board of supervisors, the application to the chief judge, notice to the pipeline company, and appraisement of damages shall be consolidated into one application, notice, and appraisement. The county attorney may assist in coordinating the consolidated application and notice, but does not become an attorney for the landowners by doing so.

4. The commissioners shall view the land at the time provided in the notice and assess the damages sustained by the landowner by reason of the construction of the pipeline or underground storage facility and they shall file their report with the sheriff. The appraisement of damages returned by the commissioners is final unless appealed. After the appraisement of damages has been delivered to the sheriff by the compensation commission, the sheriff shall give written notice by ordinary mail to the pipeline company and the landowner of the date the appraisement of damages was made, the amount of the appraisement, and that any interested party may appeal to the district court within thirty days of the date of mailing. The sheriff shall endorse the date of mailing of notice on the original appraisement of damages. At the time of appeal, the appealing party shall give written notice to the adverse party or the party's attorney and the sheriff.

5. Chapter 6B applies to this section to the extent it is applicable and consistent with this section.

6. The pipeline company shall pay all costs of the assessment made by the commissioners and reasonable attorney fees and costs incurred by the landowner as determined by the commissioners if the award of the commissioners exceeds one hundred ten percent of the final offer of the pipeline company prior to the determination of damages; if the award does not exceed one hundred ten percent, the landowners shall pay the fees and costs incurred by the pipeline company. The pipeline company shall file with the sheriff an affidavit setting forth the most recent offer made to the landowner. Commissioners shall receive a per diem of fifty dollars and actual and necessary expenses incurred in the performance of their official duties. The pipeline company shall also pay all costs occasioned by the appeal, including reasonable attorney fees to be taxed by the court, unless on the trial of the appeal the same or a lesser amount of damages is awarded than was allowed by the commission from which the appeal was taken.

7. As used in this section, "damages" means compensation for damages to the land, crops, and other personal property caused by the construction of a pipeline and its attendant structures or underground storage facility but does not include compensation for a property interest, and "landowner" includes a farm tenant.

8. The provisions of this section do not apply if the easement provides for any other means of negotiation or arbitration.

Sec. 58. NEW SECTION. 479B.31 SUBSEQUENT TILING.

All additional costs of new tile construction caused by an existing pipeline or underground storage facility shall be paid by the pipeline company. To receive compensation under this section, the landowner or agent of the landowner shall either present an invoice specifying the additional costs caused by the presence of the pipeline which is accompanied by a written verification of the additional costs by the county engineer or soil and water conservation district conservationist or reach an agreement with the pipeline company on the project design and share of the cost to be paid by the pipeline company during the planning of the tiling project.

Sec. 59. NEW SECTION. 480.9 LIABILITY FOR OWNER OF FARMLAND.

An owner of farmland used in a farm operation, as defined in section 352.2, who complies with the requirements of this chapter shall not be held responsible for any damages to an underground facility, including fiber optic cable, if the damage occurred on the farmland in the normal course of the farm operation, unless the owner intentionally damaged the underground facility or acted with wanton disregard or recklessness in causing the damage to the underground facility. For purposes of this section, an "owner" includes a family member, employee, or tenant of the owner.

Sec. 60. Section 546.7, Code 1995, is amended to read as follows:

546.7 UTILITIES DIVISION.

The utilities division shall regulate and supervise public utilities operating in the state. The division shall enforce and implement chapters 476, 476A, 477C, 478, 479, ~~and~~ 479A, and 479B and shall perform other duties assigned to it by law. The division is headed by the administrator of public utilities who shall be appointed by the governor pursuant to section 474.1.

Sec. 61. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 62. RETROACTIVE APPLICABILITY. The sections of this Act which create new sections 479B.17, 479B.25, and 479B.29 through 479B.31 are retroactive to July 1, 1993.

Approved May 26, 1995

CHAPTER 193

FRANCHISE TAX ON FINANCIAL INSTITUTIONS

S.F. 478

AN ACT relating to the state franchise tax imposed on financial institutions by disallowing the deduction for expenses related to a financial institution's investment in investment subsidiaries and providing applicability dates.

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

Section 1. Section 422.61, subsection 2, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. A deduction shall not be allowed for that portion of the taxpayer's expenses computed under this paragraph which is allocable to an investment in an investment subsidiary. The portion of the taxpayer's expenses which is allocable to an investment in an investment subsidiary is an amount which bears the same ratio to the taxpayer's expenses as the taxpayer's average adjusted basis, as computed pursuant to section 1016 of the Internal Revenue Code, of investment in that investment subsidiary bears to the average adjusted basis for all assets of the taxpayer. The portion of the taxpayer's expenses that is computed and disallowed under this paragraph shall be added.

Sec. 2. Section 422.61, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. "Investment subsidiary" means an affiliate that is owned, capitalized, or utilized by a financial institution with one of its purposes being to make, hold, or manage, for and on behalf of the financial institution, investments in securities which the financial institution would be permitted by applicable law to make for its own account.

Sec. 3. This Act applies retroactively to January 1, 1995, for tax years beginning on or after that date. However, the retroactive application of this Act applies only to financial institutions that have an investment in an investment subsidiary on or after July 1, 1995.

Approved May 26, 1995

CHAPTER 194

STATE COLLECTION OF TAXES AND DEBTS

H.F. 549

AN ACT relating to the collection of taxes and debts owed to or collected by the state, including the renewal of registrations, the publication of information pertaining to certain taxes and debts, providing for an administrative levy to seize certain accounts of a debtor, the denial, revocation, suspension, or renewal of licenses authorized by the state, redistributing collected amounts, creating a driver's license indebtedness clearance pilot project, and other related matters, and providing an effective date.

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

Section 1. Section 321.20, subsection 1, Code 1995, is amended to read as follows:

1. The name, social security number ~~if available~~, motor vehicle license number, date of birth, bona fide residence and mailing address of the owner ~~or if~~. If the owner is a firm, association, or corporation, the application shall contain the business address and federal employer identification number of the owner ~~if available~~.

Sec. 2. Section 321.30, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 12. The department or the county treasurer knows that an applicant for renewal of a registration has a delinquent account, charge, fee, loan, taxes, or other indebtedness owed to or being collected by the state, from information received pursuant to section 421.17. An applicant may contest this action by requesting a contested case proceeding from the agency that referred the debt for collection pursuant to section 421.17. This subsection shall apply only to a renewal of registration and shall not apply to the issuance of an original registration or to the issuance of a certificate of title.

Sec. 3. Section 321.31, subsection 1, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The director shall maintain a records system of delinquent accounts owed to the state using information provided through the computerized data bank established in section 421.17. The department and county treasurers shall use the information maintained in the records system to determine if applicants for renewal of registration have delinquent accounts, charges, fees, loans, taxes, or other indebtedness owed to or being collected by the state as provided pursuant to section 421.17. The director and the director of revenue and finance shall establish procedures for updating the delinquent accounts records to add and remove accounts, as applicable.

Sec. 4. Section 321.40, Code 1995, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 5:

NEW UNNUMBERED PARAGRAPH. The county treasurer shall refuse to renew the registration of a vehicle registered to the applicant if the county treasurer knows that the applicant has a delinquent account, charge, fee, loan, taxes, or other indebtedness owed to

or being collected by the state, from information provided pursuant to section 421.17. An applicant may contest this action by requesting a contested case proceeding from the agency that referred the debt for collection pursuant to section 421.17.

Sec. 5. Section 321.177, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 10. To any person who has a delinquent account owed to the state according to records provided to the department of transportation by the department of revenue and finance pursuant to section 421.17, unless the person provides to the department of transportation evidence of approval for issuance from the department of revenue and finance. The department of revenue and finance shall approve issuance if the applicant has made arrangements for payment of the debt with the agency, which is owed or is collecting the debt, to the satisfaction of the agency. This subsection is only applicable to those persons who are applying for issuance of a license in a county which is participating in the driver's license indebtedness clearance pilot project.

Sec. 6. NEW SECTION. 321.210B SUSPENSION FOR FAILURE TO PAY INDEBTEDNESS OWED TO THE STATE.

The department shall suspend the motor vehicle license of a person who has a delinquent account owed to the state according to records provided by the department of revenue and finance pursuant to section 421.17. A license shall be suspended until such time as the department of revenue and finance notifies the department of transportation that the licensee has made arrangements for payment of the debt with the agency which is owed or is collecting the debt. This section is only applicable to those persons residing in a county which is participating in the driver's license indebtedness clearance pilot project.

Sec. 7. Section 421.17, subsection 34, paragraph a, Code 1995, is amended to read as follows:

a. To establish, administer, and make available a centralized debt collection capability and procedure for the use by any state agency as defined in subsection 29 to collect delinquent accounts, charges, fees, loans, taxes, or other indebtedness ~~due~~ owed to or being collected by the state. The department's collection facilities shall only be available for use by other state agencies for their discretionary use when resources are available to the director and subject to the director's determination that use of the procedure is feasible. The director shall prescribe the appropriate form and manner in which this information is to be submitted to the office of the department. The obligations or indebtedness must be delinquent and not subject to litigation, claim, appeal, or review pursuant to the appropriate remedies of each state agency.

Sec. 8. Section 421.17, subsection 34, paragraph e, Code 1995, is amended to read as follows:

e. All state agencies shall be given access, at the discretion of the director, to the centralized computer data bank and, notwithstanding any other provision of law to the contrary, may deny, revoke, or suspend any license or deny any renewal authorized by the laws of this state to any person who has defaulted on an obligation ~~owing~~ owed to or collected by the state. The confidentiality provisions of sections 422.20 and 422.72 do not apply to tax information contained in the centralized computer data bank. State agencies shall endeavor to obtain the applicant's social security or federal tax identification number, or state driver's license number from all applicants.

Sec. 9. Section 421.17, subsection 34, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. i. The director may distribute for publication the names, addresses, and amounts of indebtedness owed to or being collected by the state if the indebtedness is subject to the centralized debt collection procedure established in this subsection.

The director shall adopt rules to implement this paragraph, and the rules shall provide guidelines by which the director shall determine which names, addresses, and amounts of indebtedness may be distributed for publication. The director may distribute information for publication pursuant to this paragraph, notwithstanding sections 422.20, 422.72, and 423.23, or any other provision of state law to the contrary pertaining to confidentiality of information.

Sec. 10. NEW SECTION. 421.17A ADMINISTRATIVE LEVY.

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

a. "Account" means "account" as defined in section 524.103, "share account or shares" as defined in section 534.102, or 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.

b. "Bank" means "bank", "insured bank", "private bank", and "state bank" as these are defined in section 524.103.

c. "Credit union" means "credit union" as defined in section 533.51.

d. "Facility" means the centralized debt collection facility of the department of revenue and finance established pursuant to section 421.17, subsection 34.

e. "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.

f. "Obligor" means a person who is indebted to the state or a state agency for any delinquent accounts, charges, fees, loans, taxes, or other indebtedness due the state or indebtedness being collected by the state.

g. "Savings and loan association" means "association" as defined in section 534.102.

h. "Working days" means Monday through Friday, excluding the holidays specified in section 1C.2, subsections 1 through 9.

2. PURPOSE AND USE.

a. Notwithstanding other statutory provisions which provide for the execution, attachment, or levy against accounts, the facility may utilize the process established in this chapter to collect delinquent accounts, charges, fees, loans, taxes, or other indebtedness due the state or being collected by the state provided that any exemptions or exceptions which specifically apply to enforcement of such obligations also apply to this section.

b. An obligor is subject to this section if the obligor's debt is being collected by the facility.

c. Any amount forwarded by a financial institution under this chapter shall not exceed the delinquent or accrued amount of the obligor's debt being collected by the state.

3. INITIAL NOTICE TO OBLIGOR. The facility may proceed under this section only if notice has been provided to the obligor by regular mail to the last known address of the obligor, notifying the obligor that the obligor is subject to this section. The facility shall give twenty days' notice of its intention to use the levy process. The twenty-day notice period shall not be required if the facility determines that the collection of past due amounts would be jeopardized.

4. VERIFICATION OF ACCOUNTS AND IMMUNITY FROM LIABILITY.

a. The facility 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 an 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 facility before releasing an obligor's account information by telephone.

b. The financial institution is immune from any civil or criminal liability which might otherwise be incurred or imposed for information released by the financial institution to the facility pursuant to this section.

c. The financial institution or the facility is not liable for the cost of any early withdrawal penalty of an obligor's certificate of deposit.

5. ADMINISTRATIVE LEVY - NOTICE TO FINANCIAL INSTITUTION.

a. If an obligor is subject to this section, the facility may initiate an administrative action to levy against an account of the obligor.

b. The facility shall 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 to the facility.

c. The notice to the financial institution shall contain all of the following:

(1) The name and social security number of the obligor.

(2) A statement that the obligor is believed to have an account at the financial institution.

(3) A statement that pursuant to the provisions of this section, the obligor's account is subject to seizure and the financial institution is authorized and required to forward moneys to the facility.

(4) The maximum amount that shall be forwarded by the financial institution, which shall not exceed the delinquent or accrued amount of debt being collected by or owed to the state by the obligor.

(5) The prescribed time frame which the financial institution must meet in forwarding any amounts.

(6) The address of the facility and the account number utilized by the facility for the obligor.

(7) A telephone number, address, and contact name of the facility initiating the action.

6. ADMINISTRATIVE LEVY - NOTICE TO OBLIGOR AND OTHER ACCOUNT HOLDERS.

a. The facility may administratively initiate an action to seize one or more accounts of an obligor who is subject to this section and section 421.17, subsection 34.

b. The facility shall notify an obligor subject to this section. The notice shall contain all of the following:

(1) The name and social security number of the obligor.

(2) A statement that the obligor is believed to have an account at the financial institution.

(3) A statement that pursuant to the provisions of this section, the obligor's account is subject to seizure and the financial institution is authorized and required to forward moneys to the facility.

(4) The maximum amount to be forwarded by the financial institution, which shall not exceed the delinquent or accrued amount of debt being collected by or owed to the state by the obligor.

(5) The prescribed time frames the financial institution must meet in forwarding any amounts.

(6) A statement that any challenge to the action must be in writing and must be received by the facility within ten days of the date of the notice to the obligor.

(7) The address of the facility and the account number utilized by the facility for the obligor.

(8) A telephone number, address, and contact name of the facility initiating the action.

c. The facility shall forward the notice to the obligor by regular mail within two working days of sending the notice to the financial institution pursuant to subsection 5, paragraph "b".

d. The facility shall notify any party known to have an interest in the account. The notice shall contain all of the following:

(1) The name of the obligor.

(2) The name of the financial institution.

(3) A statement that the account in which the party is known to have an interest is subject to seizure.

(4) A statement that any challenge to the action must be in writing and must be received by the facility within ten days of the date of the notice to the party known to have an interest.

(5) The address of the facility and the name of the obligor who also has an interest in the account.

(6) A telephone number, address, and contact name of the facility initiating the action.

e. The facility shall forward the notice to the party known to have an interest by regular mail within two working days of sending the notice to the financial institution pursuant to subsection 5, paragraph "b".

7. RESPONSIBILITIES OF FINANCIAL INSTITUTION. Upon receipt of a notice under subsection 5, paragraph "b", the financial institution shall do all of the following:

a. Immediately encumber funds in any account in which the obligor has an interest to the extent of the debt indicated in the notice from the facility.

b. No sooner than fifteen days, and no later than twenty days from the date the financial institution receives the notice under subsection 5, paragraph "b", unless notified by the facility of a challenge by the obligor or an account holder of interest, forward the moneys encumbered to the facility with the obligor's name and social security number, the facility's account number for the obligor, and any other information required in the notice.

c. The financial institution may assess a fee against the obligor, not to exceed twenty-five dollars, for forwarding of moneys to the facility. This fee is in addition to the amount owed to or being collected by the state by the obligor. If insufficient moneys are available in the debtor's account to cover the fee and the amount in the notice, the institution may deduct the fee amount prior to forwarding moneys to the facility and the amount credited to the obligor's account with the state shall be reduced by the fee amount.

8. CHALLENGES TO ACTION.

a. Challenges under this section may be initiated only by an obligor or by an account holder of interest. Reviews by the facility under this section are not subject to chapter 17A.

b. The person challenging the action shall submit a written challenge to the person identified as the contact for the facility in the notice, within ten days of the date of the notice.

c. The facility, upon receipt of a written challenge, shall review the facts of the case with the challenging party within ten days of receipt of the challenge. If the challenging party is not available for the review on the scheduled date, the review shall take place without the challenging party being present. Information in favor of the challenging party shall be considered by the facility in the review. The facility may utilize additional information if such information is available. Only a mistake of fact, including, but not limited to, a mistake in the identity of the obligor or a mistake in the amount owed to or being collected by the state shall be considered as a reason to dismiss or modify the action.

d. If the facility determines that a mistake of fact has occurred, the facility shall proceed as follows:

(1) If a mistake in identity has occurred or the obligor does not have a delinquent or accrued amount being collected by or owed to the state, the facility shall notify the financial institution that the administrative levy has been released. The facility shall provide a copy of the notice to the obligor by regular mail.

(2) If the delinquent or accrued amount being collected by or owed to the state is less than the amount indicated in the notice, the facility shall provide a notice to the financial institution of the revised amount, with a copy of the original notice, and issue a notice to the obligor by regular mail. Upon written receipt of the notice from the facility, the financial institution shall release the funds in excess of the revised amount and forward the revised amount to the facility pursuant to the administrative levy.

e. If the facility finds no mistake of fact, the facility shall provide a notice to that effect to the challenging party by regular mail and notify the financial institution to forward the moneys pursuant to the administrative levy.

f. The challenging party shall have the right to file an action for wrongful levy in district court within thirty days of the date of the notice in paragraph "e", either in the county where the obligor or the party known to have an interest in the account resides or in Polk county where the facility is located.

Sec. 11. DRIVER'S LICENSE INDEBTEDNESS CLEARANCE PILOT PROJECT.

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

a. "Department" means the state department of transportation.

b. "Driver's license" means "motor vehicle license" as defined in section 321.1.

2. The department, in consultation with the department of revenue and finance, as well as other applicable state agencies, shall establish a driver's license indebtedness clearance pilot project. The department shall determine which and how many counties to include in the pilot project.

3. In pilot project counties, the department shall not issue a driver's license, shall not renew a driver's license, and shall suspend a driver's license if the applicant or licensee has a delinquent account, charge, fee, loan, or other indebtedness owed to or being collected by the state, unless the applicant or licensee has made arrangements for the payment of the debt with the agency, which is owed or is collecting the debt, to the satisfaction of the agency. A determination of money owed shall be based upon information provided pursuant to section 421.17. An applicant or licensee may contest this action by requesting a contested case proceeding from the agency that referred the debt for collection pursuant to section 421.17.

4. The department may issue a temporary permit allowing an applicant or licensee to operate a motor vehicle under limited circumstances if an applicant is denied a driver's license or, if a driver's license is suspended pursuant to this section. The department shall give special consideration to an applicant or licensee who is required to operate a motor vehicle for employment purposes.

5. The department shall utilize the records system maintained pursuant to section 321.31, subsection 1, to implement the pilot project. Notwithstanding any provisions of law to the contrary, the department of revenue and finance may exchange information with the department for purposes of the pilot project.

6. The pilot project shall commence on January 1, 1996, and shall end on January 1, 1997. The department shall submit a report to the governor and the general assembly by April 1, 1997, providing a summary of the pilot project, any amounts collected as a result of the pilot project, and any commensurate recommendations. The department shall adopt rules in accordance with chapter 17A to implement the pilot project in accordance with the provisions of this section.

Sec. 12. This Act takes effect January 1, 1996.

Approved May 30, 1995

CHAPTER 195

ANIMAL FEEDING OPERATIONS

H.F. 519

AN ACT providing for the regulation of animal feeding operations, fees, the expenditure of moneys, penalties, and an effective date.

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

Section 1. Section 13.13, subsection 2, Code 1995, is amended to read as follows:

2. The farm assistance program coordinator shall contract with a nonprofit organization chartered in this state to provide mediation services as provided in chapters 654A ~~and~~, 654B, and 654C. ~~The contract shall be awarded to the organization by July 1, 1990.~~ The contract may be terminated by the coordinator upon written notice and for good cause. The organization awarded the contract is designated as the farm mediation service for the duration of the contract. The organization may, upon approval by the coordinator, provide mediation services other than as provided by law. The farm mediation service is not a state agency for the purposes of chapters 19A, 20, and 669.

Sec. 2. Section 13.15, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The farm mediation service shall recommend rules to the farm assistance program coordinator. The coordinator shall adopt rules pursuant to chapter 17A to set the compensation of mediators and to implement this subchapter and chapters 654A, ~~and~~ 654B, and 654C.

Sec. 3. NEW SECTION. 159.27 DISPOSAL OF MANURE WITHIN DESIGNATED AREAS - ADOPTION OF RULES.

The department shall adopt rules relating to the disposal of manure in close proximity to a designated area. A person shall not dispose of manure on cropland within two hundred feet from a designated area, unless one of the following applies:

1. The manure is applied by injection or incorporation within twenty-four hours following the application.
2. An area of permanent vegetation cover exists for fifty feet surrounding the designated area and that area is not subject to manure application.

As used in this section, "designated area" means a known sinkhole, or a cistern, abandoned well, unplugged agricultural drainage well, agricultural drainage well surface inlet, drinking water well, or lake, or a farm pond or privately owned lake as defined in section 462A.2. However, a "designated area" does not include a terrace tile inlet.

Sec. 4. NEW SECTION. 204.1 DEFINITIONS.

1. "Animal unit" means a unit of measurement used to determine the animal capacity of a confinement feeding operation, based upon the product of multiplying the number of animals of each species by the following:

a. Slaughter and feeder cattle	1.0
b. Mature dairy cattle	1.4
c. Butcher and breeding swine, over fifty-five pounds	0.4
d. Sheep or lambs	0.1
e. Horses	2.0
f. Turkeys	0.018
g. Broiler or layer chickens	0.01

2. "Animal weight capacity" means the same as defined in section 455B.161.
3. "Confinement feeding operation" means a confinement feeding operation as defined in section 455B.161.
4. "Department" means the department of agriculture and land stewardship.
5. "Fund" means the manure storage indemnity fund created in section 204.2.
6. "Indemnity fee" means the fee provided in section 204.3.

7. "Manure" means animal excreta or other commonly associated wastes of animals, including but not limited to bedding, litter, or feed losses.

8. "Manure storage structure" means a structure used to store manure as part of a confinement feeding operation subject to a construction permit issued by the department of natural resources pursuant to section 455B.173. A manure storage structure includes, but is not limited to, an anaerobic lagoon, formed manure storage structure, or earthen manure storage basin, as defined in section 455B.161.

9. "Permittee" means a person who obtains a permit for the construction of a manure storage structure, or a confinement feeding operation, if a manure storage structure is connected to the confinement feeding operation.

Sec. 5. NEW SECTION. 204.2 MANURE STORAGE INDEMNITY FUND.

1. A manure storage indemnity fund is created as a separate fund in the state treasury under the control of the department. The general fund of the state is not liable for claims presented against the fund.

2. The fund consists of moneys from indemnity fees remitted by permittees to the department of natural resources and transferred to the department of agriculture and land stewardship as provided in section 204.3; sums collected on behalf of the fund by the department through legal action or settlement; moneys required to be repaid to the department by a county pursuant to this chapter; civil penalties assessed and collected by the department of natural resources pursuant to chapter 455B, against permittees; moneys paid as a settlement involving an enforcement action for a civil penalty subject to assessment and collection against permittees by the department of natural resources pursuant to chapter 455B; interest, property, and securities acquired through the use of moneys in the fund; or moneys contributed to the fund from other sources.

3. The moneys collected under this section and deposited in the fund shall be appropriated to the department for the exclusive purpose of indemnifying a county for expenses related to cleaning up the site of the confinement feeding operation, including removing and disposing of manure from a manure storage structure, and to pay the department for costs related to administering the provisions of this chapter. For each fiscal year, the department shall not use more than one percent of the total amount which is available in the fund or ten thousand dollars, whichever is less, to pay for the costs of administration. Moneys in the fund shall not be subject to appropriation or expenditure for any other purpose.

4. The treasurer of state shall act as custodian of the fund and disburse amounts contained in the fund as directed by the department. The treasurer of state is authorized to invest the moneys deposited in the fund. The income from such investment shall be credited to and deposited in the fund. Notwithstanding section 8.33, moneys in the fund are not subject to reversion to the general fund of the state. The fund shall be administered by the department which shall make expenditures from the fund consistent with the purposes set out in this chapter. The moneys in the fund shall be disbursed upon warrants drawn by the director of revenue and finance pursuant to the order of the department. The fiscal year of the fund begins July 1. The finances of the fund shall be calculated on an accrual basis in accordance with generally accepted accounting principles. The auditor of state shall regularly perform audits of the fund.

5. On August 31 following the close of each fiscal year, moneys which are not obligated or encumbered on June 30 of the past fiscal year, less the department's estimate of the cost to the fund for pending or unsettled claims, and which are in excess of one million dollars, shall be deposited in the organic nutrient management fund as created in section 161C.5 for purposes of supporting the organic nutrient management program.

Sec. 6. NEW SECTION. 204.3 FEES.

An indemnity fee shall be assessed upon permittees which shall be paid to and collected by the department of natural resources, prior to issuing a permit for the construction of a confinement feeding operation as provided in section 455B.173. The amount of the fees shall be based on the following:

1. If the confinement feeding operation has an animal weight capacity of less than six hundred twenty-five thousand pounds, the following shall apply:

a. For all animals other than poultry, the amount of the fee shall be five cents per animal unit of capacity for confinement feeding operations.

b. For poultry, the amount of the fee shall be two cents per animal unit of capacity for confinement feeding operations.

2. If the confinement feeding operation has an animal weight capacity of six hundred twenty-five thousand or more pounds but less than one million two hundred fifty thousand pounds, the following shall apply:

a. For all animals other than poultry, the amount of the fee shall be seven and one-half cents per animal unit of capacity for confinement feeding operations.

b. For poultry, the amount of the fee shall be three cents per animal unit of capacity for confinement feeding operations.

3. If the confinement feeding operation has an animal weight capacity of one million two hundred fifty thousand or more pounds, the following shall apply:

a. For all animals other than poultry, the amount of the fee shall be ten cents per animal unit of capacity for confinement feeding operations.

b. For poultry, the amount of the fee shall be four cents per animal unit of capacity for confinement feeding operations.

The department of natural resources shall deposit moneys collected from the fees into the fund according to procedures adopted by the department of agriculture and land stewardship.

Sec. 7. NEW SECTION. 204.4 CLAIMS AGAINST THE FUND.

1. A county that has acquired real estate containing a manure storage structure following nonpayment of taxes pursuant to section 446.19, may make a claim against the fund to pay the costs of cleaning up the site of the confinement feeding operation, including the costs of removing and disposing of the manure from a manure storage structure. Each claim shall include a bid by a qualified person, other than a governmental entity, to remove and dispose of the manure for a fixed amount specified in the bid.

2. The department shall determine if a claim is eligible to be satisfied under this section, and do one of the following:

a. Pay the amount of the claim required in this section, based on the fixed amount specified in the bid submitted by the county upon completion of the work.

b. Obtain a lower fixed amount bid for the work from another qualified person, other than a governmental entity, and pay the amount of the claim required in this section, based on the fixed amount in this bid upon completion of the work. The department is not required to comply with section 18.6 in implementing this section.

3. Upon a determination that the claim is eligible for payment, the department shall provide for payment of one hundred percent of the claim, as provided in this section. If at any time the department determines that there are insufficient moneys to make payment of all claims, the department shall pay claims according to the date that the claims are received by the department. To the extent that a claim cannot be fully satisfied, the department shall order that the unpaid portion of the payment be deferred until the claim can be satisfied. However, the department shall not satisfy claims from moneys dedicated for the administration of the fund.

4. In the event of payment of a claim under this section, the fund is subrogated to the extent of the amount of the payment to all rights, powers, privileges, and remedies of the county regarding the payment amount. The county shall render all necessary assistance to the department in securing the rights granted in this section. A case or proceeding initiated by a county which involves a claim submitted to the department shall not be compromised or settled without the consent of the department. A county shall not be eligible to submit a claim to the department if the county has compromised or settled a case or proceeding, without the consent of the department.

5. If upon disposition of the real estate the county realizes an amount which exceeds the total amount of the delinquent real estate taxes, the county shall forward to the fund any excess amount which is not more than the amount expended by the fund to pay the claim by the county.

Sec. 8. NEW SECTION. 204.4A SITE CLEANUP.

A county which has acquired real estate containing a confinement feeding operation structure, as defined in section 455B.161, following the nonpayment of taxes pursuant to section 446.19, may cleanup the site, including removing and disposing of manure at any time. The county may seek reimbursement including by bringing an action for the costs of the removal and disposal from the person abandoning the real estate.

A person cleaning up a site located on real estate acquired by a county may dispose of any building or equipment used in the confinement feeding operation located on the land according to rules adopted by the department of natural resources pursuant to chapter 17A, which apply to the disposal of farm buildings or equipment by an individual or business organization.

Sec. 9. NEW SECTION. 204.5 NO STATE OBLIGATION.

This chapter does not imply any guarantee or obligation on the part of this state, or any of its agencies, employees, or officials, either elective or appointive, with respect to any agreement or undertaking to which this chapter relates.

Sec. 10. NEW SECTION. 204.6 DEPARTMENTAL RULES.

The department shall adopt administrative rules pursuant to chapter 17A necessary to administer this chapter.

Sec. 11. Section 260E.3, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 6. After August 31, 1995, a community college shall not enter into an agreement for a project which includes program services for employees of a confinement feeding operation as defined in section 455B.161.

Sec. 12. Section 455B.109, subsection 4, Code 1995, is amended to read as follows:

4. All civil penalties assessed by the department and interest on the penalties shall be deposited in the general fund of the state. However, civil penalties assessed by the department and interest on penalties, arising out of violations committed by animal feeding operations under division II, part 2, shall be deposited in the manure storage indemnity fund as created in section 204.2. Civil penalties assessed by the department and interest on the penalties arising out of violations committed by animal feeding operations under division III, which may be assessed pursuant to section 455B.191, shall be deposited in the manure storage indemnity fund as created in section 204.2.

Sec. 13. NEW SECTION. 455B.110 ANIMAL FEEDING OPERATIONS - COMMISSION APPROVAL.

The department shall not initiate an enforcement action in response to a violation by an animal feeding operation as provided in this chapter or a rule adopted pursuant to this chapter, or request the commencement of legal action by the attorney general pursuant to section 455B.141, unless the commission has approved the intended action. This section shall not apply to an enforcement action in which the department enforces a civil penalty of three thousand dollars or less. This section shall also not apply to an order to terminate an emergency issued by the director pursuant to section 455B.175.

Sec. 14. Section 455B.134, subsection 3, paragraph f, subparagraph (1), unnumbered paragraph 2, Code 1995, is amended to read as follows:

Anaerobic lagoons, constructed or expanded on or after June 20, 1979, but prior to the effective date of this Act, or earthen waste slurry storage basins, constructed or expanded on or after July 1, 1990, but prior to the effective date of this Act, which are used in connection with animal feeding operations containing less than six hundred twenty-five thousand

pounds live animal weight capacity of animal species other than beef cattle or containing less than one million six hundred thousand pounds live animal weight capacity of beef cattle, shall be located at least one thousand two hundred fifty feet from a residence not owned by the owner of the feeding operation or from a public use area other than a public road. Anaerobic lagoons or earthen waste slurry storage basins, which are used in connection with animal feeding operations containing six hundred twenty-five thousand pounds or more live animal weight capacity of animal species other than beef cattle or containing one million six hundred thousand pounds or more live animal weight capacity of beef cattle, shall be located at least one thousand eight hundred seventy-five feet from a residence not owned by the owner of the feeding operation or from a public use area other than a public road. For the purpose of this paragraph the determination of live animal weight capacity shall be based on the average animal weight capacity during a production cycle and the maximum animal capacity of the animal feeding operation. ~~These separation distances apply to the construction of new facilities and the expansion of existing facilities.~~

ANIMAL FEEDING OPERATIONS REQUIREMENTS - NEW PART 2

Sec. 15. NEW SECTION. 455B.161 DEFINITIONS.

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

1. "Anaerobic lagoon" means an impoundment used in conjunction with an animal feeding operation, if the primary function of the impoundment is to store and stabilize organic wastes, the impoundment is designed to receive wastes on a regular basis, and the impoundment's design waste loading rates provide that the predominant biological activity is anaerobic. An anaerobic lagoon does not include any of the following:

a. A confinement feeding operation structure.

b. A runoff control basin which collects and stores only precipitation induced runoff from an animal feeding operation in which animals are confined to areas which are unroofed or partially roofed and in which no crop, vegetation, or forage growth or residue cover is maintained during the period in which animals are confined in the operation.

c. An anaerobic treatment system which includes collection and treatment facilities for all off gases.

2. "Animal" means a domesticated animal belonging to the bovine, porcine, ovine, caprine, equine, or avian species.

3. "Animal feeding operation" means a lot, yard, corral, building, or other area in which animals are confined and fed and maintained for forty-five days or more in any twelve-month period, and all structures used for the storage of manure from animals in the operation. Two or more animal feeding operations under common ownership or management are deemed to be a single animal feeding operation if they are adjacent or utilize a common system for manure storage. An animal feeding operation does not include a livestock market.

4. "Animal feeding operation structure" means an anaerobic lagoon or confinement feeding operation structure.

5. "Animal weight capacity" means the product of multiplying the maximum number of animals which the owner or operator confines in an animal feeding operation at any one time by the average weight during a production cycle.

6. "Commercial enterprise" means a building which is used as a part of a business that manufactures goods, delivers services, or sells goods or services, which is customarily and regularly used by the general public during the entire calendar year and which is connected to electric, water, and sewer systems. A commercial enterprise does not include a farm operation.

7. "Confinement building" means a building used in conjunction with a confinement feeding operation to house animals.

8. "Confinement feeding operation" means an animal feeding operation in which animals are confined to areas which are totally roofed.

9. "Confinement feeding operation structure" means a formed manure storage structure, egg washwater storage structure, earthen manure storage basin, or confinement building. A confinement feeding operation structure does not include an anaerobic lagoon.

10. "Covered" means organic or inorganic material placed upon an animal feeding operation structure used to store manure as provided by rules adopted by the department after receiving recommendations which shall be submitted to the department by the college of agriculture at Iowa state university.

11. "Earthen manure storage basin" means an earthen cavity, either covered or uncovered, which, on a regular basis, receives waste discharges from a confinement feeding operation if accumulated wastes from the basin are completely removed at least once each year.

12. "Educational institution" means a building in which an organized course of study or training is offered to students enrolled in kindergarten through grade twelve and served by local school districts, accredited or approved nonpublic schools, area education agencies, community colleges, institutions of higher education under the control of the state board of regents, and accredited independent colleges and universities.

13. "Egg washwater storage structure" means an aerobic or anaerobic structure used to store the wastewater resulting from the washing and in-shell packaging of eggs.

14. "Formed manure storage structure" means a structure, either covered or uncovered, used to store manure from a confinement feeding operation, which has walls and a floor constructed of concrete, concrete block, wood, steel, or similar materials.

15. "Livestock market" means any place where animals are assembled from two or more sources for public auction, private sale, or on a commission basis, which is under state or federal supervision, including a livestock sale barn or auction market, if such animals are kept for ten days or less.

16. "Manure" means animal excreta or other commonly associated wastes of animals, including, but not limited to, bedding, litter, or feed losses.

17. "Public use area" means that portion of land owned by the United States, the state, or a political subdivision with facilities which attract the public to congregate and remain in the area for significant periods of time, as provided by rules which shall be adopted by the department pursuant to chapter 17A.

18. "Religious institution" means a building in which an active congregation is devoted to worship.

19. "Small animal feeding operation" means an animal feeding operation which has an animal weight capacity of two hundred thousand pounds or less for animals other than bovine, or four hundred thousand pounds or less for bovine.

20. "Swine farrow-to-finish operation" means a confinement feeding operation in which porcine are produced and in which a primary portion of the phases of the production cycle are conducted at one confinement feeding operation. Phases of the production cycle include, but are not limited to, gestation, farrowing, growing, and finishing.

Sec. 16. NEW SECTION. 455B.162 ANIMAL FEEDING OPERATIONS - NEW CONSTRUCTION AND EXPANSION.

The following shall apply to animal feeding operation structures constructed on or after the effective date of this Act; to the expansion of structures constructed on or after the effective date of this Act; or, except as provided in section 455B.163, to the expansion of structures constructed prior to the effective date of this Act:

1. Except as provided in subsection 2, the following table shall apply to animal feeding operation structures:

a. The following table represents the minimum separation distance in feet required between an animal feeding operation structure and a residence not owned by the owner of the animal feeding operation, or a commercial enterprise, bona fide religious institution or an educational institution:

Type of structure	Minimum separation distance in feet for operations having an animal weight capacity of less than 625,000 pounds for animals other than bovine, or less than 1,600,000 pounds for bovine	Minimum separation distance in feet for operations having an animal weight capacity of 625,000 or more pounds but less than 1,250,000 pounds for animals other than bovine, or 1,600,000 or more pounds but less than 4,000,000 pounds for bovine	Minimum separation distance in feet for operations having an animal weight capacity of 1,250,000 or more pounds for animals other than bovine, or 4,000,000 or more pounds for bovine
Anaerobic lagoon	1,250	1,875	2,500
Uncovered earthen manure storage basin	1,250	1,875	2,500
Uncovered formed manure storage structure	1,000	1,500	2,000
Covered earthen manure storage basin	750	1,000	1,500
Covered formed manure storage structure	750	1,000	1,500
Confinement building	750	1,000	1,500
Egg washwater storage structure	750	1,000	1,500

b. The following table represents the minimum separation distance in feet required between animal feeding operation structures and a public use area or a residence not owned by the owner of the animal feeding operation, a commercial enterprise, a bona fide religious institution, or an educational institution located within the corporate limits of a city:

Type of structure	Minimum separation distance in feet for operations having an animal weight capacity of less than 625,000 pounds for animals other than bovine, or less than 1,600,000 pounds for bovine	Minimum separation distance in feet for operations having an animal weight capacity of 625,000 or more pounds but less than 1,250,000 pounds for animals other than bovine, or 1,600,000 or more pounds but less than 4,000,000 pounds for bovine	Minimum separation distance in feet for operations having an animal weight capacity of 1,250,000 or more pounds for animals other than bovine, or 4,000,000 or more pounds for bovine
Animal feeding operation structure	1,250	1,875	2,500

2. a. As used in this subsection, a "qualified confinement feeding operation" means a confinement feeding operation having an animal weight capacity of two million or more pounds for animals other than animals kept in a swine farrow-to-finish operation or bovine kept in a confinement feeding operation; a swine farrow-to-finish operation having an animal weight capacity of two million five hundred thousand or more pounds; or a confinement feeding operation having an animal weight capacity of six million or more pounds for bovine.

b. A qualified confinement feeding operation shall only use an animal feeding operation structure which employs bacterial action which is maintained by the utilization of air or oxygen, and which shall include aeration equipment. The type and degree of treatment technology required to be installed shall be based on the size of the confinement feeding operation, according to rules adopted by the department. The equipment shall be installed, operated, and maintained in accordance with the manufacturer's instructions and requirements of rules adopted pursuant to this subsection.

c. This subsection shall not apply to a confinement feeding operation which stores manure as dry matter, or to an egg washwater storage structure. This subsection shall not apply to a confinement feeding operation, if the operation was constructed prior to the effective date of this Act, or the department issued a permit prior to the effective date of this Act for the construction of an animal feeding operation structure connected to a confinement feeding operation and the construction began prior to the effective date of this Act.

Sec. 17. NEW SECTION. 455B.163 DISTANCE SEPARATION REQUIREMENTS FOR ANIMAL FEEDING OPERATIONS - EXPANSION OF STRUCTURES CONSTRUCTED PRIOR TO THE EFFECTIVE DATE OF THIS ACT.

An animal feeding operation which does not comply with the distance requirements of section 455B.162, on the effective date of this Act, may continue to operate regardless of

those separation distances. The animal feeding operation may be expanded on or after the effective date of this Act, regardless of those separation distances, if either of the following applies:

1. The animal feeding operation structure as constructed or expanded complies with the distance requirements of section 455B.162.

2. All of the following apply to the expansion of the animal feeding operation:

a. No portion of the animal feeding operation after expansion is closer than before expansion to a location or object for which separation is required under section 455B.162.

b. The animal weight capacity of the animal feeding operation as expanded is not more than the lesser of the following:

(1) Double its capacity on the effective date of this Act.

(2) Either of the following:

(a) Six hundred twenty-five thousand pounds animal weight capacity for animals other than bovine.

(b) One million six hundred thousand pounds animal weight capacity for bovine.

Sec. 18. NEW SECTION. 455B.164 DISTANCE MEASUREMENTS.

All distances between locations or objects provided in this part shall be measured from their closest points, as provided by rules adopted by the department.

Sec. 19. NEW SECTION. 455B.165 DISTANCE SEPARATION REQUIREMENTS – EXEMPTIONS.

A separation distance requirement provided in this part shall not apply to the following:

1. A confinement feeding operation structure which provides for the storage of manure exclusively in a dry form.

2. A confinement feeding operation structure, other than an earthen manure storage basin, if the structure is part of a confinement feeding operation which qualifies as a small animal feeding operation.

3. An animal feeding operation structure which is constructed or expanded, if the titleholder of the land benefiting from the distance separation requirement executes a written waiver with the titleholder of the land where the structure is located, under such terms and conditions that the parties negotiate. The written waiver becomes effective only upon the recording of the waiver in the office of the recorder of deeds of the county in which the benefited land is located. The filed waiver shall preclude enforcement by the state of this part as it relates to the animal feeding operation structure.

4. An animal feeding operation which is constructed or expanded within the corporate limits of a city, or the area within a separation distance required pursuant to this part, if the city approves a waiver which shall be memorialized in writing. The written waiver becomes effective only upon recording the waiver in the office of the recorder of deeds of the county in which the benefited land is located. The filed waiver shall preclude enforcement by the state of this part as it relates to the animal feeding operation structure. However, this subsection shall not affect a separation distance required between residences, educational institutions, commercial enterprises, bona fide religious institutions, or public use areas, as provided in this part.

5. An animal feeding operation structure which is located within any distance from a residence, educational institution, commercial enterprise bona fide religious institution, city, or public use area, if the residence, educational institution, commercial enterprise, or bona fide religious institution was constructed or expanded, or the boundaries of the city or public use area were expanded, after the date that the animal feeding operation was established. The date the animal feeding operation was established is the date on which the animal feeding operation commenced operating. A change in ownership or expansion of the animal feeding operation shall not change the established date of operation.

Sec. 20. Section 455B.171, Code 1995, is amended by adding the following new subsections:

NEW SUBSECTION. 1A. "Animal feeding operation" means a lot, yard, corral, building, or other area in which animals are confined and fed and maintained for forty-five days

or more in any twelve-month period, and all structures used for the storage of manure from animals in the animal feeding operation. Two or more animal feeding operations under common ownership or management are deemed to be a single animal feeding operation if they are adjacent or utilize a common area or system for manure disposal. An animal feeding operation does not include a livestock market as defined in section 455B.161.

NEW SUBSECTION. 1B. "Animal weight capacity" means the same as defined in section 455B.161.

NEW SUBSECTION. 1C. "Confinement feeding operation" means the same as defined in section 455B.161.

NEW SUBSECTION. 7A. "Manure" means the same as defined in section 455B.161.

NEW SUBSECTION. 7B. "Manure sludge" means the solid or semisolid residue produced during the treatment of manure in an anaerobic lagoon.

NEW SUBSECTION. 23A. "Small animal feeding operation" means the same as defined in section 455B.161.

Sec. 21. Section 455B.173, subsection 3, unnumbered paragraph 1, Code 1995, is amended to read as follows:

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

Sec. 22. Section 455B.173, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 12. Adopt, modify, or repeal rules relating to the construction or operation of animal feeding operations. The rules shall include, but are not limited to, minimum manure control requirements, requirements for obtaining permits, and departmental evaluations of animal feeding operations. The department shall not require that a person obtain a permit for the construction of an animal feeding operation structure, if the structure is part of a small animal feeding operation. The department shall collect an indemnity fee as provided in section 204.3 prior to the issuance of a construction permit. The department shall not approve a permit for the construction of three or more animal feeding operation structures unless the applicant files a statement approved by a professional engineer registered pursuant to chapter 542B certifying that the construction of the animal feeding operation structure will not impede the drainage through established drainage tile lines which cross property boundary lines unless measures are taken to reestablish the drainage prior to completion of construction. The department shall deposit moneys collected in indemnity fees in the manure storage indemnity fund created in section 204.2. The department shall issue a permit for an animal feeding operation, if an application is submitted according to procedures required by the department, and the application meets standards established by the department, regardless of whether the animal feeding operation is required to obtain such a permit. An applicant for a construction permit shall not begin construction at the location of a site planned for the construction of an animal feeding operation structure, until the person has been granted a permit for the construction of the structure by the department. The department shall make a determination regarding the approval or denial of a permit within sixty days from the date that the department receives a completed application for a permit. However, the sixty-day requirement shall not apply to an application, if the applicant is not required to obtain a permit in order

to construct an animal feeding operation structure or to operate an animal feeding operation. The department shall deliver a copy or require the applicant to deliver a copy of the application for a construction permit to the county board of supervisors in the county where the confinement feeding operation or confinement feeding operation structure subject to the permit is to be located. The department shall not approve the application or issue a construction permit until thirty days following delivery of the application to the county board of supervisors. The department shall consider comments from the county board of supervisors, regarding compliance by the applicant with the legal requirements for the construction of the confinement feeding operation structure as provided in this chapter, and rules adopted by the department pursuant to this chapter, if the comments are delivered to the department within fourteen days after receipt of the application by the county board of supervisors. Prior to granting a permit to a person for the construction of an animal feeding operation, the department may require the installation and operation of a hydrological monitoring system for an exclusively earthen manure storage structure, if, after an on-site inspection, the department determines that the site presents an extraordinary potential for groundwater pollution. A person shall not obtain a permit for the construction of a confinement feeding operation, unless the person develops a manure management plan as provided in section 455B.203. The department shall not issue a permit to a person under this paragraph if an enforcement action by the department, relating to a violation of this chapter concerning a confinement feeding operation in which the person has an interest, is pending. The department shall not issue a permit to a person under this paragraph for five years after the date of the last violation committed by a person or confinement feeding operation in which the person holds a controlling interest during which the person or operation was classified as a habitual violator under section 455B.191. The department shall conduct an annual review of each confinement feeding operation which is a habitual violator and each confinement feeding operation in which a habitual violator holds a controlling interest. The department shall notify persons classified as habitual violators of their classification, additional restrictions imposed upon the persons pursuant to the classification, and special civil penalties that may be imposed upon the persons. The notice shall be sent to the persons by certified mail.

Sec. 23. Section 455B.191, Code 1995, is amended by adding the following new subsections:

NEW SUBSECTION. 7. The department may impose a civil penalty upon a habitual violator which shall not exceed twenty-five thousand dollars for each day the violation continues. The increased penalty may be assessed for each violation committed subsequent to the violation which results in classifying the person as a habitual violator. A person shall be classified as a habitual violator, if the person has committed three or more violations as described in this subsection. To be considered a violation that is applicable to a habitual violator determination, a violation must have been committed on or after January 1, 1995. In addition, each violation must have been referred to the attorney general for legal action under this chapter, and each violation must be subject to the assessment of a civil penalty or a court conviction, in the five years prior to the date of the latest violation provided in this subsection, counting any violation committed by a confinement feeding operation in which the person holds a controlling interest. A person shall be removed from the classification of habitual violator on the date on which the person and all confinement feeding operations in which the person holds a controlling interest have committed less than three violations described in this subsection for the prior five years. For purposes of counting violations, a continuing and uninterrupted violation shall be considered as one violation. Different types of violations shall be counted as separate violations regardless of whether the violations were committed during the same period. An violation must relate to one of the following:

a. The construction or operation of a confinement feeding operation structure or anaerobic lagoon which is part of a confinement feeding operation, or the installation or use of a

related pollution control device or practice, for which the person must obtain a permit, in violation of this chapter, or rules adopted by the department, including the terms or conditions of the permit.

b. Intentionally making a false statement or misrepresenting information to the department as part of an application for a construction permit for a confinement feeding operation structure or anaerobic lagoon which is part of a confinement feeding operation, or the installation of a related pollution control device or practice for which the person must obtain a construction permit.

c. Failing to obtain a permit or approval by the department in violation of this chapter or departmental rule which requires a permit to construct or operate a confinement feeding operation or use a confinement feeding operation structure, anaerobic lagoon, or a pollution control device or practice which is part of a confinement feeding operation.

d. Operating a confinement feeding operation, including a confinement feeding operation structure or anaerobic lagoon which is part of a confinement feeding operation, or a related pollution control device or practice, which causes pollution to the waters of the state, if the pollution was caused intentionally, or caused by a failure to take measures required to abate the pollution which resulted from an act of God.

e. Failing to submit a manure management plan as required pursuant to section 455B.203, or operating a confinement feeding operation without having a manure management plan approved by the department.

This subsection shall not apply, unless the department of natural resources has previously notified the person of the person's classification as a habitual violator as provided in section 455B.173.

NEW SUBSECTION. 8. Moneys assessed and collected in civil penalties and interest earned on civil penalties, arising out of a violation involving an animal feeding operation shall be deposited in the manure storage indemnity fund as created in section 204.2.

ANIMAL FEEDING OPERATIONS

Sec. 24. NEW SECTION. 455B.201 MINIMUM MANURE CONTROL.

1. A confinement feeding operation shall retain all manure produced by the operation between periods of manure disposal. A confinement feeding operation shall not discharge manure directly into water of the state or into a tile line that discharges directly into water of the state.

2. Manure from an animal feeding operation shall be disposed of in a manner which will not cause surface water or groundwater pollution. Disposal in accordance with the provisions of state law, including this chapter, rules adopted pursuant to the provisions of state law, including this chapter, guidelines adopted pursuant to this chapter, and section 159.27, shall be deemed as compliance with this requirement.

3. The owner of the confinement feeding operation which discontinues the use of the operation shall remove all manure from related confinement feeding operation structures used to store manure, by a date specified in an order issued to the operation by the department, or six months following the date that the confinement feeding operation is discontinued, whichever is earlier.

4. A person shall not apply manure by spray irrigation equipment, except as provided by rules which shall be adopted by the department pursuant to chapter 17A.

Sec. 25. NEW SECTION. 455B.203 MANURE MANAGEMENT PLAN - REQUIREMENTS.

1. In order to receive a permit for the construction of a confinement feeding operation as provided in section 455B.173, a person shall submit a manure management plan to the department together with the application for a construction permit.

2. A manure management plan shall include all of the following:

a. Calculations necessary to determine the land area required for the application of manure from a confinement feeding operation based on nitrogen use levels in order to obtain optimum crop yields according to a crop schedule specified in the plan, and according

to requirements adopted by the department after receiving recommendations from the animal agriculture consulting organization provided for in this Act.

b. Manure nutrient levels as determined by either manure testing or accepted standard manure nutrient values.

c. Manure application methods, timing of manure application, and the location of the manure application.

d. If the location of the application is on land other than land owned by the person applying for the construction permit, the plan shall include a copy of each written agreement executed between the person and the landowner where the manure will be applied.

e. An estimate of the annual animal production and manure volume or weight produced by the confinement feeding operation.

f. Methods, structures, or practices to prevent or diminish soil loss and potential surface water pollution.

g. Methods or practices to minimize potential odors caused by the application of manure by the use of spray irrigation equipment.

3. A person classified as a habitual violator or a confinement feeding operation in which a habitual violator owns a controlling interest, as provided in section 455B.191, shall submit a manure management plan to the department on an annual basis, which must be approved by the department for the following year of operation.

4. A person receiving a permit for the construction of a confinement feeding operation shall maintain a current manure management plan and maintain records sufficient to demonstrate compliance with the manure management plan. Chapter 22 shall not apply to the records which shall be kept confidential by the department and its agents and employees. The contents of the records are not subject to disclosure except as follows:

a. Upon waiver by the person receiving the permit.

b. In an action or administrative proceeding commenced under this chapter. Any hearing related to the action or proceeding shall be closed.

c. When required by subpoena or court order.

5. The department may inspect the confinement feeding operation at any time during normal working hours, and may inspect records required to be maintained as part of the manure management plan. The department shall regularly inspect a confinement feeding operation if the operation or a person holding a controlling interest in the operation is classified as a habitual violator pursuant to section 455B.191. The department shall assess and the confinement feeding operation shall pay the actual costs of the inspection. However, in order to access the operation, the departmental inspector must comply with standard disease control restrictions customarily required by the operation. The department shall comply with section 455B.103 in conducting an investigation of the premises where the animals are kept.

6. A person submitting a manure management plan who is found in violation of the terms and conditions of the plan shall not be subject to an enforcement action other than assessment of a civil penalty pursuant to section 455B.191.

Sec. 26. NEW SECTION. 455B.204 DISTANCE REQUIREMENTS.

1. An animal feeding operation structure shall be located at least five hundred feet away from the surface intake of an agricultural drainage well or known sinkhole, and at least two hundred feet away from a lake, river, or stream located within the territorial limits of the state, any marginal river area adjacent to the state, which can support a floating vessel capable of carrying one or more persons during a total of a six-month period in one out of ten years, excluding periods of flooding. However, no distance separation is required between a location or object and a farm pond or privately owned lake, as defined in section 462A.2.

All distances between locations or objects shall be measured from their closest points, as provided by rules adopted by the department.

2. A person shall not dispose of manure closer to a designated area than provided in section 159.27.

Sec. 27. NEW SECTION. 654C.1 DEFINITIONS.

As used in this chapter, unless otherwise required:

1. "Animal feeding operation structure" means the same as defined in section 455B.161.

2. "Dispute" means a controversy between an owner and a neighbor, which arises from negotiations between the parties to establish an animal feeding operation structure within the separation distance.

3. "Farm mediation service" means the organization selected pursuant to section 13.13.

4. "Neighbor" means a person benefiting from a separation distance required pursuant to section 455B.162, including a person owning a residence other than the owner of the animal feeding operation, a commercial enterprise, bona fide religious institution, educational institution, or a city, authorized to execute a waiver.

5. "Owner" means the owner of an animal feeding operation, as defined in section 455B.161, which utilizes an animal feeding operation structure.

6. "Participate" or "participation" means attending a mediation meeting, and having knowledge about and discussing issues concerning a subject relating to a dispute.

7. "Waiver" means a waiver executed between an owner and a neighbor as provided in section 455B.165.

Sec. 28. NEW SECTION. 654C.2 MEDIATION PROCEEDINGS.

1. A person who is an owner or a neighbor may file a request for mediation with the farm mediation service. Upon receipt of the request for mediation, the farm mediation service shall conduct an initial consultation with each party to the dispute privately and without charge. Mediation shall be cancelled after the initial consultation, unless both parties agree to proceed.

2. Both parties to the dispute shall file with the farm mediation service information required by the service to conduct mediation.

3. Unless mediation is cancelled, within twenty-one days after receiving a mediation request, the farm mediation service shall send a mediation meeting notice to all parties to the dispute setting a time and place for an initial mediation meeting between the parties and a mediator directed by the farm mediation service to assist in mediation. An initial mediation meeting shall be held within twenty-one days of the issuance of the mediation meeting notice.

Sec. 29. NEW SECTION. 654C.3 DUTIES OF THE MEDIATOR.

At the initial mediation meeting and subsequent meetings, the mediator shall:

1. Listen to all involved parties.

2. Attempt to mediate between all involved parties.

3. Encourage compromise and workable solutions.

4. Advise, counsel, and assist the parties in attempting to arrive at an agreement for the future conduct of relations among themselves.

Sec. 30. NEW SECTION. 654C.4 MEDIATION PERIOD.

The mediator may call mediation meetings during the mediation period, which is up to forty-two days after the farm mediation service received the mediation request. However, if all parties consent, mediation may continue after the end of the mediation period.

Sec. 31. NEW SECTION. 654C.5 MEDIATION AGREEMENT.

1. If an agreement is reached between all parties, the mediator shall draft a written mediation agreement, which shall be signed by the parties. The mediation agreement shall provide for a waiver which the mediator shall file in the office of the recorder of deeds of the county in which the benefited land is located, as provided in section 455B.165. The mediator shall forward a mediation agreement to the farm mediation service.

2. The parties agreeing to mediation shall participate in at least one mediation meeting. A party to a dispute may be represented by another person, if the person participates in mediation and has authority to discuss the dispute on behalf of the party being represented. This section does not require a party to reach an agreement. This section does not

require a person to change a position, alter an activity which is a subject of the dispute, alter an application for a permit for construction of an animal feeding operation, or restructure a contract.

3. The parties to the mediation agreement may enforce the mediation agreement as a legal contract.

4. If the parties do not agree to proceed with mediation, or if a mediation agreement is not reached, the parties may sign a statement prepared by the mediator that mediation proceedings were not conducted or concluded or that the parties did not reach an agreement.

Sec. 32. NEW SECTION. 654C.6 EXTENSION OF DEADLINES.

Upon petition by all parties, the farm mediation service may, for good cause, extend a deadline imposed by section 654C.2 or 654C.4 for up to thirty days.

Sec. 33. NEW SECTION. 654C.7 EFFECT OF MEDIATION.

An interest in property or rights and obligations under a contract are not affected by the failure of a person to obtain a mediation agreement.

Sec. 34. Section 657.1, Code 1995, is amended to read as follows:

657.1 NUISANCE - WHAT CONSTITUTES - ACTION TO ABATE.

Whatever is injurious to health, indecent, or unreasonably offensive to the senses, or an obstruction to the free use of property, so as essentially to unreasonably interfere with the comfortable enjoyment of life or property, is a nuisance, and a civil action by ordinary proceedings may be brought to enjoin and abate the same and to recover damages sustained on account thereof.

Sec. 35. Section 657.2, subsection 1, Code 1995, is amended to read as follows:

1. The erecting, continuing, or using any building or other place for the exercise of any trade, employment, or manufacture, which, by occasioning noxious exhalations, unreasonably offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort, or property of individuals or the public.

Sec. 36. NEW SECTION. 657.11 ANIMAL FEEDING OPERATIONS.

1. The purpose of this section is to protect animal agricultural producers who manage their operations according to state and federal requirements from the costs of defending nuisance suits, which negatively impact upon Iowa's competitive economic position and discourage persons from entering into animal agricultural production. This section is intended to promote the expansion of animal agriculture in this state by protecting persons engaged in the care and feeding of animals. The general assembly has balanced all competing interests and declares its intent to protect and preserve animal agricultural production operations.

2. If a person has received all permits required pursuant to chapter 455B for an animal feeding operation, as defined in section 455B.161, there shall be a rebuttable presumption that an animal feeding operation is not a public or private nuisance under this chapter or under principles of common law, and that the animal feeding operation does not unreasonably and continuously interfere with another person's comfortable use and enjoyment of the person's life or property under any other cause of action. The rebuttable presumption also applies to persons who are not required to obtain a permit pursuant to chapter 455B for an animal feeding operation as defined in section 455B.161. The rebuttable presumption shall not apply if the injury to a person or damage to property is proximately caused by a failure to comply with a federal statute or regulation or a state statute or rule which applies to the animal feeding operation.

3. The rebuttable presumption may be overcome by clear and convincing evidence of both of the following:

a. The animal feeding operation unreasonably and continuously interferes with another person's comfortable use and enjoyment of the person's life or property.

b. The injury or damage is proximately caused by the negligent operation of the animal feeding operation.

4. The rebuttable presumption created by this section shall apply regardless of the established date of operation or expansion of the animal feeding operation. The rebuttable presumption includes, but is not limited to, a defense for actions arising out of the care and feeding of animals; the handling or transportation of animals; the treatment or disposal of manure resulting from animals; the transportation and application of animal manure; and the creation of noise, odor, dust, or fumes arising from an animal feeding operation.

5. An animal feeding operation that complies with the requirements in chapter 455B for animal feeding operations shall be deemed to meet any common law requirements regarding the standard of a normal person living in the locality of the operation.

6. A person who brings a losing cause of action against a person for whom the rebuttable presumption created under this section is not rebutted, shall be liable to the person against whom the action was brought for all costs and expenses incurred in the defense of the action, if the court determines that a claim is frivolous.

7. The rebuttable presumption created in this section does not apply to an injury to a person or damages to property caused by the animal feeding operation before the effective date of this Act.

Sec. 37. ANIMAL AGRICULTURE CONSULTING ORGANIZATION. The department of natural resources shall request that the Iowa pork producers association, the Iowa cattlemen's association, the Iowa poultry association, the Iowa dairy products association, an organization representing agricultural producers generally, Iowa state university, the soil conservation division of the department of agriculture and land stewardship, and the natural resources conservation service of the United States department of agriculture each appoint one member to consult with the department regarding this Act, rules adopted pursuant to this Act, and the Act's implementation. The department shall consult with representatives in meetings which shall be conducted by the department, upon the call of the director of the department or the director's designee, or upon the request to the department of any three members. The department shall request that the representatives provide the department with recommendations regarding the adoption of rules required to administer this Act. This section is repealed on March 31, 2005.

Sec. 38. INDEMNITY FEES – PRIOR PERMITTEES. The indemnity fee imposed upon permittees pursuant to section 204.3, as enacted in this Act, shall be imposed upon all persons who have received a permit by the department of natural resources for the construction of a confinement feeding operation with a manure storage structure as defined in section 455B.161, as enacted in this Act, prior to the effective date of this Act. However, an indemnity fee shall not be imposed upon a person who has received a construction permit more than ten years prior to the effective date of this Act. To every extent possible, the department shall notify all persons required to pay the fee. The notice shall be in writing. The department shall establish a date when the fees must be paid to the department, which shall be not less than three months after the delivery of the notice. If a person is delinquent in paying the indemnity fee when due, or if upon examination, an underpayment of the fee is found by the department, the person is subject to a penalty of ten dollars or an amount equal to the amount of deficiency for each day of the delinquency, whichever is less. After the date required for payment, the department shall transfer all outstanding claims to the department of agriculture and land stewardship. The department of natural resources shall deliver to the department of agriculture and land stewardship the most current available information regarding the persons required to pay the fee and any delinquency penalty, including the names and addresses of the persons, and the capacity of the confinement feeding operations subject to the permit. The department of agriculture and land stewardship, in cooperation with the attorney general, may bring a court action in order to collect indemnity fees and delinquency penalties required to be paid under this section.

Sec. 39. NOTICE. The department of natural resources shall provide a written notice to persons required to develop and comply with a manure management plan as provided in section 455B.203, as enacted in this Act, not later than nine months after the effective date of this Act. The notice shall include information from section 455B.203, as enacted by this Act, regarding delayed dates of compliance.

Sec. 40. DELAYED IMPLEMENTATION OF CERTAIN REQUIREMENTS. Notwithstanding this Act, the following shall apply:

1. The department of natural resources shall adopt all rules required to implement section 455B.203, as enacted by this Act, not later than six months following the effective date of this Act.

2. A person issued a permit for the construction of a confinement feeding operation before the effective date of this Act shall submit a manure management plan to the department of natural resources not later than one year after the adoption of departmental rules necessary to implement the manure management plan requirements of section 455B.203, as enacted in this Act. However, if a person required to submit a delayed plan pursuant to this subsection violates section 455B.202,* the person shall be required to submit the plan to the department not later than one hundred twenty days following notice by the department.

Sec. 41. PILOT PROJECT - TESTING OF ANIMAL FEEDING OPERATIONS. The department of natural resources shall, to the extent moneys are appropriated by the Seventy-sixth General Assembly, conduct a study of ten animal feeding operations and their structures, including confinement feeding operations and confinement feeding operation structures all as defined in section 455B.161 as enacted in this Act, and manure management and disposal systems used by such operations. The operations and their structures or systems must have been constructed or installed on or before July 1, 1985. The study shall determine the extent to which operations and their structures and manure management and disposal systems contribute to point and nonpoint contamination of the state's groundwater and surface water. A person owning or operating an animal feeding operation may cooperate with the department in carrying out this section. The ten animal feeding operations subject to the study shall be selected by the Leopold center for sustainable agriculture as created pursuant to section 266.39. The identity of the ten animal feeding operations shall be confidential and not subject to chapter 22. The findings of the study shall not be used in a case or proceeding brought against a person based upon a violation of state law. The department shall report its findings and recommendations to the general assembly not later than January 1, 1997.

Sec. 42. INTERIM STUDY COMMITTEE - LIVESTOCK PRODUCTION.

1. The legislative council is requested to establish an interim study committee to examine the practices engaged in by packers, processors, and buyers, including persons regulated by the grain inspection, packers and stockyards administration, United States department of agriculture, under the federal Packers and Stockyards Act of 1921, as amended, 21 U.S.C. § 181, et seq. The interim committee shall study the following issues:

a. The increasing degree of vertical integration of the livestock market by packers and processors, including threats to economic competition, independent production, and consumer protection.

b. Market practices engaged in by packers, processors, or buyers which increasingly threaten open and fair markets, by establishing arbitrary and inconsistent pricing without public disclosure or price discovery mechanisms, including price differences based on the time of delivery, transaction volume, and private pricing arrangements under contract.

2. The interim committee shall hold a public hearing in each congressional district.

3. The interim committee shall report its findings and recommendations to the general assembly not later than the first day of the 1996 legislative session, unless another date is established by the legislative council.

*Section 455B.202 not enacted

Sec. 43. SEVERABILITY. If any provision of this Act or the application of this Act to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act which shall be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Sec. 44. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 31, 1995

CHAPTER 196

SCHOOL-TO-WORK TRANSITION SYSTEM – CAREER PATHWAYS PROGRAM
H.F. 565

AN ACT relating to a school-to-work transition system and the establishment of a career pathways program.

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

Section 1. NEW SECTION. 256.38 SCHOOL-TO-WORK TRANSITION SYSTEM.

1. It is the policy of the state of Iowa to provide an education system that prepares the students of this state to meet the high skills demands of today's workplace. The general assembly recognizes the need to prepare students for any postsecondary opportunity that leads to high-wage, high-skill careers. In order to meet this need, the high school curriculum must be redesigned so students appreciate the relevance of academic course work, reach higher levels of learning in science, math, and communications skills, and acquire the ability to apply this knowledge. Career pathways will modify high school curricula and instruction to provide students with opportunities to achieve high levels of skills and knowledge within a broad range of related career areas, which will require a variety of levels of preparation.

2. The departments of education, employment services, and economic development shall develop a statewide school-to-work transition system in consultation with local school districts, community colleges, and labor, business, and industry interests. The system shall be designed to attain the following objectives:

a. Motivate youths to stay in school and become productive citizens.

b. Set high standards by promoting higher academic performance levels.

c. Connect work and learning so that the classroom is linked to worksite learning and experience.

d. Ready students for work in order to improve their prospects for immediate employment after leaving school through career pathways that provide significant opportunity to continued education and career development.

e. Engage employers and workers by promoting their participation in the education of youth in order to ensure the development of a skilled, flexible, entry-level workforce.

f. Provide a framework to position the state to access federal resources for state youth apprenticeship systems and local programs.

Sec. 2. NEW SECTION. 256.39 CAREER PATHWAYS PROGRAM.

1. If the general assembly appropriates moneys for the establishment of a career pathways program, the department of education shall develop a career pathways grant program, criteria for the formation of ongoing career pathways consortia in each merged area, and guidelines and a process to be used in selecting career pathways consortium grant recipients, including a requirement that grant recipients shall provide matching funds

or match grant funds with in-kind resources on a dollar-for-dollar basis. A portion of the moneys appropriated by the general assembly shall be made available to schools to pay for the issuance of employability skills assessments to public or nonpublic school students. An existing partnership or organization, including a regional school-to-work partnership, that meets the established criteria, may be considered a consortium for grant application purposes. One or more school districts may be considered a consortium for grant application purposes, provided the district can demonstrate the manner in which a community college, area education agency, representatives from business and labor organizations, and others as determined within the region will be involved. Existing school-to-work partnerships are encouraged to assist the local consortia in developing a plan and budget. The department shall provide assistance to consortia in planning and implementing career pathways program efforts.

2. To be eligible for a career pathways grant, a career pathways consortium shall develop a career pathways program that includes, but is not limited to, the following:

a. Measure the employability skills of students. Employability skills shall include, but are not limited to, reading for information, applied mathematics, listening, and writing.

b. Curricula designed to integrate academic and work-based learning to achieve high employability skills by all students related to career pathways. The curricula shall be designed through the cooperative efforts of secondary and postsecondary education professionals, business professionals, and community services professionals.

c. Staff development to implement the high-standard curriculum. These efforts may include team teaching techniques that utilize expertise from partnership businesses and postsecondary institutions.

3. In addition to the provisions of subsection 2, a career pathways program may include, but is not limited to, the following:

a. Career guidance and exploration for students.

b. Involvement and recognition of business, labor, and community organizations as partners in the career pathways program.

c. Provision for program accountability.

d. Encouragement of team teaching within the school or in partnership with postsecondary schools, and business, labor, community, and nonprofit organizations.

e. Service learning opportunities for students.

4. Business, labor, and community organizations are encouraged to market the career pathways program to the local community and provide students with mentors, shadow professionals, speakers, field trip sites, summer jobs, internships, and job offers for students who graduate with high performance records. Students are encouraged to volunteer their time to community organizations in exchange for workplace learning opportunities that do not displace current employees.

5. In developing career pathways program efforts, each consortium shall make every effort to cooperate with the juvenile courts, the department of economic development, the department of employment services, the department of human services, and the new Iowa schools development corporation.

6. The department of education shall direct and monitor the progress of each career pathways consortium in developing career pathways programs. By January 15, 1998, the department shall submit to the general assembly any findings and recommendations of the career pathways consortia, along with the department's recommendations for specific career pathways program efforts and for appropriate funding levels to implement and sustain the recommended programs.

7. Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30 of the fiscal year for which the funds were appropriated shall not revert but shall be available for expenditure for the following fiscal year for the purposes of this section.

8. A career pathways program is a comprehensive school transformation program under section 294A.14.

Sec. 3. REPEAL. Section 258.18, Code 1995, is repealed.

Approved May 31, 1995

CHAPTER 197

IOWA HOPE LOAN PROGRAM

H.F. 575

AN ACT establishing the Iowa hope loan program, creating an Iowa hope loan fund, and providing for other properly related matters.

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

Section 1. NEW SECTION. 261.17A IOWA HOPE LOAN PROGRAM.

1. An Iowa hope loan may be awarded to a resident of Iowa who is admitted and in attendance as a student in a single, twelve-month or less, vocational-technical or career option program in a community college in the state, who meets the eligibility requirements for a Pell grant, and who is working toward certification, a diploma, or a degree in a skilled occupation. In addition, an eligible applicant shall have obtained the bona fide intent of a company operating in Iowa to employ the applicant upon the applicant's attainment of a certificate, diploma, or degree, or shall be currently employed by a company operating in Iowa that has expressed a bona fide intent to advance the employee in employment upon the employee's attainment of a certificate, diploma, or degree.

2. A student who meets the qualifications of subsection 1 may receive an Iowa hope loan for not more than twelve months. A student shall not receive assistance for courses for which credit was previously received.

3. The amount of an Iowa hope loan shall not exceed the cost of tuition for the community college program in which the student is enrolled and attends. If a student receives financial aid under any other program, the full amount of that financial aid shall be considered part of the student's financial resources available in determining the amount of the Iowa hope loan.

4. Payments under the loan shall be allocated equally among the semesters or quarters of the year upon certification by the community college that the student is in attendance in a vocational-technical or career option program, as defined under rules of the department of education. If the student discontinues attendance before the end of any term after the community college receives payment from the loan, the entire amount of any refund due that student, up to the amount of any payments made to the community college from the loan, shall be paid by the community college to the state.

5. The commission shall administer this program and shall do all of the following:

a. Provide application forms for distribution to students by Iowa high schools and community colleges.

b. Adopt rules for determining financial need, requiring that no interest be charged for an Iowa hope loan, defining residence for the purposes of this section, processing and approving applications for grants, determining priority for loans, and establishing procedures for the repayment of the loan. The repayment schedule shall commence not less than six months after the loan recipient successfully completes the program and is awarded a certificate, a diploma, or a degree in a skilled occupation. The repayment schedule may be suspended if the loan recipient is a full-time student in an accredited postsecondary institution.

c. Approve and award loans on an annual basis. A student approved for a loan under the program shall enter into a payment agreement with the commission before receiving a loan under the program.

d. Make an annual report to the governor and general assembly.

6. Each applicant, in accordance with the rules established by the commission, shall do all of the following:

a. Complete and file an application for an Iowa hope loan.

b. Be responsible for the submission of the financial information provided for evaluation of the applicant's need for a loan, on forms provided by the commission.

c. Report promptly to the commission any necessary information requested by the commission.

7. An Iowa hope loan revolving fund is created in the state treasury as a separate fund under the control of the commission. All moneys deposited or paid into the fund are appropriated and made available to the college student aid commission to be used for loans as provided in this section. The commission shall deposit payments made by Iowa hope loan recipients into the Iowa hope loan fund. Notwithstanding section 8.33, any balance in the fund on June 30 of each fiscal year shall not revert to the general fund of the state, but shall be available for the purposes of this section in subsequent fiscal years.

8. Loans awarded under this section are subject to the limitations of any appropriations made by the general assembly and of the moneys in the revolving fund. The amount of a loan awarded to an eligible student shall not be less than five hundred dollars and shall not exceed one thousand dollars. However, if full tuition is less than five hundred dollars, the amount of the loan shall be for not more than an amount equal to the full tuition.

Approved May 31, 1995

CHAPTER 198

CAMPAIGN FINANCE

H.F. 437

AN ACT relating to the financing of political campaigns and by adding and changing definitions of commissioner and political committee, changing the providing for the appointment of committee personnel and the maintenance of committee funds, providing for the retention of records, establishing requirements for committee names, specifying requirements for out-of-state committee filings, prohibiting political committees from supporting a single candidate, revising filing deadlines and the contents of disclosure reports, changing requirements for disclaimers on published materials, including federal corporations under corporate activity prohibitions, allowing candidates to donate funds to district political party central committees and political subdivisions, providing for the establishment of ethics and campaign disclosure board staff salaries, and making other related changes.

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

Section 1. Section 56.2, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. "Commissioner" means the county auditor of each county, who is designated as the county commissioner of elections pursuant to section 47.2.

Sec. 2. Section 56.2, subsection 15, Code 1995, 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~~ 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 candidate for public office, or 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~~ 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 candidate for public office, or for the purpose of supporting or opposing a ballot issue. "Political committee" also includes a committee which accepts contributions in excess of ~~two~~ five hundred ~~fifty~~ dollars in the aggregate, makes expenditures in excess of ~~two~~ five hundred ~~fifty~~ dollars in the aggregate, or incurs indebtedness in excess of ~~two~~ five 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. 3. Section 56.3, subsections 1, 2, and 4, Code 1995, are amended to read as follows:

1. Every candidate's committee shall appoint a treasurer who shall be an Iowa resident who has reached the age of majority. Every political committee shall appoint both a treasurer and a chairperson, each of whom shall have reached the age of majority. Every candidate's committee shall maintain all of the committee's funds in bank accounts in a financial institution located in Iowa. Every political committee shall either have an Iowa resident as treasurer or maintain all of the committee's funds in bank accounts in a financial institution located in Iowa. An expenditure shall not be made by the treasurer or treasurer's designee for or on behalf of a committee without the approval of the chairperson of the committee, or the candidate. Expenditures shall be remitted to the designated recipient within fifteen days of the date of the issuance of the payment.

2. An individual who receives contributions for a committee without the prior authorization of the chairperson of the committee or the candidate shall be responsible for either rendering the contributions to the treasurer within fifteen days of the date of receipt of the contributions, or depositing the contributions in the account maintained by the committee within seven days of the date of receipt of the contributions. A person who receives contributions for a committee shall, not later than fifteen days from the date of receipt of the contributions or on demand of the treasurer, render to the treasurer the contributions and an account of the total of all contributions, including the name and address of each person making a contribution in excess of ten dollars, the amount of the contributions, and the date on which the contributions were received. The treasurer shall deposit all contributions within seven days of receipt by the treasurer in an account maintained by the committee ~~in a financial institution located in Iowa~~. All funds of a committee shall be segregated from any other funds held by officers, members, or associates of the committee or the committee's candidate. However, if a candidate's committee receives contributions only from the candidate, or if a permanent organization temporarily engages in activity which qualifies it as a political committee and all expenditures of the organization are made from existing general operating funds and funds are not solicited or received for this purpose from sources other than operating funds, then that committee is not required to maintain a separate account in a financial institution. The funds of a committee are not attachable for the personal debt of the committee's candidate or an officer, member, or associate of the committee.

4. The treasurer and candidate in the case of a candidate's committee, and the treasurer and chairperson in the case of a political committee, shall preserve all records required to be kept by this section for a period of ~~three~~ five years. However, a committee is not required to preserve any records for more than three years from the ~~date of the election~~

~~in which the committee is involved, or the~~ certified date of dissolution of the committee~~, whichever is applicable~~. For purposes of this section, the five-year period shall commence with the due date of the disclosure report covering the activity documented in the records.

Sec. 4. Section 56.4, Code 1995, is amended to read as follows:

56.4 REPORTS FILED WITH BOARD OR COMMISSIONER.

All statements and reports required to be filed under this chapter for a state office shall be filed with the board. All statements and reports required to be filed under this chapter for a county, city, or school office shall be filed with the commissioner. Statements and reports on a ballot issue shall be filed with the commissioner responsible under section 47.2 for conducting the election at which the issue is voted upon, except that statements and reports on a statewide ballot issue shall be filed with the board. Copies of any reports filed with a commissioner shall be provided by the commissioner to the board on its request. State statutory political committees shall file all statements and reports with the board. All other statutory political committees shall file the statements and reports with the commissioner with a copy sent to the board. The board shall retain statements and reports filed with the board for at least five years from the date of the election in which the committee is involved, or at least five years from the certified date of dissolution of the committee, whichever date is later. The commissioner shall retain statements and reports filed with the commissioner for at least three years from the date of the election in which the committee is involved, or at least three years from the certified date of dissolution of the committee, whichever date is later.

Political committees supporting or opposing candidates for both federal office and any elected office created by law or the Constitution of the state of Iowa shall file statements and reports with the board in addition to any federal reports required to be filed with the ~~secretary of state~~ board. However, a political committee which is registered and filing full disclosure reports of all financial activities with the federal election commission may file verified statements as provided in section 56.5.

Political committees supporting or opposing candidates or ballot issues for statewide elections and for county, municipal or school elections may file all activity on one report with the board and shall send a copy to the commissioner responsible under section 47.2 for conducting the election.

Sec. 5. Section 56.5, subsection 1, Code 1995, is amended to read as follows:

1. Every committee, as defined in this chapter, shall file a statement of organization within ten days from the date of its organization. Unless formal organization has previously occurred, a committee is deemed to have organized as of the date that committee transactions exceed the financial activity threshold established in section 56.2, subsection 5 or 15.

Sec. 6. Section 56.5, subsection 2, paragraph a, Code 1995, is amended to read as follows:

a. The name, purpose, mailing address and telephone number of the committee. The committee name shall not duplicate the name of another committee organized under this section. For candidate's committees filing initial statements of organization on or after July 1, 1995, the candidate's name shall be contained within the committee name.

Sec. 7. Section 56.5, subsection 5, Code 1995, is amended to read as follows:

5. A committee or organization not ~~domiciled in Iowa~~ organized as a committee under this section which makes a contribution to a candidate's committee or political committee ~~domiciled~~ organized in Iowa shall disclose each contribution to the board. A committee or organization not ~~domiciled in Iowa~~ organized as a committee under this section which is not registered and filing full disclosure reports of all financial activities with the federal election commission or another state's disclosure commission shall register and file full disclosure reports with the board pursuant to this chapter, and shall either appoint an

eligible Iowa elector as committee or organization treasurer, ~~and~~ or shall maintain all committee funds in an account in a financial institution located in Iowa. A committee which is currently filing a disclosure report in another jurisdiction shall either file a statement of organization under subsections 1 and 2 and file disclosure reports, the same as those required of ~~Iowa-domiciled~~ committees organized only in Iowa, under section 56.6, or shall file one copy of a verified statement with the board and a second copy with the treasurer of the committee receiving the contribution. The form shall be completed and filed at the time the contribution is made. The verified statement shall be on forms prescribed by the board and shall attest that the committee is filing reports with the federal election commission or in a jurisdiction with reporting requirements which are substantially similar to those of this chapter, and that the contribution is made from an account which does not accept contributions which would be in violation of section 56.15. The form shall include the complete name, address, and telephone number of the contributing committee, the state or federal jurisdiction under which it is registered or operates, the identification of any parent entity or other affiliates or sponsors, its purpose, the name, address, and signature of an Iowa resident authorized to receive service of original notice and the name and address of the receiving committee, the amount of the cash or in-kind contribution, and the date the contribution was made.

Sec. 8. Section 56.5A, Code 1995, is amended to read as follows:

56.5A CANDIDATE'S COMMITTEE.

Each candidate for 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 five hundred dollars in the aggregate in a calendar year. A political committee shall not be established to support or oppose only one candidate for office, except that a political committee may be established to support or oppose approval of a single judge standing for retention.

Sec. 9. Section 56.6, subsection 1, paragraphs a and d, Code 1995, are amended to read as follows:

a. Each treasurer of a committee shall file with the board or commissioner disclosure reports of contributions received and disbursed on forms prescribed by rules as provided by chapter 17A. The reports from all committees, except those committees for municipal and school elective offices and for local ballot issues, shall be filed on the ~~twentieth~~ nineteenth day or mailed bearing a United States postal service postmark dated on or before the nineteenth day of January, May, July, and October of each year. The May, July, and October reports shall be current as of five days prior to the filing deadline. The January report shall be the annual report covering activity through December 31. However, a state, ~~or~~ county, or city statutory political committee is not required to file the May and July reports for a year in which no primary or general election is held at the respective state, county, or city level. A candidate's committee, other than for municipal and school elective offices, for a year in which the candidate is not standing for election, is not required to file the May, July, and October reports. Reports for committees for a ballot issue placed before the voters of the entire state shall be filed at the January, May, July, and October deadlines.

d. Committees for municipal and school elective offices and local ballot issues shall file their first reports five days prior to any election in which the name of the candidate or the local ballot issue which they support or oppose appears on the printed ballot and shall file their next report on the first day of the month following the final election in a calendar year in which the candidate's name or the ballot issue appears on the ballot. A committee supporting or opposing a candidate for a municipal or school elective office or a local ballot issue shall also file disclosure reports on the ~~twentieth~~ nineteenth day of January and October of each year in which the candidate or ballot issue does not appear on the

ballot and on the ~~twentieth~~ nineteenth day of January, May, and July of each year in which the candidate or ballot issue appears on the ballot, until the committee dissolves. These 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 ~~one or more calendar days preceding~~ on or before the due date.

Sec. 10. Section 56.6, subsections 4 and 5, Code 1995, are amended to read as follows:

4. If the report is the first report filed by the committee, the report shall include all information required under subsection 3 covering the period from the beginning of the committee's financial activity, even if from a different calendar year, through the end of the current reporting period. If no contributions have been accepted nor any disbursements made or indebtedness incurred during that reporting period, the treasurer of the committee shall file a disclosure statement which shows only the amount of cash on hand at the beginning of the reporting period.

5. A committee shall not dissolve until all loans, debts and obligations are paid, forgiven, or transferred and the remaining money in the account is distributed according to the organization statement. If a loan is transferred or forgiven, the amount of the transferred or forgiven loan must be reported as an in-kind contribution and deducted from the loans payable balance on the disclosure form. If, upon review of a committee's statement of dissolution and final report, the board determines that the requirements for dissolution have been satisfied, the dissolution shall be certified and the committee relieved of further filing requirements.

PARAGRAPH DIVIDED. A statutory political committee is prohibited from dissolving, but may be placed in an inactive status upon the approval of the board. Inactive status may be requested for a statutory political committee when no officers exist and the statutory political committee has ceased to function. The request shall be made by the previous treasurer or chairperson of the committee and by the appropriate state statutory political committee. A statutory political committee granted inactive status shall not solicit or expend funds in its name until the committee reorganizes and fulfills the requirements of a political committee under this chapter.

Sec. 11. Section 56.12, unnumbered paragraph 1, Code 1995, is amended to read as follows:

A person shall not make a contribution or expenditure in the name of another person, and a person shall not knowingly accept a contribution or expenditure made by one person in the name of another. For the purpose of this section, a contribution or expenditure made by one person which is ultimately reimbursed by another person who has not been identified as the ultimate source or recipient of the funds is considered to be an illegal contribution or expenditure in the name of another.

Sec. 12. Section 56.13, subsection 2, Code 1995, is amended to read as follows:

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~~ nineteenth day of January, May, and July of each year in which the ballot issue appears on the ballot and on the ~~twentieth~~ nineteenth 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~~ nineteenth 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.

Sec. 13. Section 56.14, Code 1995, is amended to read as follows:

56.14 POLITICAL ~~ADVERTISEMENTS~~ MATERIAL – SOLICITATIONS – YARD SIGNS.

1. A person who causes the publication or distribution of published material 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. Published material 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 which contains language or depictions which a reasonable person would understand as asserting that an entity which is incorporated or is a registered committee had authored the material shall, if the entity is not incorporated or a registered committee, include conspicuously on the published material a statement that the apparent organization or committee is not incorporated or a registered committee in addition to the disclaimer statement required by this section. For purposes of this section, "registered committee" means a committee which has an active statement of organization filed under section 56.5.

2. 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, direct mailing, brochure, or any other form of printed general public political advertising; however, the identification need not be conspicuous on posters. 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.

3. 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, or by county or city law enforcement authorities in a manner consistent with 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.

4. 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, 8A, 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.

5. This section shall not be construed to require the inclusion on published material of information which discloses the identity or address of any individual who is acting independently and using their own modest resources to publish or distribute the material.

Sec. 14. Section 56.15, subsections 1, 2, and 3, Code 1995, are amended to read as follows:

1. Except as provided in subsections 3 and 4, it is unlawful for an insurance company, savings and loan association, bank, credit union, or corporation organized pursuant to the laws of this state, the United States, or any other state, territory, or foreign country, whether for profit or not, or an officer, agent or representative acting for such insurance company, savings and loan association, bank, credit union, or corporation, to contribute any money, property, labor, or thing of value, directly or indirectly, to a committee, or for the purpose of influencing the vote of an elector, except that such resources may be so expended in connection with a utility franchise election held pursuant to section 364.2, subsection 4, or a ballot issue. All such expenditures are subject to the disclosure requirements of this chapter.

2. Except as provided in subsection 3, it is unlawful for a member of a committee, or its employee or representative, except a ballot issue committee, or for a candidate for office or the representative of the candidate, to solicit, request, or knowingly receive from an insurance company, savings and loan association, bank, credit union, or corporation organized pursuant to the laws of this state, the United States, or any other state, territory, or foreign country, whether for profit or not, or its officer, agent, or representative, any money, property, or thing of value belonging to the insurance company, savings and loan association, bank, or corporation for campaign expenses, or for the purpose of influencing the vote of an elector. This section does not restrain or abridge the freedom of the press or prohibit the consideration and discussion in the press of candidacies, nominations, public officers, or public questions.

3. It is lawful for an insurance company, savings and loan association, bank, credit union, and corporation organized pursuant to the laws of this state, the United States, or any other state or territory, whether or not for profit, and for their officers, agents and representatives, to use the money, property, labor, or any other thing of value of the entity for the purposes of soliciting its stockholders, administrative officers and members for contributions to a committee sponsored by that entity and of financing the administration of a committee sponsored by that entity. The entity's employees to whom the foregoing authority does not extend may voluntarily contribute to such a committee but shall not be solicited for contributions. All contributions made under this subsection are subject to the disclosure requirements of this chapter. A committee member, committee employee, committee representative, candidate or representative referred to in subsection 2 lawfully may solicit, request, and receive money, property and other things of value from a committee sponsored by an insurance company, savings and loan association, bank, credit union, or corporation as permitted by this subsection.

Sec. 15. Section 56.41, subsection 1, Code 1995, is amended to read as follows:

1. A candidate and the candidate's committee shall use campaign funds only for campaign purposes, educational and other expenses associated with the duties of office, or constituency services, and shall not use campaign funds for personal expenses or personal benefit. The purchase of subscriptions to newspapers from or which circulate within the area represented by the office which a candidate is seeking or holds is presumed to be an expense that is associated with the duties of the campaign for and duties of office.

Sec. 16. Section 56.42, subsection 1, paragraphs b and c, Code 1995, are amended to read as follows:

b. Contributions to national, state, or local political party central committees, or to partisan political committees organized to represent persons within the boundaries of a congressional district.

c. Transfers to the treasurer of state for deposit in the general fund of the state, or to the appropriate treasurer for deposit in the general fund of a political subdivision of the state.

Sec. 17. Section 56.43, Code 1995, is amended to read as follows:

56.43 CAMPAIGN PROPERTY.

1. Equipment, supplies, or other materials purchased ~~on or after July 1, 1991,~~ with campaign funds or received in-kind are campaign property. Campaign property belongs to the candidate's committee and not to the candidate. Campaign property which has a value of five hundred dollars or more at the time it is acquired by the committee shall be separately disclosed as committee inventory on reports filed pursuant to section 56.6, including a declaration of the approximate current value of the property. Such property shall continue to be reported as committee inventory until it is disposed of by the committee or until the property has a residual value of less than one hundred dollars. However, consumable campaign property is not required to be reported as committee inventory, regardless of the initial value of the consumable campaign property. "Consumable campaign property" means stationery, yard signs, and other campaign materials which have been permanently imprinted to be specific to a candidate or election.

2. Upon dissolution of the candidate's committee, a report accounting for the disposition of all items of campaign property, excluding consumable campaign property, having a residual value of ~~twenty-five~~ one hundred dollars or more shall be filed with the board. ~~Each item of campaign~~ Campaign property, excluding consumable campaign property, having a residual value of ~~twenty-five~~ one hundred dollars or more shall be disposed of by one of the following methods:

a. Sale of the property at fair market value, in which case the proceeds shall be treated the same as other campaign funds.

b. Donation of the property under one of the options for transferring campaign funds set forth in section 56.42.

Sec. 18. Section 68B.32, subsection 5, Code 1995, is amended to read as follows:

5. The board shall employ a full-time executive ~~secretary~~ director who shall be the board's chief administrative officer. The board shall employ or contract for the employment of legal counsel notwithstanding section 13.7, and any other personnel as may be necessary to carry out the duties of the board. The board's legal counsel shall be the chief legal officer of the board, and shall advise the board on all legal matters relating to the administration of this chapter and chapter 56. The state may be represented by the board's legal counsel in any civil action regarding the enforcement of this chapter or chapter 56, or, at the board's request, the state may be represented by the office of the attorney general. Notwithstanding section 19A.3, all of the board's employees, except for the executive ~~secretary~~ director and legal counsel, shall be employed subject to the merit system provisions of chapter 19A. The salary of the executive director shall be fixed by the board, within the range established by the general assembly. The salary of the legal counsel shall be fixed by the board, within a salary range established by the department of personnel for a position requiring similar qualifications and experience.

Sec. 19. Section 68B.32A, subsection 2, Code 1995, is amended to read as follows:

2. Develop, prescribe, furnish, and distribute any forms necessary for the implementation of the procedures contained in this chapter and chapter 56 for the filing of reports and statements by persons required to file the reports and statements under this chapter and chapter 56.

The board may establish a process to assign signature codes to a person or committee for purposes of facilitating an electronic filing procedure. The assignment of signature codes shall be kept confidential, notwithstanding section 22.2.

Sec. 20. TRANSITIONAL PROVISION. Changes or additions to reporting requirements contained in section 56.6, subsection 4, which are made in this Act shall not be

construed to require reporting of financial activities which took place prior to January 1, 1995, if the financial activities which took place on or after January 1, 1995, would result in the committee exceeding the reporting threshold established for a particular type of committee. Any activities which took place on or after January 1, 1995, shall, however, be reported.

Approved May 31, 1995

CHAPTER 199

REGULATION OF UTILITIES PROVIDING COMMUNICATION SERVICES

H.F. 518

AN ACT relating to authorization of price regulation for utilities providing communications services.

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

Section 1. Section 476.1D, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 10. The board, at the request of a long distance telephone company, shall classify such company as a competitive long distance telephone company if more than half of the company's revenues from its Iowa intrastate telecommunications services and facilities are received from services and facilities that the board has determined to be subject to effective competition. The board shall promptly notify the director of revenue and finance that a long distance telephone company has been classified as a competitive long distance telephone company. Upon such notification by the board, the director of revenue and finance shall assess the property of such competitive long distance telephone company, which property is first assessed for taxation in this state on or after January 1, 1996, in the same manner as all other property assessed as commercial property by the local assessor under chapters 427, 427A, 427B, 428, and 441. As used in this section, "long distance telephone company" means an entity that provides telephone service and facilities between local exchanges, but does not include a cellular service provider or a local exchange utility holding a certificate issued under section 476.29, subsection 12.

Sec. 2. Section 476.3, subsection 2, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions of this subsection, the consumer advocate shall not file a petition under this subsection that alleges a local exchange carrier's rates are excessive while the local exchange carrier is participating in a price regulation plan approved by the board pursuant to section 476.30B.

Sec. 3. Section 476.10, unnumbered paragraph 4, Code 1995, is amended to read as follows:

Whenever the board shall deem it necessary in order to carry out the duties imposed upon it in connection with rate regulation under section 476.6, investigations under section 476.3, or review proceedings under section 476.31, the board may employ additional temporary or permanent staff, or may contract with persons who are not state employees for engineering, accounting, or other professional services, or both. The costs of these additional employees and contract services shall be paid by the public utility whose rates

are being reviewed in the same manner as other expenses are paid under this section. Beginning on July 1, 1991, there is appropriated out of any funds in the state treasury not otherwise appropriated, such sums as may be necessary to enable the board to hire additional staff and contract for services under this section. The board shall increase quarterly assessments specified in unnumbered paragraph 2, by amounts necessary to enable the board to hire additional staff and contract for services under this section. The authority to hire additional temporary or permanent staff that is granted to the board by this section shall not be subject to limitation by any administrative or executive order or decision that restricts the number of state employees or the filling of employee vacancies, and shall not be subject to limitation by any law of this state that restricts the number of state employees or the filling of employee vacancies unless that law is made applicable to this section by express reference to this section. Before the board expends or encumbers an amount in excess of the funds budgeted for rate regulation and before the board increases quarterly assessments pursuant to this paragraph, the director of the department of management shall approve the expenditure or encumbrance. Before approval is given, the director of the department of management shall determine that the expenses exceed the funds budgeted by the general assembly to the board for rate regulation and that the board does not have other funds from which the expenses can be paid. Upon approval of the director of the department of management the board may expend and encumber funds for the excess expenses, and increase quarterly assessments to raise the additional funds. The board and the office of consumer advocate may add additional personnel or contract for additional assistance to review and evaluate energy efficiency plans and the implementation of energy efficiency programs including, but not limited to, professionally trained engineers, accountants, attorneys, skilled examiners and inspectors, and secretaries and clerks. The board and the office of consumer advocate may also contract for additional assistance in the evaluation and implementation of issues relating to telecommunication competition. The board and the office of the consumer advocate may expend additional sums beyond those sums appropriated. However, the authority to add additional personnel or contract for additional assistance must first be approved by the department of management. The additional sums for energy efficiency shall be provided to the board and the office of the consumer advocate by the utilities subject to the energy efficiency requirements in this chapter. Telephone companies shall pay any additional sums needed for assistance with telecommunication competition issues. The assessments shall be in addition to and separate from the quarterly assessment.

Sec. 4. Section 476.11, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The board may resolve complaints, upon notice and hearing, that a utility, operating under section 476.29, has failed to provide just, reasonable, and nondiscriminatory arrangements for interconnection of its telecommunications services with another telecommunications provider.

Sec. 5. Section 476.29, subsection 2, Code 1995, is amended to read as follows:

2. Except as provided in subsection 12, a certificate shall be issued by the board, after notice and opportunity for hearing, if the board determines that the service proposed to be rendered will promote the public convenience and necessity, provided that an applicant other than a local exchange carrier, as defined in section 476.30A, shall not be denied a certificate if the board finds that the applicant possesses the technical, financial, and managerial ability to provide the service it proposes to render and the board finds the service is consistent with the public interest. The board shall make a determination within ninety days of the submission by the applicant of evidence of its technical, financial, and managerial ability, unless the board determines that additional time is necessary to consider the application, in which case the board may extend the time for making a determination for an additional sixty days. The board may establish reasonable conditions or restrictions on the certificate at the time of issuance.

Sec. 6. NEW SECTION. 476.30 FINDINGS - STATEMENT OF POLICY.

The general assembly finds all of the following:

1. Communications services should be available throughout the state at just, reasonable, and affordable rates from a variety of providers.

2. In rendering decisions with respect to regulation of telecommunications companies, the board shall consider the effects of its decisions on competition in telecommunications markets and, to the extent reasonable and lawful, shall act to further the development of competition in those markets.

3. In order to encourage competition for all telecommunications services, the board should address issues relating to the movement of prices toward cost and the removal of subsidies in the existing price structure of the incumbent local exchange carrier.

4. Regulatory flexibility is appropriate when competition provides customers with competitive choices in the variety, quality, and pricing of communications services, and when consistent with consumer protection and other relevant public interests.

5. The board should respond with speed and flexibility to changes in the communications industry.

6. Economic development can be fostered by the existence of advanced communications networks.

Sec. 7. NEW SECTION. 476.30A DEFINITIONS.

As used in section 476.30, this section, and sections 476.30B through 476.30G, unless the context otherwise requires:

1. "Basic communications service" includes at a minimum, basic local telephone service, switched access, 911 and E-911 services, and dual party relay service. The board is authorized to classify by rule at any time, any other two-way switched communications services as basic communications services consistent with community expectations and the public interest.

2. "Basic local telephone service" means the provision of dial tone access and usage, for the transmission of two-way switched communications within a local exchange area, including, but not limited to, the following:

a. Residence service and business services, including flat rate or local measured service, private branch exchange trunks, trunk type hunting services, direct inward dialing, and the network access portion of central office switched exchange service.

b. Extended area service.

c. Touch tone service when provided separately.

d. Call tracing.

e. Calling number blocking on either a per call or a per line basis.

f. Local exchange white pages directories.

g. Installation and repair of local network access.

h. Local operator services, excluding directory assistance.

i. Toll service blocking and 1-900 and 1-976 access blocking.

3. "Competitive local exchange service provider" means any person that provides local exchange services, other than a local exchange carrier or a nonrate-regulated wireline provider of local exchange services under an authorized certificate of public convenience and necessity within a specific geographic area described in maps filed with and approved by the board as of September 30, 1992.

4. "Interim number portability" means one or more mechanisms by which a local exchange customer at a particular location may change the customer's local exchange services provider without any change in the local exchange customer's telephone number, while experiencing as little loss of functionality as is feasible using available technology.

5. "Local exchange carrier" means any person that was the incumbent and historical rate-regulated wireline provider of local exchange services or any successor to such person that provides local exchange services under an authorized certificate of public convenience and necessity within a specific geographic area described in maps filed with and approved by the board as of September 30, 1992.

6. "Nonbasic communications services" means all communications services subject to the board's jurisdiction which are not deemed either by statute or by rule to be basic communications services, including any service offered by the local exchange carrier for the first time after the effective date of this Act. A service is not considered new if it constitutes the bundling, unbundling, or repricing of an already existing service. Consistent with community expectations and the public interest, the board may reclassify by rule as nonbasic those two-way switched communications services previously classified by rule as basic.

7. "Provider number portability" means the capability of a local exchange customer to change the customer's local exchange services provider at the customer's same location without any change in the local exchange customer's telephone number, while preserving the full range of functionality that the customer currently experiences. "Provider number portability" includes the equal availability of information concerning the local exchange provider serving the number to all carriers, and the ability to deliver traffic directly to that provider without having first to route traffic to the local exchange carrier or otherwise use the services, facilities, or capabilities of the local exchange carrier to complete the call, and without the dialing of additional digits or access codes.

Sec. 8. NEW SECTION. 476.30B PRICE REGULATION.

1. Notwithstanding contrary provisions of this chapter relating to rate regulation, the board may approve a plan for price regulation submitted by a rate-regulated local exchange carrier. The plan for price regulation is not effective until the approval by the board of tariffs implementing the unbundling of essential facilities pursuant to section 476.30F, subsection 4, except for a local exchange carrier with less than seventy-five thousand access lines whose plan for price regulation will be effective concurrent with the approval of its plan. The board may approve a plan for price regulation prior to the adoption of rules related to the unbundling of essential facilities or concurrent with a rate proceeding under section 476.3, 476.6, or 476.7. During the term of the plan, the board shall regulate the prices of the local exchange carrier's basic and nonbasic communications services pursuant to the requirements of the price regulation plan approved by the board. The local exchange carrier shall not be subject to rate of return regulation during the term of the plan.

2. The board, after notice and opportunity for hearing, may approve, modify, or reject the plan. The local exchange carrier shall have ten days to accept or reject any board modifications to its plan. If the local exchange carrier rejects a modification to its plan, the board shall reject the plan without prejudice to the local exchange carrier to submit another plan.

3. A price regulation plan, at a minimum, shall include provisions, consistent with the provisions of this section and any rules adopted by the board, for the following:

a. (1) Establishing and changing prices, terms, and conditions for basic communications services. The initial plan for price regulation must include a proposal, which the board shall approve, for reducing the local exchange carrier's average intrastate access service rates to the local exchange carrier's average interstate access service rates in effect as of the last day of the calendar year immediately preceding the date of filing of the plan, as follows:

(a) A local exchange carrier with five hundred thousand or more access lines in this state shall reduce its average intrastate access service rates by at least fifty percent of the difference between average intrastate access service rates and average interstate access service rates as of the date that the plan is filed and further reduce such rates to the average interstate access service rates within ninety days of the date that the plan becomes effective.

(b) A local exchange carrier with fewer than five hundred thousand but seventy-five thousand or more access lines in this state shall reduce its average intrastate access service rates to its average interstate access service rates in increments of at least twenty-five percent, with the initial reduction to take effect on approval of the plan and equal annual

reductions on each anniversary of the approval during the first three years that its plan is in effect.

(c) A local exchange carrier with fewer than seventy-five thousand access lines in this state shall reduce its average intrastate access service rates to its average interstate access service rates with equal annual reductions during a period beginning no more than two years and ending no more than five years from the plan's inception.

(2) This section shall not be construed to do either of the following:

(a) Prohibit an additional decrease in a carrier's average intrastate access service rate during the term of the plan.

(b) Permit any increase in a carrier's average intrastate access service rates during the term of the plan.

(3) The plan shall also provide that the initial prices for basic communications services shall be six percent less than the rates approved and in effect at the time the local exchange carrier files its plan. A local exchange carrier which elects to reduce its rates by six percent shall not, at a later time, increase its rates for basic communications services as a result of the carrier's compliance with the board's rules relating to unbundling. In lieu of the six percent reduction, and prior to the adoption of rules relating to unbundling pursuant to section 476.30F, subsection 4, paragraph "a", subparagraph (1), the local exchange carrier may request and the board may establish a regulated revenue requirement in a rate proceeding under section 476.3 or 476.6 commenced after the effective date of this Act. After the determination of the local exchange carrier's regulated revenue requirement pursuant to the rate proceeding, the local exchange carrier shall not immediately implement rates designed to recover that regulated revenue requirement. Following the adoption of rules relating to unbundling pursuant to section 476.30F, subsection 4, paragraph "a", subparagraph (1), the local exchange carrier shall commence a tariff proceeding for the approval of tariffs implementing such unbundling. The board has six months to complete this tariff proceeding and determine the local exchange carrier's final unbundled rates. The local exchange carrier shall carry forward the regulated revenue requirement determined by the board pursuant to the rate proceeding and design rates that comply with the board's rules relating to unbundling that recover the regulated revenue requirement, and that implement the board's approved rate design established in the tariff proceeding.

In lieu of taking the six percent reduction, a local exchange carrier that submits a plan for price regulation after the board adopts rules relating to unbundling may file a rate proceeding under section 476.3 or 476.6 and the board may approve rates designed to comply with those rules which allow the carrier to recover the established regulated revenue requirement and that implement the board's approved rate design established in the tariff proceeding.

(4) The plan shall provide for both increases and decreases in the prices for basic communications services reflecting annual changes in inflation and productivity. Prior to January 1, 1998, the board shall use the gross domestic product price index, as published by the federal government, for an inflation measure, and two and six-tenths percentage points for a productivity measure. After January 1, 1998, the board by rule may adopt current measures of inflation and productivity.

(5) The plan may provide that price increases for basic communications services which are permitted under this section may be deferred and accumulated for a maximum of three years into a single price increase, provided that a deferred and accumulated price increase under this section shall not at any time exceed six percent. A price decrease for basic communications services shall not be deferred or accumulated, except that price decreases of less than two percent may be deferred by the local exchange carrier for one year. A price decrease required under this section may be offset by a price increase for a basic communications service that would have been permitted under this section in the previous twelve-month period, but which was deferred by the local exchange carrier.

b. Establishing and changing prices, terms, and conditions for nonbasic communications services.

c. Reporting new service offerings to the board.

d. Reflecting in rates any changes in revenues, expenses, and investment due to exogenous factors beyond the control of the local exchange carrier.

e. Providing notice to customers, the board, and the consumer advocate of changes in prices, terms, or conditions for basic and nonbasic communications services.

4. The board shall consider the extent to which a proposed plan complies with the requirements of subsection 3 and achieves the following:

a. Just, nondiscriminatory, and reasonable rates.

b. High quality, universally available communications services.

c. Encouragement of investment in communications infrastructure, efficiency improvements, and technological innovation.

d. The introduction of new communications products and services from a variety of sources.

e. Regulatory efficiency including reduction of regulatory costs and delays. A plan shall not provide for waiver of, release from, or delay in implementing the provisions of this section, section 476.30F or 476.30G or any rules adopted by the board pursuant to those sections.

5. Notwithstanding an approved plan for price regulation, the board shall continue to have regulatory authority over the following:

a. The level, extent, and timing of the unbundling of essential facilities offered by a local exchange carrier.

b. Ensuring against cross-subsidization between nonbasic communications services and basic communications services.

6. Any person, including the consumer advocate, a body politic, or the board on its own motion, may file a written complaint pursuant to section 476.3, subsection 1, regarding a local exchange carrier's implementation, operation under, or satisfaction of the purposes of its price regulation plan.

7. The consumer advocate may represent consumers before the board regarding any rule, order, or proceeding pertaining to price regulation. The consumer advocate may act as attorney for and represent consumers generally before any state or federal court concerning a board rule, order, or proceeding pertaining to price regulation.

8. In implementing price regulation, the board shall consider competitively neutral methods to assist lower-income Iowans to secure and retain telephone services.

9. The board shall determine the duration of any plan. The board shall review a local exchange carrier's operation under its plan, with notice and an opportunity for hearing, within four years of the initiation of the plan and prior to the termination of the plan. The local exchange carrier, consumer advocate, or any person may propose, and the board may approve, any reasonable modifications to a local exchange carrier's plan as a result of the review, except that such modifications shall not require a reduction in the rates for any basic communications service.

10. The board, in determining whether to file a written complaint pursuant to subsection 6 or prior to reviewing a local exchange carrier's operation pursuant to subsection 9, may request that such carrier provide any information which the board deems necessary to make such determination or conduct such review. The carrier shall provide the requested information upon receipt of the request from the board.

11. a. Notwithstanding subsections 1 through 10, a local exchange carrier with fewer than five hundred thousand access lines in this state shall have the option to be regulated pursuant to subsections 1 through 10 or pursuant to this subsection. A local exchange carrier which elects to become price regulated under this subsection shall also be subject to subsections 5 through 8 and subsection 10 in the same manner as a local exchange carrier which operates under an approved plan of price regulation submitted pursuant to subsection 1.

b. A local exchange carrier which elects to become price regulated under this subsection shall give written notice to the board of such election not less than thirty days prior to the date such regulation is to commence.

c. Upon election of a local exchange carrier to become price-regulated under this subsection, the carrier shall reduce its rates for basic local telephone service an average of three percent. In lieu of the three percent reduction, the local exchange carrier may establish its rates for basic local telephone service in a rate proceeding under section 476.3 or 476.6 commenced after the effective date of this Act.

d. Initial prices for basic communications services, other than basic local telephone service, shall be set at the rates in effect as of the first of July prior to the date such regulation is to commence.

e. (1) A price-regulated local exchange carrier shall not increase its rates for basic communications services, for a period of twelve months after electing to become price regulated. To the extent necessary, rates for basic services may be increased to carry out the purpose of any rules that may be adopted by the board relating to the terms and conditions of unbundled services and interconnection. A price-regulated local exchange carrier may increase its rates for basic communications services following the initial twelve-month period, to the extent that the change in rate does not exceed two percentage points less than the most recent annual change in the gross domestic product price index, as published by the federal government. If application of such formula achieves a negative result, prices shall be reduced so that the cumulative price change for basic services, including prior price reductions in these services, achieves the negative result. After January 1, 2000, the board by rule may adopt different measures of inflation and productivity if they are found to be more reflective of the individual price-regulated carriers.

(2) Price increases for basic communications services which are permitted under this subsection may be deferred and accumulated for a maximum of three years into a single price increase, provided that a deferred and accumulated price increase under this subsection shall not at any time exceed six percent. A price decrease for basic communications services shall not be deferred or accumulated, except that price decreases of less than two percent may be deferred by the local exchange carrier for one year. A price decrease required under this section may be offset by a price increase for a basic communications service that would have been permitted under this section in the previous twelve-month period, but which was deferred by the local exchange carrier. A rate change pursuant to this subsection may take effect thirty days after the notification of the board and consumers.

(3) A price-regulated local exchange carrier shall not increase its aggregate revenue weighted prices for nonbasic communications services more than six percent in any twelve-month period.

(4) A price-regulated local exchange carrier may reduce the price for any basic communications service, to an amount not less than the total service long-run incremental cost for such service on one day's notice filed with the board. For purposes of this subsection, "total service long-run incremental costs" means the difference between the company's total cost and the total cost of the company less the applicable service, feature, or function.

(5) A price-regulated local exchange carrier may offer new service alternatives for any basic communications services on thirty days prior notice to the board, provided that the preexisting basic communications service rate structure continues to be offered to customers. New telecommunications services shall be considered nonbasic communications services as defined in section 476.30A, subsection 6.

(6) A price-regulated local exchange carrier must reduce the average intrastate access service rates to the carrier's average interstate access service rates. Such carrier shall reduce the average intrastate access service rates by at least twenty-five percent of the difference of such rates within ninety days of the election to be price-regulated and twenty-five percent each of the next three years.

f. A local exchange carrier shall notify customers of a rate change under this subsection at least thirty days prior to the effective date of the rate change.

g. A local exchange carrier which elects to become price regulated under this subsection shall also be subject to the following:

(1) The local exchange carrier shall not be subject to rate-of-return regulation while operating under price regulation.

(2) All regulated services shall be provided pursuant to board-approved tariffs.

(3) All new regulated service offerings shall be reported to the board.

(4) Rates may be adjusted by the board to reflect any changes in revenues, expenses, and investment due to exogenous factors beyond the control of the local exchange carrier.

h. The board may review a local exchange carrier's operation under this subsection, with notice and an opportunity for hearing, after four years of the carrier's election to be price-regulated. The local exchange carrier, consumer advocate, or any person may propose, and the board may approve, any reasonable modifications to the price-regulation requirements in this subsection as a result of the specific carrier review, except that such modifications shall not require a reduction in the rates for any basic communications service or a return to rate-base, rate-of-return regulation.

i. This subsection shall not be construed to prohibit an additional decrease or to permit any increase in a local exchange carrier's average intrastate access service rates during the term of the local exchange carrier's operation under price regulation.

Sec. 9. NEW SECTION. 476.30C EARNINGS CALCULATION AND REPORT.

1. The consumer advocate shall calculate an estimate of the return of a local exchange carrier operating under price regulation pursuant to section 476.30B as if the carrier were subject to rate-of-return regulation. The calculation shall be based upon the annual report of such carrier and other information provided to the consumer advocate by the carrier. The calculation shall be made every two years beginning following the end of the second calendar year after the year in which the plan becomes effective. The consumer advocate shall provide a written report to the general assembly including the results of this calculation on or before July 1 of the year immediately following the two-year period for which a calculation is made. If, after a review of the information used to make the calculation required in this section, the consumer advocate determines that the public interest would be better served by a different form of rate regulation, the consumer advocate shall provide a recommendation that the general assembly direct the utilities board to implement a different form of rate regulation.

Sec. 10. NEW SECTION. 476.30D ADDITIONAL PRICE REGULATION PLAN PROVISIONS.

In addition to the provisions required in section 476.30B, a local exchange carrier, prior to operating under price regulation, shall make provision for the following:

1. Reflecting in rates any changes due to changes in the average cost of the local exchange carrier resulting from the sale of an exchange in this state.

2. Encouraging modernization of the local exchange carrier's telecommunications infrastructure. This provision shall include a requirement that the local exchange carrier develop and file with the board an increased modernization plan.

Sec. 11. NEW SECTION. 476.30E PROHIBITED ACTS.

A local exchange carrier shall not do any of the following:

1. Discriminate against another provider of communications services by refusing or delaying access to the local exchange carrier's services.

2. Discriminate against another provider of communications services by refusing or delaying access to essential facilities on terms and conditions no less favorable than those the local exchange carrier provides to itself and its affiliates. A local telecommunications facility, feature, function, or capability of the local exchange carrier's network is an essential facility if all of the following apply:

a. Competitors cannot practically or economically duplicate the facility, feature, function, or capability, or obtain the facility, feature, function, or capability from another source.

b. The use of the facility, feature, function, or capability by potential competitors is technically and economically feasible.

c. Denial of the use of the facility, feature, function, or capability by competitors is unreasonable.

d. The facility, feature, function, or capability will enable competition.

3. Degrade the quality of access or service provided to another provider of communications services.

4. Fail to disclose in a timely manner, upon reasonable request and pursuant to a protective agreement concerning proprietary information, all information reasonably necessary for the design of network interface equipment, network interface services, or software that will meet the specifications of the local exchange carrier's local exchange network.

5. Unreasonably refuse or delay interconnections or provide inferior interconnections to another provider.

6. Use basic exchange service rates, directly or indirectly, to subsidize or offset the costs of other products or services offered by the local exchange carrier.

7. Discriminate in favor of itself or an affiliate in the provision and pricing of, or extension of credit for, any telephone service.

Sec. 12. NEW SECTION. 476.30F LOCAL EXCHANGE COMPETITION.

1. A certificate of public convenience and necessity to provide local telephone service shall not be interpreted as conveying a monopoly, exclusive privilege, or franchise. A competitive local exchange service provider shall not be subject to the requirements of this chapter, except that a competitive local exchange service provider shall obtain a certificate of public convenience and necessity pursuant to section 476.29, file tariffs, notify affected customers prior to any rate increase, file reports, information, and pay assessments pursuant to section 476.2, subsection 4, and sections 476.9, 476.10, 476.16, 476.30G, and 477C.7, and shall be subject to the board's authority with respect to adequacy of service, interconnection, discontinuation of service, civil penalties, and complaints. If, after notice and opportunity for hearing, the board determines that a competitive local exchange service provider possesses market power in its local exchange market or markets, the board may apply such other provisions of chapter 476 to a competitive local exchange service provider as it deems appropriate.

2. The duty of a local exchange carrier includes the duty, in accordance with requirements prescribed by the board pursuant to subsection 3 and other laws, to provide equal access to, and interconnection with, its facilities so that its network is fully interoperable with the telecommunications services and information services of other providers, and to offer unbundled essential facilities.

3. A local exchange carrier shall provide reasonable access to ducts, conduits, rights-of-way, and other pathways owned or controlled by the local exchange carrier to which reasonable access is necessary to a competitive local exchange service provider in order for a competitive local exchange service provider to provide service and is feasible for the local exchange carrier.

Upon application of a local exchange carrier or a competitive local exchange service provider, the board shall determine any matters concerning reasonable access to ducts, conduits, rights-of-way, and other pathways owned or controlled by the local exchange carrier upon which agreement cannot be reached, including but not limited to, matters regarding valuation, space, and capacity restraints, and compensation for access.

4. a. Prior to September 1, 1995, the board shall initiate a rule-making proceeding to adopt rules that satisfy the requirements enumerated in subparagraphs (1) through (4). The rule-making proceeding shall be completed as promptly as possible. The board, upon petition or on its own motion, may conduct a separate evidentiary hearing on the same or related subjects. The evidence from a hearing may be considered by the board during the rule-making proceeding, provided that the board announces its intention to do so prior to the oral presentation in the rule-making proceeding. The rules shall do the following:

(1) Require a local exchange carrier to provide unbundled essential facilities of its network, and allow reasonable and nondiscriminatory equal access to, use of, and

interconnection with, those unbundled essential facilities on reasonable, cost-based, and tariffed terms and conditions. The board's rules must require a local exchange carrier, including those operating under a plan of price regulation, to file tariffs implementing the unbundled essential facilities within ninety days of the board's final order adopting such rules, except for local exchange carriers with less than seventy-five thousand access lines which must file such tariffs within two years of the effective date of this Act. Such access, use, and interconnection shall be on terms and conditions no less favorable than those the local exchange carrier provides to itself and its affiliates for the provision of local exchange, access, and toll services. This subsection shall not be construed to establish a presumption as to the level of interconnection charges, if any, to be determined by the board pursuant to subparagraph (2).

(2) Establish reciprocal cost-based compensation for termination of telecommunications services between local exchange carriers and competitive local exchange service providers.

(3) Require local exchange carriers to make interim number portability available on request of a competitive local exchange service provider, and to implement provider number portability as soon as the availability of necessary technology makes provider number portability economically and technically feasible, as determined by the board. The rules shall also devise a reasonable and nondiscriminatory mechanism for the recovery of all recurring and nonrecurring costs of interim and provider number portability.

(4) Develop the cost methodology appropriate for a competitive telecommunications environment.

b. The rules adopted in paragraph "a", subparagraphs (2) and (3), do not apply to local exchange carriers with less than seventy-five thousand access lines until a competitive local exchange service provider has filed for a certificate to provide basic communications services in an exchange or exchanges of the local exchange carrier, or the board determines that competitive necessity requires the implementation of the rules in paragraph "a", subparagraphs (2) and (3), by the local exchange carrier.

5. Local exchange carriers shall file tariffs or price lists in accordance with board rules with respect to the services, features, functions, and capabilities offered to comply with board rules on unbundling of essential facilities and interconnection. Local exchange carriers shall submit with the tariffs or price lists for basic communications services and toll services supporting information that is sufficient for the board to determine the relationship between the proposed charges and the costs of providing such services, features, functions, or capabilities, including the imputed cost of intrastate access service rates in toll service rates pursuant to existing board orders. The board shall review the tariffs or price lists to ensure that the charges are cost-based and that the terms and conditions contained in the tariffs or price lists unbundle any essential facilities in accordance with the board's rules and any other applicable laws.

6. This section shall not be construed to prohibit the board from enforcing rules or orders entered in contested cases pending on the effective date of this Act to the extent that such rules and orders are consistent with the provisions of this section.

7. Except as provided under section 476.29, subsection 2, and this section, the board shall not impose or allow a local exchange carrier to impose restrictions on the resale of local exchange services, functions, or capabilities. The board may prohibit residential service from being resold as a different class of service.

8. Any person may file a written complaint with the board requesting the board to determine compliance by a local exchange carrier with the provisions of sections 476.30A through 476.30E, 476.30G, and this section, or any board rules implementing those sections. Upon the filing of such complaint, the board may promptly initiate a formal complaint proceeding and give notice of the proceeding and the opportunity for hearing. The formal complaint proceeding may be initiated at any time by the board on its own motion. The board shall render a decision in the proceeding within ninety days after the date the written complaint was filed.

Sec. 13. NEW SECTION. 476.30G UNIVERSAL SERVICE.

1. The board shall initiate a proceeding to preserve universal service such that it shall be maintained in a competitively neutral fashion. As a part of this proceeding, the board shall determine the difference between the cost of providing universal service and the prices determined to be appropriate for such service.

2. The board shall base policies for the preservation of universal service on the following principles:

a. A plan adopted by the board should ensure the continued viability of universal service by maintaining quality services at just and reasonable rates.

b. The plan should define the nature and extent of the service encompassed within any entities' universal service obligations.

c. The plan should establish specific and predictable mechanisms to provide competitively neutral support for universal service. Those mechanisms shall include a nondiscriminatory mechanism by which funds to support universal service shall be collected, and a mechanism for disbursement of support funds to eligible subscribers, either directly to those subscribers, or to the subscriber's provider of local exchange services chosen by the subscriber.

d. The plan should be based on other principles as the board determines are necessary and appropriate for the protection of the public interest, convenience, and necessity and consistent with the purposes of sections 476.30 through 476.30F and this section.

Sec. 14. REPORT. The utilities board shall submit a report to the general assembly no later than January 15, 1999, concerning the implementation of price regulation for local exchange carriers furnishing communications services.

Approved May 31, 1995

CHAPTER 200

REAL ESTATE IMPROVEMENT DISTRICT PILOT PROJECT AND RELATED MATTERS

H.F. 577

AN ACT relating to the establishment of a pilot program for the creation of real estate improvement districts, authorizing the issuance of general obligation bonds and revenue bonds, the imposition of ad valorem property taxes, special assessments and fees, and other related matters.

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

Section 1. NEW SECTION. 358C.1 LEGISLATIVE FINDINGS – PURPOSE.

The general assembly finds and declares as follows:

1. The economic health and development of Iowa communities is tied to opportunities for jobs in and near those communities and the availability of jobs is in part tied to the availability of affordable, decent housing in those communities.

2. A need exists for a program to assist developers and communities in increasing the availability of housing in Iowa communities.

3. A shortage of opportunities and means for developing local housing exists. It is in the best interest of the state and its citizens for infrastructure development which will lower the costs of developing housing.

4. The expansion of local housing is dependent upon the cost of providing the basic infrastructure necessary for a housing development. Providing this infrastructure is a public

purpose for which the state may encourage the formation of real estate improvement districts for the purpose of providing water, sewer, roads, and other infrastructure.

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

1. "Board" means the board of trustees of a real estate improvement district.

2. "Construction" includes materials, labor, acts, operations, and services necessary to complete a public improvement.

3. "Cost" of a public improvement includes the cost of engineering, preliminary reports, property valuations, estimates, plans, specifications, notices, legal services, acquisition of land, consequential damages, easements, rights-of-way, construction, repair, supervision, inspection, testing, notices and publication, interest during construction and for not more than six months thereafter, and printing and sale of bonds.

4. "District" means a real estate improvement district as created in this chapter, in a county designated as a pilot county under section 358C.2.

5. "Public improvement" includes the principal structures, works, component parts, and accessories of the facilities or systems specified in section 358C.4.

6. "Repair" includes materials, labor, acts, operations, and services necessary for the reconstruction, reconstruction by widening, or resurfacing of a public improvement.

Sec. 2. NEW SECTION. 358C.2 PILOT PROGRAM ESTABLISHED.

1. The establishment of real estate improvement districts under this chapter shall be limited to six pilot counties, which shall be determined by the director of the Iowa finance authority so as to add to the diversity of the pilot program. A real estate improvement district shall not be established in a pilot county after two years from the effective date of this Act.

Sec. 3. NEW SECTION. 358C.3 REAL ESTATE IMPROVEMENT DISTRICT CREATED.

1. A majority of the owners having an interest in the real property within the limits of a proposed district may file a petition in the office of county auditor of the county in which the proposed district or major part of the proposed district is located, requesting that the question be submitted to the registered voters of the proposed district of whether the territory within the boundaries of the proposed district shall be organized as a real estate improvement district as provided in this chapter.

2. All of the owners having an interest in the real property within the limits of a proposed district may file a petition in the office of county auditor of the county in which the proposed district or a major part of the proposed district is located, requesting that the proposed district be organized as a real estate improvement district as provided in this chapter.

3. Only areas of contiguous territory may be incorporated within a district. The petition shall be addressed to the board of supervisors if all or part of the proposed district includes territory located outside the boundaries of a city, shall be submitted to the board of supervisors before it is filed with the county auditor, and shall set forth the following information:

a. The name of the district.

b. The district shall have perpetual existence.

c. The boundaries of the district.

d. The names and addresses of the owners of land in the proposed district.

e. The description of the tracts of land situated in the proposed district owned by those persons who may organize the district.

f. The names and descriptions of the real estate owned by the persons who do not join in the organization of the district, but who will be benefited by the district.

g. A listing of one or more of the district improvements specified in section 358C.4 which will be carried out by the district.

h. The owners of real estate in the proposed district that are unknown may also be set out in the petition as being unknown.

i. That the establishment of the proposed district will be conducive to the public health, comfort, convenience, and welfare.

4. The petition shall also state that the owners of real estate who are forming the proposed district are willing to pay the taxes which may be levied against all of the property in the proposed district and special assessments against the real property benefited which may be assessed against them to pay the costs necessary to carry out the purposes of the district.

5. The petition shall also state that the owners of real estate who are forming the proposed district waive any objections to a subsequent annexation by a city.

6. The petition shall propose the names of three or more trustees who shall be owners of real estate in the proposed district or the designees of owners of property in the proposed district, to serve as a board of trustees until their successors are elected and qualified if the district is organized. The board of trustees shall only carry out those purposes which are authorized in this chapter and listed in the petition.

7. If the petition requests that the district be organized without an election, the petition shall contain the signatures of all known owners of property within the proposed district.

8. The petition shall be submitted to and approved by the city council before it is filed with the county auditor as provided in subsection 1. If a petition includes a proposed district located solely within the boundaries of a city, the petition is not subject to action by the board of supervisors except for the purpose of selecting the initial trustees and setting the election date to finally organize the district or the date to organize the district if no election is required.

9. A proposed district shall be created only from parcels of land within the boundaries of a city, on parcels of land, all or the major part of which is within two miles of the boundaries of a city, or on parcels of land from both locations.

Sec. 4. NEW SECTION. 358C.4 PUBLIC IMPROVEMENTS AUTHORIZED.

1. A district may acquire, construct, reconstruct, install, maintain, and repair any of the public improvements listed in subsection 2.

2. A public improvement includes the principal structures, works, component parts, and accessories of any of the following:

a. Underground gas, water, heating, sewer, telecommunications, and electrical connections located in streets for private property.

b. Sanitary, storm, and combined sewers.

c. Waterworks, water mains, and extensions.

d. Emergency warning systems.

e. Pedestrian underpasses or overpasses.

f. Drainage conduits, dikes, and levees for flood protection.

g. Public waterways, docks, and wharfs.

h. Public parks, playgrounds, and recreational facilities.

i. Street grading, paving, graveling, macadamizing, curbing, guttering, and surfacing with oil and gravel or chloride.

j. Street lighting fixtures, connections, and facilities.

k. Sewage pumping stations.

l. Traffic control devices, fixtures, connections, and facilities.

m. Public roads, streets, and alleys.

Sec. 5. NEW SECTION. 358C.5 DATE AND NOTICE OF HEARING.

1. The board of supervisors to which the petition is addressed, at its next meeting, shall set the time and place for a hearing on the petition. The board shall direct the county auditor in whose office the petition is filed to cause notice to be given to all persons whom it may concern, without naming them, of the pendency and content of the petition, by publication of a notice as provided in section 331.305. Proof of giving the notice shall be made by affidavit of the publisher and the proof shall be on file with the county auditor at the time the hearing begins. The notice of hearing shall be directed to all persons it may concern, and shall state:

a. That a petition has been filed with the county auditor of the county, naming it, for establishment of a proposed district, and the name of the proposed district.

b. An intelligible description of the boundaries of the territory to be embraced in the district.

c. The date, hour, and the place where the petition will be brought for hearing before the board of supervisors of the named county.

d. That the board of supervisors will fix and determine the boundaries of the proposed district as described in the petition or otherwise, and for that purpose may alter and amend the petition. At the hearing all interested persons shall have an opportunity to be heard on the location and boundaries of the proposed district and to make suggestions regarding the location and boundaries.

e. That, in the case of a petition under section 358C.3, subsection 2, a property owner who was not known and who did not sign the petition and who does not object to the proposed district in writing prior to the hearing or in person at the hearing shall waive all objections to the organization of the proposed district.

2. For a district which does not include land within a city, copy of the notice shall also be sent by mail to each owner, without naming them, of each tract of land or lot within the proposed district as shown by the transfer books of the auditor's office. The mailings shall be to the last known mailing address unless there is on file an affidavit of the auditor or of a person designated by the board to make the necessary investigation, stating that a mailing address is not known and that diligent inquiry has been made to ascertain it. The copy of notice shall be mailed no less than twenty days before the day set for hearing and proof of service shall be by affidavit of the auditor. The proofs of service required by this subsection shall be on file at the time the hearing begins.

3. In lieu of the mailing to the last known address a person owning land affected by a proposed district may file with the county auditor an instrument in writing designating the address for the mailing. This designation when filed is effective for five years and applies to all proceedings under this chapter. The person making the designation may change the address in the same manner as the original designation is made.

4. In lieu of publication, personal service of the notice may be made upon an owner of land in the proposed district in the manner and for the time required for service of original notices in the district court. Proof of the service shall be on file with the auditor on the date of the hearing.

Sec. 6. NEW SECTION. 358C.6 HEARING OF PETITION AND ORDER.

The board of supervisors to whom the petition is addressed shall preside at the hearing provided for in section 358C.5 and shall continue the hearing in session, with adjournments from day to day, if necessary, until completed, without being required to give any further notice of the hearing. Proof of the residences and qualifications of the petitioners as registered voters shall be made by affidavit or otherwise as the board may direct. The board may consider the boundaries of a proposed district, whether the boundaries are described in the petition or otherwise, and for that purpose may alter and amend the petition and limit or change the boundaries of the proposed district as stated in the petition. The board shall adjust the boundaries of a proposed district as needed to exclude land that has no reasonable likelihood of benefit from inclusion in the proposed district. The boundaries of a proposed district shall not be changed to incorporate property not included in the original petition and published notice until the owner of the property is given notice of inclusion as on the original hearing. All persons in the proposed district shall have an opportunity to be heard regarding the location and boundaries of the proposed district and to make suggestions regarding the location and boundaries, and the board of supervisors, after hearing the statements, evidence, and suggestions made and offered at the hearing, shall approve or reject the petition. If the petition is approved, the board shall enter an order fixing and determining the limits and boundaries of the proposed district and whether or not all present and future property owners within the district

have waived any objections to the annexation by a city if the district has issued obligations or bonds for public improvement and the city assumes those obligations, and, if the petition was requested under section 358C.3, subsection 1, directing that an election be held for the purpose of submitting to the registered voters owning land within the boundaries of the proposed district the question of organization and establishment of the proposed district as determined by the board of supervisors. The order shall fix a date for the election not more than sixty days after the date of the order. If the petition was requested under section 358C.3, subsection 2, the order shall fix a date for the organization of the district.

Sec. 7. NEW SECTION. 358C.7 NOTICE OF ELECTION.

In its order for the election the board of supervisors shall direct the county commissioner of elections of the county in which the petition is filed to cause notice of the election to be given at least thirty days before the date of election by publication of the notice as provided in section 331.305. The notice shall state the time and place of holding the election and the hours when the polls will open and close, the purpose of the election, with the name of the proposed district and a description of the boundaries of the proposed district, and shall set forth briefly the limits of each voting precinct and the location of the polling places. Proof of publication shall be made in the manner provided in section 358C.5 and filed with the county auditor.

Sec. 8. NEW SECTION. 358C.8 ELECTION.

1. Each registered voter resident within the proposed district shall have the right to cast a ballot at the election and a person shall not vote in any precinct but that of the person's residence. Ballots at the election shall be in substantially the following form, to wit:

For Real Estate Improvement District

Against Real Estate Improvement District

2. The board of supervisors shall cause a statement of the result of the election to be included in the records of the county auditor. If a majority of the votes cast upon the question of incorporation of the proposed district shall be in favor of the proposed district, the proposed district shall be deemed an organized real estate improvement district under this chapter and established as conducive to the public health, comfort, convenience, and welfare.

3. In the event the petition and order provide that any present or future owner of property within the district waives objection to annexation if the district has issued obligations or bonds for a public improvement and the annexing city assumes those obligations, the board of supervisors shall file a certified declaration of that provision and a legal description of all real estate in the district with the county recorder in each county in which the district is located.

Sec. 9. NEW SECTION. 358C.9 EXPENSES AND COSTS OF ELECTION.

The election held pursuant to this chapter shall be conducted by the county commissioner of elections. All expenses incurred in carrying out the preceding sections of this chapter, and the costs of the election, as determined by the county commissioner of elections, shall be paid by those who will be benefited by the proposed district. If the district is not established, the expenses and costs shall be collected upon the bonds of the petitioners.

Sec. 10. NEW SECTION. 358C.10 SELECTION OF TRUSTEES – TERM OF OFFICE.

1. The board of supervisors or city council which had jurisdiction of the proceedings for establishment of the district, together with the board of supervisors of any other county in which any part of the district is located, shall appoint three trustees from among those persons listed in the petition. The trustees shall serve an initial two-year term.

2. Vacancies in the office of trustee of a district shall be filled by the remaining members of the board for the period until a successor is chosen in the manner prescribed by this section or by section 69.12, whichever is applicable.

3. Successors to trustees shall be elected at a special meeting of the board of trustees called for that purpose. Upon its own motion, the board of trustees may, or upon petition of landowners owning more than fifty percent of the total land in the district, shall, call a special meeting of the residents of the district to elect successors to trustees of the board. Notice of the meeting shall be given at least ten days before the date of the meeting by publication of the notice in a newspaper of general circulation in the district. The notice shall state the date, times, and location of the meeting and that the meeting is called for the purpose of electing one or more trustees to the board.

Sec. 11. NEW SECTION. 358C.11 TRUSTEE'S BOND.

Each trustee, before entering upon the duties of office, shall execute a bond payable to the district, with security to be approved by the board of supervisors which had jurisdiction of the petition for establishment of the district, in such form and amount as the board of supervisors may determine, which bond shall be filed with the county auditor of the county.

Sec. 12. NEW SECTION. 358C.12 REAL ESTATE IMPROVEMENT DISTRICT TO BE A BODY CORPORATE - EMINENT DOMAIN.

1. Each district organized under this chapter shall be a body corporate and politic, with the name and style under which it was organized, and by that name and style may sue and be sued, contract and be contracted with, acquire and hold real and personal property necessary for corporate purposes, adopt a corporate seal and alter the same at pleasure, and exercise all the powers conferred in this chapter.

2. All courts of this state shall take judicial notice of the existence of real estate improvement districts organized under this chapter.

3. A district shall not own or hold land in excess of ten acres unless the land is actually used for a public purpose within three years of its acquisition. A district which owns or holds land in excess of ten acres for more than three years without devoting it to a public purpose as provided in this chapter shall divest itself of the land by public auction to the highest bidder.

4. A district may acquire by purchase, condemnation, or gift, real or personal property, right-of-way, and easement within or without its corporate limits necessary for its corporate purposes specified in section 358C.4.

5. If the board of trustees of the district decide to make a public improvement pursuant to this chapter which requires that private property be taken or damaged, the board may exercise the power of eminent domain. The procedure to condemn property shall be exercised in the manner provided in chapter 6B.

6. A district shall comply with all city building and use codes for owner-occupied residential housing and shall comply with all city design and construction standards for the public improvements authorized in section 358C.4.

7. A district shall not incorporate as a city if all or the major part of the district is within two miles of the boundaries of a city at the time the district is approved.

8. The provisions of chapters 21 and 22 applicable to cities, counties, and school districts apply to the district. The records of the district are subject to audit pursuant to section 11.6.

Sec. 13. NEW SECTION. 358C.13 BOARD OF TRUSTEES - POWERS - PROHIBITED ACTIONS.

1. The board of trustees is the corporate authority of the district and shall manage and control the affairs and property of the district. A majority of the board of trustees shall constitute a quorum, but a smaller number may adjourn from day to day. The board of trustees shall elect a president, a clerk, and a treasurer from its membership.

2. The board of trustees may adopt the necessary ordinances, resolutions, and regulations for the proper management and conduct of the business of the board of trustees and the corporation and for carrying out the purposes for which the district is formed, including for the negotiation of short-term loans and the issuance of warrants.

3. If the board of trustees wishes to expand its authority to carry out public improvements in addition to the public improvements listed in the board's original petition as provided in section 358C.4, the board shall submit a petition to the board of supervisors specifying the additional public improvements to be included within the authority of the district and requesting that the board of supervisors order an election as provided in section 358C.7 to approve or disapprove the amendment. If the petition includes public improvements as specified in section 358C.4, the board of supervisors shall order the election to be conducted as otherwise provided in this chapter. If the amendment is approved, the original petition is amended to include the additional public improvements.

4. The board of trustees of a district shall not purchase and resell electric service or establish and operate a gasworks or electric light and power plant and system.

5. The board of trustees shall not require or grant a franchise under section 364.2, to any person pursuant to subsection 4.

Sec. 14. NEW SECTION. 358C.14 TAXES - POWER TO LEVY - TAX SALES.

1. The board of trustees of a real estate improvement district shall have the power by ordinance to levy annually for the purpose of paying the administrative costs of the district, or for the payment of deficiencies in special assessments, or for both, a tax upon property within the territorial limits of the district not exceeding fifty-four cents per thousand dollars of the adjusted taxable valuation of the property within the district for the preceding fiscal year.

2. All taxes thus levied by the board shall be certified by the clerk on or before March 1 to the county auditor of each county in which any of the property included within the territorial limits of the district is located, and shall be placed upon the tax list for the current fiscal year by the auditor. The county treasurer of more than one county shall collect all taxes so levied in the same manner as other taxes, and when delinquent the taxes shall draw the same interest. All taxes levied and collected shall be paid over by the officer collecting the taxes to the treasurer of the district.

3. Sales for delinquent taxes owing to the district shall be made at the same time and in the same manner as the sales are made for other taxes, and all provisions of the law of this state relating to the sale of property for delinquent taxes shall be applicable, so far as may be, to the sales.

Sec. 15. NEW SECTION. 358C.15 RENTALS AND CHARGES.

1. A board of trustees may by ordinance establish equitable rates, charges, or rentals for the utilities and services furnished by the district to be paid to the district by every person, firm, or corporation whose premises are served by a connection to the utilities and services directly or indirectly. The rates, charges, or rentals, as near as may be in the judgment of the board of trustees, shall be equitable and in proportion to the services rendered and the cost of the services, and taking into consideration in the case of the premises the quantity of sewage or water produced or used and the concentration, strength, and pollution qualities of the sewage. The board of trustees may change the rates, charges, or rentals as it may deem advisable, and by ordinance may provide for collection. The board may contract with any municipality within the district, whereby the municipality may collect or assist in collecting any of the rates, charges, or rentals, whether in conjunction with water rentals or otherwise, and the municipality may undertake the collection and render the service. The rates, charges, or rentals, if not paid when due, shall constitute a lien upon the real property served by a connection. The lien shall have 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.

2. Sewer rentals, charges, or rates may supplant or replace, in whole or in part, any monetary levy of taxes which may be, or have been, authorized by the board of trustees for any of the following purposes:

a. To meet interest and principal payments on bonds legally authorized for the financing of sanitary utilities in any manner.

b. To pay costs of the construction, maintenance, or repair of the facilities or utilities, including payments to be made under any contract between municipalities for either the joint use of water or sewage facilities, or for the use by one municipality of all or a part of the water or sewer system of another municipality.

Sec. 16. NEW SECTION. 358C.16 DEBT LIMIT - BORROWING - BONDS - PURPOSES.

1. A district may borrow money for its corporate purposes, but shall not become indebted in any manner or for any purpose to an amount in the aggregate exceeding its constitutional debt limit of five percent on the value of the taxable property within the district, to be ascertained by the last state and county tax lists previous to the incurring of the indebtedness. Indebtedness within this constitutional limit shall not include the indebtedness of any other municipal corporation located wholly or partly within the boundaries of the district, special assessment bonds or obligations authorized under section 358C.17.

2. Subject only to this debt limitation, a district shall have the same powers to issue bonds, including both general obligation and revenue bonds, including the power to enter into short-term loans and issue warrants, which cities have under the laws of this state. In the application of the laws to this chapter, the words used in the laws referring to municipal corporations or to cities shall be held to include real estate improvement districts organized under this chapter; the words "council" or "city council" shall be held to include the board of trustees of a district; the words "mayor" and "clerk" shall be held to include the president and clerk of a board of trustees; and like construction shall be given to any other words in the laws where required to permit the exercise of the powers by real estate improvement districts.

3. All bonds issued shall be signed by the president of the board of trustees and attested by the clerk, with the seal of the district, if any, affixed, and interest coupons attached to the bonds shall be attested by the signature of the clerk.

4. The proceeds of any bond issue made under this section shall be used only for the public improvements specified in section 358C.4. Proceeds from the bond issue may also be used for the payment of special assessment deficiencies. The bonds shall be payable in not more than forty annual installments and with interest at a rate not exceeding that permitted by chapter 74A, and shall be made payable at the place and be of the form as the board of trustees shall by resolution designate. A district issuing bonds as authorized in this section is granted authority to pledge the future avails of a tax levy to the payment of the principal and interest of the bonds after the same come due, and the power to impose and certify the levy is granted to the trustees of real estate improvement districts organized under this chapter.

Sec. 17. NEW SECTION. 358C.17 SPECIAL ASSESSMENTS.

1. The board of trustees of a real estate improvement district may provide for payment of all or any portion of the costs of a public improvement specified in section 358C.4, by assessing all, or any portion of the costs, on adjacent property according to the benefits derived. For the purposes of this chapter, the board of trustees may define "adjacent property" as all that included within a designated benefited district to be fixed by the board, which may be all of the property located within the real estate improvement district or any lesser portion of that property. It is not a valid objection to a special assessment that the improvement for which the assessment is levied is outside the limits of the district, but a special assessment shall not be made upon property situated outside of the district. Special assessments pursuant to this section shall be in proportion to the special benefits conferred upon the property, and not in excess of the benefits. The value of a property is the present fair market value of the property with the proposed public improvements completed. Payment of installments of a special assessment against property shall be made in the same manner and under the same procedures as provided in chapter 384 for special

assessments by cities. Notwithstanding the provisions of section 384.62, the combined assessments against any lot for public improvements included in the petition creating the housing development district or as authorized in section 358C.4, shall not exceed the valuation of that lot as established by section 384.46.

2. The assessments may be made to extend over a period not to exceed fifteen years, payable in as nearly equal annual installments as practicable. A majority vote of the board of trustees is requisite and sufficient for any action required by the board of trustees under this section.

3. Subject to the limitations otherwise stated in this section, a district organized under this chapter has all of the powers to specially assess the costs of improvements described in this section, including the power to issue special assessment bonds, warrants, project notes, or other forms of interim financing obligations, which cities have under the laws of this state.

Sec. 18. NEW SECTION. 358C.18 ADDITIONAL TERRITORY.

1. The district may be enlarged and additional territory annexed to the district by either of the following methods:

a. By petitions signed by the owners of all the property to be annexed to the district. If a petition requesting annexation is presented to the trustees and approved by the trustees the change in the boundaries to include the additional area shall be certified by the clerk of the district to the county auditor in which the greater portion of the district is located and thereafter the district shall include the area thus annexed.

b. By a petition filed with the clerk of the district, signed by persons owning not less than fifty percent of the area to be annexed, but not signed by persons owning all the area requested to be annexed. On the filing of the petition, the trustees of the district shall fix a time and place for a hearing on the petition and give notice of the hearing, as provided in section 331.305, and by certified mail to the record owners of all persons owning land within the territory sought to be annexed, not less than ten days prior to the date of the hearing, if the address of the owners is known or can be ascertained by reasonable diligence by the trustees. At the hearing, any person owning property within the area proposed to be annexed or any person owning property or residing within the district may appear and be heard. If, after the hearing, the board of trustees determines that annexation of the additional area will be conducive to the public health, convenience, and welfare and will not be an undue burden on the district, the board of trustees may, by resolution, annex the additional area and fix the boundary which shall not include more than the area requested in the petition. A copy of the resolution shall be filed with the county auditor of the county in which the largest portion of the district is located and thereafter the area included by the resolution shall be a part of the district.

2. All property, from and after it is annexed to the district, shall be subject to all taxes and other burdens levied by the district, regardless of when the obligation for which the taxes or assessments are levied was incurred.

Sec. 19. NEW SECTION. 358C.19 ANNEXATION BY A CITY.

When a city or real estate improvement district proposes that the district be annexed by the city, either wholly or partially, an owner of property in the district shall not object to the annexation if a city annexes all the territory within the boundaries of a real estate improvement district, the district shall merge with the city and the city shall succeed to all the property and property rights of every kind, contracts, and obligations, held by or belonging to the district, and the city shall be liable for and recognize, assume, and carry out all valid contracts and obligations of the district. The city may assume and provide for the payment of the obligations of any bonds of the district by issuing general obligation, special assessment, or revenue refunding bonds which may be sold at public or private sale or exchanged for outstanding bonds. General obligation bonds of the city may be issued to refund special assessment and revenue obligations if the governing body of the city

determines that it is in the best interest of the city. The refunding of these obligations shall constitute an essential corporate purpose under section 384.24. All taxes, assessments, claims, and demands of every kind due or owing to the district shall be paid to and collected by the city. Any special assessments which the district was authorized to levy, assess, relevy, or reassess, but which were not levied, assessed, relevied, or reassessed, at the time of the merger, for improvements made by the district or in the process of construction or contracted for may be levied, assessed, relevied, or reassessed by the annexing city to the same extent as the district may have levied or assessed but for the merger. However, this section does not authorize the annexing city to revoke any resolution, order, or finding made by the district in regard to special benefits or increase any assessments made by the district, but the city shall be bound by all findings or orders and assessments to the same extent as the district would be bound. Also, a district shall not levy any special assessments after the effective date of the annexation.

Sec. 20. NEW SECTION. 358C.20 EFFECTIVE DATE OF MERGER.

The merger shall be effective thirty days after the effective date of the ordinance annexing the territory within the district. However, if the validity of the ordinance annexing the territory is challenged by a court proceeding, the effective date of the merger shall be thirty days after the final determination of the validity of the ordinance. The trustees of a district shall continue in possession and conduct the affairs of the district until the effective date of the merger, but shall not during the period levy any special assessments after the effective date of annexation.

Sec. 21. NEW SECTION. 358C.21 DISSOLUTION OF DISTRICT.

When a majority of the board of trustees of a district desire that the district be wholly dissolved, the trustees shall first propose a resolution declaring the advisability of the dissolution and setting out the terms and conditions of the dissolution, and also setting out the time and place when the board of trustees shall meet to consider the adoption of the resolution. Notice of the time and place when the resolution shall be set for consideration shall be published as provided in section 331.305, which publication shall contain the entire wording of the proposed resolution. If any part of the district lies within the area of the jurisdiction of a city, then the trustees shall mail a copy of the proposed resolution to the city on the date of first publication of the resolution. At the hearing the owners of property within the district, or a city if any part of the district lies within the city, may appear and make objections to the proposed resolution. If the owners representing a majority of the area of real estate within the district fail to sign and present to the board, on or prior to the hearing date, a written petition opposing the resolution, a majority of the board of trustees may pass the resolution and adopt the proposed dissolution. However, the resolution shall not be adopted if the district is obligated on any outstanding bonds, warrants, or other debts or obligations unless the holders of the bonds, warrants, or other debts or obligations all sign written consents to the dissolution prior to the adoption of the resolution of dissolution. If the petition opposing the resolution is signed by property owners representing a majority of the area of real estate within the district and presented to the board of trustees on or prior to the hearing date, the board of trustees shall not adopt the resolution. After the board of trustees has adopted the resolution of dissolution, the clerk of the district shall prepare and file a certified copy of the resolution of dissolution in the office of the county auditor where the original petition was filed. A district shall dissolve within ninety days following the merger of a district with a city.

Sec. 22. NEW SECTION. 358C.22 DETACHMENT OF LAND.

1. When a majority of the board of trustees of a district desires that any property within the district be detached from the district, the trustees shall first propose a resolution declaring the advisability of the detachment and setting out the terms and conditions of the detachment and also setting out the time and place when the board of trustees will meet to consider the adoption of the resolution. Notice of the time and place when the resolution is

set for consideration shall be published as provided in section 331.305, which publication shall contain the entire wording of the proposed resolution. If any part of the district lies within a city, then the trustees shall mail a copy of the proposed resolution to the city on the date of first publication of the resolution. At the hearing the owners of property within the district, or any city, may appear and make objections to the proposed resolution. If the owners representing a majority of the area of real estate within the district fail to sign and present to the board of trustees, on or prior to the hearing date, a written petition opposing the resolution, a majority of the board of trustees may pass the resolution and adopt the proposed detachment, except that the resolution shall not be adopted if the district is indebted on any outstanding bonds or warrants of the district unless the holders of the bonds and warrants all sign written consents to the detachment prior to the adoption of the resolution of detachment. If the petition opposing the resolution is signed by property owners representing a majority of the area of real estate within the district and presented to the board of trustees on or prior to the hearing date, the board of trustees shall not adopt the resolution. After the board of trustees has adopted the resolution of detachment, the clerk of the district shall prepare and file a certified copy of the resolution of detachment in the office of the county auditor where the original petition was filed, and the area detached shall become excluded and detached from the boundaries of the district.

2. The owner of a discrete tract of land which is part of a district but which is not connected to the main area of the district may petition the board of trustees of the district to have the property detached from the district. Following receipt of the petition, the board of trustees shall propose a resolution declaring the advisability of the detachment and setting out the terms and conditions of the detachment and setting out the time and place when the board of trustees will meet to consider the adoption of the resolution. Notice of the time and place for the consideration shall be published as provided in subsection 1. If any part of the district lies in whole or in part within a city, the board of trustees shall mail a copy of the proposed resolution to the municipality within five days after the date of first publication of the resolution. At the hearing for consideration of the resolution, the board of trustees shall determine if the tract of land proposed for detachment has all of the following characteristics:

a. Has an area of twenty-five acres or more.

b. Is undeveloped and predominantly devoted to agricultural uses.

c. Has no improvements or obligations placed upon it by the district and receives no current services from the district.

3. If the board of trustees by majority vote determines that the tract in question meets all of the conditions provided in subsection 2, paragraphs "a" through "c", the resolution shall be adopted, except that the resolution shall not be adopted if the district is indebted on any outstanding bonds or warrants of the district unless the holders of the bonds and warrants all sign written consents to the detachment. After the board of trustees has adopted the resolution of detachment, the clerk of the district shall prepare and file a certified copy of the resolution of detachment in the office of the county auditor where the original petition was filed and the area detached shall become excluded and detached from the boundaries of the district.

Sec. 23. NEW SECTION. 358C.23 CHAPTER LIBERALLY CONSTRUED.

The provisions of this chapter shall be liberally construed to facilitate the development of land for housing.

Sec. 24. HOUSING SUMMIT. The Iowa league of cities and the Iowa state association of counties are requested to convene a housing summit to examine housing development in Iowa. It is requested that the summit examine the use of tax increment financing, the desirability of establishing a local housing development bond program in the Iowa finance authority, the effect of recissions of federal funds on Iowa's ability to increase its stock of housing, and existing programs which have been successful in promoting the

expansion of housing in Iowa. It is requested that participants in the summit include the Iowa chapter of the American planning association, home developers and builders, economic development experts, and others with experience in housing development or financing. A report containing the recommendations of the summit is requested to be provided to the studies committee of the legislative council not later than September 1, 1995.

Sec. 25. LEGISLATIVE STUDY. The legislative council is requested to establish a study committee to receive the report and recommendations of the housing summit requested to be convened under this Act and to determine whether changes should be made to Iowa's laws regarding housing development. The committee shall present its recommendations, if any, to the legislative council not later than November 15, 1995. Membership on the committee is requested to be the following:

1. Eight members from the senate and house of representatives, two members appointed by the majority leader of the senate, two members appointed by the minority leader of the senate, two 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 private members appointed by the legislative council as follows:

a. The director of the department of economic development and the director of the Iowa finance authority, or their designees.
b. A representative of the Iowa league of cities.
c. A representative of the Iowa state association of counties.
d. A representative of an organization representing home builders.
e. A person with experience in municipal bonding and knowledgeable about the legal requirements for issuing bonds.
f. A person representing an organization which advocates for low and moderate income persons regarding housing.
g. A person with experience in financing the development and purchase of housing.
h. A representative of the Iowa association of regional councils.
i. A representative of an organization representing real estate brokers.

Approved May 31, 1995

CHAPTER 201

RESTRICTIONS ON COMMUNITY COLLEGE PROJECTS INVOLVING CONFINEMENT FEEDING OPERATIONS

H.F. 583

AN ACT relating to industrial new job training projects by eliminating a provision relating to confinement feeding operations and providing an effective date.

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

Section 1. Section 260E.3, subsection 6, as enacted by 1995 Iowa Acts, House File 519,** is amended by striking the subsection.

Sec. 2. APPROPRIATION TO MERGED AREAS - CONTINGENCY. Notwithstanding any Act enacted in 1995 during the Seventy-sixth General Assembly, all unobligated or unencumbered moneys from appropriations made pursuant to any Act enacted in 1995 by the Seventy-sixth General Assembly to a merged area shall be reduced by 100 percent, if the merged area enters into an agreement under chapter 260E or 260F, for a project which

*The word "ten" probably intended
**Chapter 195 herein

includes program services for employees of a confinement feeding operation as defined in section 455B.161.

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

Approved June 1, 1995

CHAPTER 202

SUPPLEMENTAL APPROPRIATIONS, FUNDING OF MENTAL RETARDATION SERVICES, AND RELATED MATTERS

H.F. 132

AN ACT relating to and making appropriations for the fiscal years beginning July 1, 1994, and July 1, 1995, and providing an effective date.

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

Section 1.* *DEPARTMENT OF HUMAN SERVICES - ADOPTION SERVICES. The department of human services shall as expeditiously as possible increase the quantity of services provided for the permanent placement of children for whom parental rights have been terminated and who are under the guardianship of the department. The department shall utilize $306,082 of the moneys appropriated to the department for child and family services in 1994 Iowa Acts, chapter 1186, section 10, for the services increase and for other actions to address the permanent placement of children under the department's guardianship, including adoption activities and implementation of related recommendations made by the committee on foster care chaired by the lieutenant governor. The efforts to increase services shall result in the employment of 8.5 FTEs for adoption services. The department's authorized number of full-time equivalent positions is increased by the number of additional full-time equivalent positions authorized by this section. The department of human services, department of personnel, and the department of management shall take all necessary actions to expedite the employment of persons in full-time equivalent positions authorized by this section. Moneys allocated by this section which remain unobligated or unexpended at the close of the fiscal year shall not revert to the general fund of the state but shall remain available to be used in addition to other funding provided for the same purposes in the succeeding fiscal year. The performance measure for implementing the provisions of this section is a reduction of 205 children in the backlog of children waiting for permanent placement.

**Sec. 2.* *DEPARTMENT OF HUMAN SERVICES - REHABILITATIVE TREATMENT PROGRAM FOR CHILDREN.*

1. The department of human services shall adopt rules applicable to agencies providing services under the department's rehabilitative treatment program for children and their families. The rules shall modify the service utilization reimbursement rates under the program to include the time a child is away from the agency for good cause, to eliminate reimbursement rate limits on service components which are within a category of cost which itself has a reimbursement rate limit, and to adjust rates prospectively for inflation. Notwithstanding section 8.33, up to $1,700,000 of moneys appropriated pursuant to 1994 Iowa Acts, chapter 1186, section 10, which remain unobligated or unencumbered at the close of the fiscal year ending June 30, 1995, shall not revert to the general fund of the state but shall

*Item veto; see message at end of the Act

remain available in the succeeding fiscal year and used to adjust rates in accordance with the rules required by this section.

*2. The department of human services shall adopt emergency rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of this section on or before July 1, 1995, 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. 3. 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, to supplement the appropriation made in 1994 Iowa Acts, chapter 1187, section 9, subsection 2, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For court-appointed attorney fees for indigent adults and juveniles:

..... $ 3,800,000

Sec. 4. CAPITOL BUILDING. 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. For capitol building restoration, including installation of stone on the state capitol building:*

..... $ *250,000**

2. For costs associated with installation of a sprinkler system in the state capitol building:

..... $ 200,000

Notwithstanding section 8.33, moneys appropriated in this section which remain 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 for the designated purposes in the succeeding fiscal year.

Sec. 5. 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, 1994, and ending June 30, 1995, to supplement the appropriation made in 1994 Iowa Acts, chapter 1189, section 3, subsection 2, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the division of criminal investigation and bureau of identification:

..... $ 674,809

**Sec. 6. JUDICIAL DEPARTMENT - 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, to supplement the appropriation made in 1994 Iowa Acts, chapter 1196, section 7, the following amount, or so much thereof as is necessary, to be used for the purpose designated:*

For completion of the Iowa court information system:

..... $ *4,000,000*

*Notwithstanding section 8.33, moneys appropriated in this section which remain unencumbered or unobligated at the close of the fiscal year shall not revert to the general fund of the state but shall remain available for the purpose designated in the succeeding fiscal year.**

Sec. 7. DEPARTMENT OF GENERAL SERVICES - TERRACE HILL. 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 purpose designated:

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*Item veto; see message at end of the Act

For installation of fire safety equipment and devices at Terrace Hill:
..... $ 36,451
Notwithstanding section 8.33, moneys appropriated in this section which remain unencumbered or unobligated at the close of the fiscal year shall not revert to the general fund of the state but shall remain available for the purpose designated in the succeeding fiscal year.

Sec. 8. DEPARTMENT OF ECONOMIC DEVELOPMENT. There is appropriated from the general fund of the state to the department of economic development for the fiscal year beginning July 1, 1994, and ending June 30, 1995, to supplement the appropriation made in 1994 Iowa Acts, chapter 1201, section 1, subsection 2, paragraph "d", the following amount, or so much thereof as is necessary, to be used for the purpose designated:
For deposit in the Iowa strategic investment fund:
..... $ 2,250,000
The director of the department of economic development shall develop a proposed decision-making process for managing the community economic betterment program so that moneys available to the program for a fiscal year are sufficient for the entire fiscal year and a supplemental appropriation for the program is not requested. The director shall submit the proposed decision-making process to the general assembly and the economic development board on or before January 15, 1996.

Sec. 9. DEPARTMENT OF CORRECTIONS - CORRECTIONAL FACILITY. The department of corrections shall construct a 750-bed medium security correctional facility for men. In reviewing the merits of proposals to construct the facility, the department of corrections shall consider the speed and cost-effectiveness of project completion as its top criteria in selecting the site of the facility. Bonds shall be issued under the provisions of sections 16.177 and 602.8108A to finance the construction of the facility. The cost of constructing the facility, exclusive of financing costs, shall not exceed $36,000,000.

Sec. 10. SUBSTANCE ABUSE MANAGED CARE SYSTEM. For the fiscal year beginning July 1, 1994, and succeeding fiscal years, if the Iowa department of public health, division of substance abuse, implements an integrated managed care system for substance abuse, the system shall use outcome measures and shall be developed to promote competition among providers. The managed care system shall allow substance abuse providers to participate in regional provider networks and the division shall encourage providers to develop creative approaches to substance abuse services.

Sec. 11. Section 16.177, subsection 10, Code 1995, is amended by striking the subsection.

Sec. 12. Section 602.8108A, subsection 1, is amended to read as follows:
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~~ eight 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 1994 Iowa Acts, chapter 1196, 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

*Item veto; see message at end of the Act

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.

Sec. 13. MEDICAL ASSISTANCE COSTS FOR SERVICES TO MINORS WITH MENTAL RETARDATION. There is appropriated from the general fund of the state to the department of human services 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 the purposes designated:

For the nonfederal share of the costs of services provided to minors with mental retardation under medical assistance to meet the requirements of the provisions of section 249A.12, subsection 4:

..... $ 6,600,000

Sec. 14. FUNDING OF SESSION LAW REQUIREMENTS. If section 13 of this Act is enacted on or before March 31, 1995, the requirements of 1994 Iowa Acts, chapter 1163, section 8, subsection 1, to enact an appropriation to fully fund the provisions of section 249A.12, subsection 4, shall be considered to be met and the repeals contained in 1994 Iowa Acts, chapter 1163, section 8, subsection 1, shall be void.

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

Approved March 31, 1995, except the items which I hereby disapprove and which are designated as Sections 1 and 2 in their entirety; Section 4, subsection 1 in its entirety; Section 6 in its entirety; and Section 10 in its entirety. My reasons for vetoing these items are delineated in the item veto message pertaining to this Act to the Speaker of the House this same date, a copy of which is attached hereto.

TERRY E. BRANSTAD, *Governor*

Dear Mr. Speaker:

I hereby transmit House File 132, an Act relating to and making appropriations for the fiscal years beginning July 1, 1994, and July 1, 1995, and providing an effective date.

I am disappointed the General Assembly has fallen back into the irresponsible budgeting practices of the past. These same practices, which are inconsistent with sound accounting principles, led the state into massive financial difficulties which took years to correct. The bill contains numerous expenditures that are charged to the wrong fiscal year. Such practices are inappropriate because they do not fairly represent the expenditures for the given fiscal year (in this case, fiscal year 1996 expenses are budgeted in fiscal year 1995), and to the extent that ongoing expenses are funded from a prior year's budget, create "built-in" increases for the subsequent year. These practices are unacceptable and cannot be tolerated.

Furthermore, I am also disappointed by the General Assembly's failure to provide critical supplemental funding for the Iowa Communications Network (ICN) which I recommended in January. This inaction by the General Assembly represents a grave neglect of pressing

financial needs that could jeopardize the operation of a statewide communications system that benefits thousands of Iowa school children every day. The Iowa Communications Network is such a vital and visionary component of Iowa's educational future that the absence of this much needed supplemental is both indefensible and shortsighted.

House File 132 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the items designated as Sections 1 and 2, in their entirety. These items appropriate approximately $2 million to the Department of Human Services to fund program expansions and provider reimbursement increases. A current year appropriation for these purposes is inappropriate in that the actual spending will occur almost entirely in the next fiscal year. It not only masks the true base spending level in fiscal year 1996, but also creates an automatic increase in fiscal year 1997.

I am unable to approve the item designated as Section 4, subsection 1, in its entirety. This item appropriates additional funds in fiscal year 1995 for restoration of the Capitol. My budget recommendations include funding to implement an aggressive plan for Capitol restoration over the next three years, starting in fiscal year 1996. This funding should be considered a part of the fiscal year 1996 budget.

I am unable to approve the item designated as Section 6, in its entirety. This item appropriates $4 million for the Iowa Court Information System (ICIS). This is an expense that will be incurred in fiscal year 1996, where it is more appropriately budgeted. My budget recommendations for fiscal year 1996 fully fund the Court's request, including the funding requested for ICIS.

I am unable to approve the item designated as Section 10, in its entirety. This item would require that regional networks be a part of the state's managed care contract for substance abuse services. Such a requirement would inhibit the state's flexibility to achieve the most cost-effective contracting arrangement for substance abuse services.

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 132 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 203

APPROPRIATIONS - ENERGY CONSERVATION - PETROLEUM OVERCHARGE FUNDS
H.F. 186

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, 1995, and ending

June 30, 1996, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. To the division of community action agencies of the department of human rights for qualifying energy conservation programs for low-income persons, including but not limited to energy weatherization projects, which target the highest energy users, and including administrative costs, to be expended first from the available balances in the Warner/Imperial, the office of hearings and appeals second-stage settlement (OHA), Amoco, and Exxon funds and then the Stripper Well fund for a total appropriation not to exceed:

a. From the Warner/Imperial, the office of hearings and appeals second-stage settlement (OHA), Amoco, and Exxon funds:

1995-96 FY ..... $ 500,000

b. From the Stripper Well fund:

1995-96 FY ..... $ 500,000

2. To the department of natural resources for the following purposes:

a. For the state energy conservation program from the Exxon fund:

1995-96 FY ..... $ 160,000

b. For administration of petroleum overcharge programs from the Stripper Well fund, not to exceed the following amount:

1995-96 FY ..... $ 300,000

Notwithstanding section 8.33, the unencumbered or unobligated moneys remaining at the end of the 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.

Approved April 3, 1995

CHAPTER 204

APPROPRIATIONS - ECONOMIC DEVELOPMENT

H.F. 512

AN ACT appropriating funds to the department of economic development, the Iowa finance authority, the Wallace technology transfer foundation, division of insurance of the department of commerce, the Iowa seed capital corporation, the international development foundation, the public employment relations board, and the department of employment services, making related statutory changes, and providing an immediate effective date.

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

Section 1. There is appropriated from the general fund of the state and other designated funds to the department of economic development for the fiscal year beginning July 1, 1995, and ending June 30, 1996, on the conditions that the director shall submit to the general assembly by December 1, 1995, a report regarding the potential for increased efficiency and cost savings from combining the workforce development division with the workforce development initiative and 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, provided the director shall take all reasonable efforts to reduce the number of staff and level of funding committed to activities of the director's office and general administration, including the transfer of staff and funds to the operational divisions of the department, and the consolidation of functions and reduction in department staff, and 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:

..... $ 916,000
..... 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:

..... $ 300,000
..... FTEs 5.50

The department shall report to the general assembly by December 1, 1995, on the available options and potential cost savings regarding privatizing computer services for primary research.

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, for eliminating the position of small business resource office manager, implementing the small business resource office reorganization plan by July 1, 1995, and for reporting to the joint economic development appropriations subcommittee and the legislative fiscal bureau on the reorganization, and for deaf interpreters funded through the economic development deaf interpreters revolving fund established in section 15.108, subsection 7, paragraph "j":

..... $ 365,000
..... FTEs 6.00

c. Federal procurement office

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 90,000
..... FTEs 3.00

Notwithstanding section 8.33, moneys remaining unencumbered or unobligated on June 30, 1996, shall not revert and shall be available for expenditure during the fiscal year beginning July 1, 1996, 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:

..... $ 5,600,000
..... FTEs 10.00

e. Targeted small business incubator

Moneys appropriated for fiscal year 1994-1995 and not expended by June 30, 1995, 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, 1995, and ending June 30, 1996.

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, 1995, and ending June 30, 1996, the following amount, or so much thereof as is necessary, for insurance economic development and international insurance economic development:

..... $ 200,000

3. COMMUNITY 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 boards:

..... $ 615,000
..... FTEs 7.50

From the funds appropriated in this paragraph, $50,000 shall be allocated for the junior olympics.

b. Main street/rural main street program

For salaries and support for not more than the following full-time equivalent positions:

..... $ 410,000
..... 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, the rural enterprise fund, and for $50,000 to be allocated competitively to ten to twenty communities for direct purchase of services or goods that meet local development needs or to enhance heritage and tourism efforts from state and private sources:

..... $ 600,000
..... 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:

..... $ 390,000
..... FTEs 18.76

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

f. Housing development fund

For providing technical assistance to communities of all sizes and local financial institutions to help meet local housing needs:

..... $ 100,000

*g. *Community voice mail pilot project*

For a community voice mail pilot project at a homeless for emergency shelter or shelters, to be coordinated with the Iowa finance authority:

..... $ *10,000**

4. INTERNATIONAL DIVISION

a. International trade operations

For coordinating and eliminating duplication of effort with the department of agriculture and land stewardship, conducting foreign trade missions on behalf of Iowa businesses, salaries, support, maintenance, miscellaneous purposes, for allocating $33,500 and up to two full-time equivalent positions for the international development foundation which shall continue as a private entity, and for not more than the following full-time equivalent positions:

..... $ 757,500
..... FTEs 9.00

The international development foundation shall notify the department of management by October 1, 1995, regarding whether the foundation will receive federal funding during the state fiscal year beginning July 1, 1995, and ending June 30, 1996. If, for the federal fiscal year beginning October 1, 1995, and ending September 30, 1996, no new federal funding will be received by the foundation during the state fiscal year beginning July 1, 1995, and ending June 30, 1996, the balance of the funds allocated to the foundation in this paragraph shall revert to the general fund of the state. Notwithstanding section 8.33, if federal funding will be received by the foundation moneys allocated to the foundation 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. It is the intent of the general assembly that funding for the foundation shall cease after fiscal year 1996-1997.

b. Foreign trade offices

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 590,000

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

*Item veto; see message at end of the Act

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:

..... $ 275,000
..... FTEs 0.25

d. Agricultural product advisory council

For support, maintenance, and miscellaneous purposes:

..... $ 1,300

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:

..... $ 100,000

5. TOURISM DIVISION

a. Tourism operations

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions, provided that the appropriation shall not be used for advertising placements for in-state and out-of-state tourism marketing:

..... $ 716,000
..... 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 and for allocating $300,000 to develop brochures and television advertising to highlight the heritage tourism program and the sesquicentennial:

..... $ 2,687,000

The department shall not use the moneys appropriated in this lettered paragraph, except the $300,000 allocated for heritage tourism and sesquicentennial advertising, 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 and for planning for a welcome center at living history farms:

..... $ 240,000

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:

..... $ 940,000
..... FTEs 2.40

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

For not more than the following full-time equivalent positions, including salaries and support:

..... FTEs 1.31

There is appropriated from the rural community 2000 program revolving fund established in section 15.287 to the community job training fund created in section 260F.6, subsection 1, $225,000. It is the intent of the general assembly that up to $101,894 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 $425,000 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:

..... $ 903,000

..... FTEs 0.90

The department shall develop new administrative rules for distribution of apprenticeship funding for fiscal years beginning July 1, 1996.

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.

The department and the community colleges shall jointly review the Iowa small business new jobs training Act, chapter 260F, including, but not limited to, studying the funding of retraining programs through consortia and supplier networks and entering into multiple retraining agreements to the same business. The report of the review shall be jointly submitted to the joint economic development appropriations subcommittee not later than January 10, 1996.

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:

..... $ 100,000

..... FTEs 0.50

It is the intent of the general assembly that funding for labor management councils shall be privately financed after fiscal year 1996-1997. 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 all the moneys available during the fiscal year beginning July 1, 1995, and ending June 30, 1996, 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, 1995, and ending June 30, 1996, 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:

..... $	160,000
..... FTEs	2.40

2. For the target alliance program:

..... $	30,000

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, 1995, and ending June 30, 1996, 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 reporting by December 1, 1995, to the joint economic development appropriations subcommittee on a plan regarding restructuring the foundation, merging with the department of economic development in fiscal year 1996-1997, and for transferring, all equity holdings to the Iowa seed capital corporation, 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 up to $30,000 of the funds appropriated in this section to the Iowa quality coalition, on the condition that the coalition first expend all existing moneys, for productivity enhancement projects, and for not more than the following full-time equivalent positions:

..... $	1,950,000
..... FTEs	4.00

The Iowa quality coalition shall submit a proposal to the joint economic development appropriations subcommittee and the legislative fiscal bureau by December 1, 1995, regarding awarding funds for productivity enhancement projects through a request for proposal process.

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, and for meeting the intent of the general assembly that the Iowa seed capital corporation may expend all funds remaining, on June 30, 1995, from the industrial technology access program for the purposes of the corporation:

..... $	483,000
..... 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, 1995, and ending June 30, 1996, 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, for providing up to $33,000, or so much thereof as is necessary, for salary increases of not more than three percent from all sources for nonuniversity employees provided that any amount not required for salary increases for nonuniversity employees shall revert to the general fund of the state, and for not more than the following full-time equivalent positions:

..... $	1,185,000
..... FTEs	6.07

2. For funding the institute for physical research and technology, provided that $318,358 shall be allocated to the institute for physical research and technology industrial incentive

program in accordance with the intent of the general assembly, and for not more than the following full-time equivalent positions:

..... $ 4,000,000
..... FTEs 61.17

It is the intent of the general assembly that the incentive program focus on Iowa industrial sectors and seek contributions and in-kind donations from businesses, industrial foundations, and trade associations and that moneys for the institute for physical research and technology industrial incentive program shall only be allocated for projects which are matched by private sector moneys for directed contract research or for nondirected research. The match required of small businesses as defined in section 15.102, subsection 4, for directed contract research or for nondirected research shall be $1 for each $3 of state funds. The match required for other businesses for directed contract research or for nondirected research shall be $1 for each $1 of state funds. The match required of industrial foundations or trade associations shall be $1 for each $1 of state funds.

Iowa state university shall report annually to the joint economic development subcommittee of the senate and house appropriations committees the total amounts of private contributions, the proportion of contributions from small businesses and other businesses, and the proportion for directed contract research and nondirected research of benefit to Iowa businesses and industrial sectors.

Notwithstanding section 8.33, moneys appropriated for any fiscal year which remain unobligated and unexpended at the end of the fiscal year shall not revert but shall be available for expenditure the following fiscal year.

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, 1995, and ending June 30, 1996, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For funding the advanced drug development program at the Oakdale research park and for not more than the following full-time equivalent positions:

..... $ 309,000
..... FTEs 2.85

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 December 1, 1995.

Sec. 8. 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. 9. DEPARTMENT OF EMPLOYMENT SERVICES. There is appropriated from the general fund of the state*, *provided that the department not implement a reorganization plan, without prior approval of the general assembly, by concurrent resolution,** to the department of employment services for the fiscal year beginning July 1, 1995, and ending June 30, 1996, 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*

*Item veto; see message at end of the Act

*equivalent positions authorized and funded for the department of employment services in this section will be utilized during the fiscal year beginning July 1, 1995, and ending June 30, 1996, and during future fiscal years, and will not be held vacant, to ensure that the backlog of cases in that department will be reduced as rapidly as possible**:

1. DIVISION OF LABOR SERVICES

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions contingent upon the enactment of section 10 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 $296,000 to the division of labor services in subsection 1 of section 11 of this Act prior to funding the appropriation in section 11 of this Act to the division of industrial services:

..... $ 2,466,000
..... FTEs 87.00

The division of labor services shall ensure all occupational safety and health personnel complete the department of employment services ambassador customer service classes. The division of labor shall ensure a customer satisfaction survey developed by the 1994 focus group is completed and a written report containing the results of the survey is submitted to the department of management and the legislative fiscal bureau not later than October 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:

..... $ 2,106,000
..... FTEs 33.00

3. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions for a workforce development coordinator and council:

..... $ 114,000
..... FTEs 1.00

The workforce development coordinator shall formulate a five-year written implementation plan for the workforce development initiative and shall implement a common intake, assessment, and client tracking system by June 30, 1996, to determine the economic impact of the workforce development system. The coordinator shall annually provide a written report no later than December 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.

e. By June 30, 1996, there shall be implemented a common intake, assessment, and client tracking system to determine the economic impact of the new workforce development

*Item veto; see message at end of the Act

system. The tracking system shall be able to track individuals who have received training or retraining to determine whether the training or retraining has resulted in increased wages for the individuals, shall contain information on individuals who have participated in or completed state subsidized training or retraining programs more than once at a particular community college or at different community colleges and whether the training or retraining was for the same business or different businesses, and shall provide information regarding the number of individuals who have received training or retraining who are unemployed.

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. 10. 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, 1995, and ending June 30, 1996, 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:
..... $ 5,904,000
..... FTEs 149.72

*1. *The department of employment services shall provide services throughout the fiscal year beginning July 1, 1995, and ending June 30, 1996, 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, 1995, and ending January 20, 1996. The division shall also establish a substantially similar schedule for such hearings for the period beginning January 20, 1996, and ending June 30, 1996. 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, 1996, and ending June 30, 1996.**

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. 11. 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, 1995, and ending June 30, 1996, 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:
..... $ 296,000

2. DIVISION OF INDUSTRIAL SERVICES

For salaries, support, maintenance, and miscellaneous purposes:

*Item veto; see message at end of the Act

..... $ 175,000

Any additional penalty and interest revenue may be used to accomplish the mission of the department.

Sec. 12. 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, 1995, and ending June 30, 1996, 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:

..... $ 755,000
..... FTEs 12.80

Sec. 13. There is appropriated from the general fund of the state to the Iowa finance authority 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 the purpose designated:

For deposit in the housing improvement fund created in section 16.100 for purposes of the fund:

..... $ 510,000

Sec. 14. There is appropriated from the general fund of the state to the division of insurance of the department of commerce 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 the purpose designated provided that Senate File 347* is enacted:

For an actuarial study to determine the cost of requiring health insurance policies for individuals to include mental health and substance abuse treatment as covered items:

..... $ 25,000

Sec. 15. Section 15.317, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Assistance approved by the board shall be utilized by the business within two years of the date of the approval of the assistance. Funds not utilized in accordance with this subsection shall revert to the control of the board. The business may reapply for assistance in that case.

Sec. 16. FEDERAL GRANTS. All federal grants to and the federal receipts of agencies appropriated funds under this Act, not otherwise appropriated, are appropriated for the purposes set forth in the federal grants or receipts unless otherwise provided by the general assembly.

Sec. 17. BUDGET UNIT DESIGNATIONS. The department of management shall, prior to January 15, 1996, conform all budget unit designations to the designations used in the Code.

Sec. 18. Notwithstanding any other provision, any unencumbered or unobligated balance on June 30, 1995, in the targeted small business financial assistance program account created in section 15.247, including moneys remaining in any reserve account within the program account for guaranteed loans that have been repaid, shall be transferred out of the program account, including the appropriate reserve accounts, and deposited to the credit of the Iowa strategic investment fund created in section 15.313 and shall be appropriated to the department of economic development for purposes of the Iowa strategic investment fund targeted small business financial assistance program.

Sec. 19. Chapter 38, Code 1995, is repealed.

*Chapter 73 herein

Sec. 20. EFFECTIVE DATE. The provisions relating to implementing the reorganization of the small business resource office in section 1, subsection 2, paragraph "b" of this Act, being deemed of immediate importance, take effect upon enactment.

Approved April 24, 1995, except the items which I hereby disapprove and which are designated as Section 1, subsection 3, paragraph g in its entirety; those portions of Section 9, unnumbered and unlettered paragraph 1, which are herein bracketed in ink and initialed by me; and Section 10, subsections 1 and 2 in their entirety. My reasons for vetoing these items are delineated in the item veto message pertaining to this Act to the Speaker of the House this same date, a copy of which is attached hereto.

TERRY E. BRANSTAD, *Governor*

Dear Mr. Speaker:

I hereby transmit House File 512, an Act appropriating funds to the Department of Economic Development, the Iowa Finance Authority, the Wallace Technology Transfer Foundation, Division of Insurance of the Department of Commerce, the Iowa Seed Capital Corporation, the International Development Foundation, the Public Employment Relations Board, and the Department of Employment Services, making related statutory changes, and providing an immediate effective date.

House File 512 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 1, subsection 3, paragraph g, in its entirety. This item would appropriate $10,000 to establish a community voice mail pilot program. While I support the proposed goals of the program, I am concerned that the concept has not been fully developed to take into consideration a whole host of security issues, including the potential for the system to be used for illegal or inappropriate uses. Further, the amount of funding the appropriation would provide falls far short of what would be minimally necessary to establish it even as a pilot program.

I am unable to approve the designated portions of Section 9, unnumbered and unlettered paragraph 1. These items would authorize the legislature to be involved in decisions relating to the staffing and organization of the Department of Employment Services (DES). Decisions concerning the personnel needs and structure of DES properly fall within the discretion of the director of the department. Legislative attempts to encroach into matters that are the prerogative of the executive branch can not be approved.

I am unable to approve the items designated as Section 10, subsections 1 and 2, in their entirety. These items relate to the operations of workforce development centers and the management of workers' compensation hearings. Like the items in the preceding paragraph, approval of these items would allow the legislative branch to interfere in decisions that are best made by the director of the Department of Employment Services. For that reason, they can not 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 House File 512 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 205

APPROPRIATIONS - HUMAN SERVICES

S.F. 462

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, 1995, and ending June 30, 1996, 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:

..... $ 32,820,032

1. The department shall continue the special needs program under the family investment program.

2. 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.

3. The department may adopt administrative 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 of the Seventy-fifth General Assembly, and the chairpersons and ranking members of the human resources committees of the senate and the house of representatives.

4. 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.

5. The department shall research the feasibility of establishing a program of developing community-based residential facilities or "second chance homes" for young mothers and children. The research shall consider potential benefits of second chance homes including the potential effects of deterring child abuse by use of the homes. The research is subject to all of the following provisions:

a. The department shall consider developing the home in a manner to provide supervision by mature adult couples. The program should coordinate comprehensive services for pregnant or parenting teens, including but not limited to educational services, vocational services, personal and family counseling, parent education classes, and assistance in developing independent living and homemaking skills.

b. The department shall consider various options for designing second chance homes so that the homes will not necessarily be government-operated institutions. The options considered shall include operation by churches and community groups with state guidance through administrative rules. If the program is implemented, administrative rules will delineate how the homes will be structured and specify the combination of support, services, and participant obligations to help teenage mothers to become good mothers, finish school, and gain adequate skills to support their children.

c. The department shall consider a design which provides incentive grants to communities that pledge private funding and in-kind services equal to at least one-half of the cost of operating a second chance home. In addition, operating expenses could be supported in

part by participants' welfare payments, food stamps, housing assistance, and other forms of public assistance for which participants are eligible, as well as a commitment from communities.

d. The department shall submit a report to the general assembly on or before January 8, 1996, concerning the research conducted pursuant to this subsection.

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, 1995, and ending June 30, 1996, 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

1. 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. Specifically, emergency assistance is the program of last resort and shall not supplant assistance provided by the low-income home energy assistance program (LIHEAP), county general relief, and veterans affairs programs. The department shall establish a $500 maximum payment, per family, in a twelve-month period. 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 contract for the administration and delivery of the program. The program shall be terminated when funds are exhausted.

2. For the fiscal year beginning July 1, 1995, the department shall establish a process for the state to receive refunds of rent deposits for emergency assistance recipients which were paid by persons other than the state. The refunds received by the department under this subsection shall be deposited with the moneys of the appropriation made in this section and used as additional funds for the emergency assistance program. Notwithstanding section 8.33, moneys received by the department under this subsection which remain after the emergency assistance program is terminated and state moneys in the emergency assistance account which remain unobligated or unexpended at the close of the fiscal year shall not revert to the general fund of the state but shall remain available for expenditure when the program resumes operation on October 1 in the succeeding fiscal year.

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, 1995, and ending June 30, 1996, 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:

..... $ 351,496,521

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. If a medical assistance recipient is more than 17 years of age and 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.

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 for adults 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. 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. The case management services specified in this subsection shall be billed to a county only if the services are provided outside of a managed care contract. The department may adopt emergency rules to implement the provisions of this subsection.

b. The state shall pay the entire nonfederal share of the costs for case management services provided to persons 17 years of age and 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 17 years of age and younger 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. The state shall pay the entire nonfederal share of intermediate care facilities for the mentally retarded (ICFMR) costs for eligible persons 17 years of age and younger.

e. 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 may adopt and implement administrative rules regarding a prepaid mental health services plan for medical assistance patients. The rules shall include but not be limited to service provider standards, service reimbursement, and funding mechanisms. 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.

6. 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.

7. Contingent upon federal approval of a waiver, the department shall adopt administrative rules to establish the requirements for the alternative nursing home pilot project.

8. The department of human services shall use not more than $47,368 to employ not more than 2 FTEs to develop and implement 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 days.

9. Of the funds appropriated to the Iowa department of health for substance abuse grants, $950,000 for the fiscal year beginning July 1, 1995, shall be transferred to the department of human services to implement an integrated substance abuse managed care system. The department of human services in conjunction with the Iowa department of health and other appropriate state agencies may adopt and implement emergency rules to establish a prepaid substance abuse treatment plan for medical assistance recipients. The rules shall include but are not limited to defining the structure of the program, establishing the scope of services to be provided in the program, including, but not limited to, establishing client eligibility for prepaid substance abuse treatment services, establishing the basis and the rate of reimbursement for the program, defining the expected outcome measures of the program, and defining a client appeals process. However, nothing in the rules shall condition provider eligibility to render services under this program upon the scope of services rendered by a provider or upon provider licensure, certification, or corporate structure. The department of human services and the Iowa department of public health shall evaluate methods for inclusion of court-ordered detoxification services in the substance abuse managed care program and shall provide recommendations regarding inclusion of the services in the program to the general assembly on or before December 1, 1995. The department of human services shall submit a report on a quarterly basis to the general assembly during the months in which the general assembly is in session and to the fiscal committee of the legislative council during the months in which the general assembly is not in session, describing the progress and activities of the integrated substance abuse managed care program.

10. a. Beginning September 1, 1995, the department may require prior authorization for any brand name prescription drug which has an "A" rated generic bioequivalent as determined by the federal food and drug administration and which is recommended for prior authorization by the drug utilization review commission. The department shall establish an educational program through the drug utilization review commission to review and encourage the use of these "A" rated generic equivalents within the medical assistance program. The department shall adopt administrative rules to implement the prior authorization provisions of this paragraph. The department shall not expand the requirement of prior authorization for drugs other than the "A" rated generic bioequivalents authorized under this paragraph, without prior approval of the general assembly for such expansion. Beginning January 1, 1996, prior authorization shall not be required for clozapine. The department shall consider expert medical opinion in revising administrative rules applicable to clozapine.

b. The department shall amend the contract with the department's fiscal agent regarding prior authorization of prescription drugs to provide for review by the fiscal agent of inquiries for prior authorization during pharmacy business hours, evenings, Saturdays

and during pharmacy peak business hours on Sundays, and shall consider providing for review by the fiscal agent of inquiries on a seven-day-per-week, 24-hour-per-day basis.

c. (1) The department of human services shall conduct a study of the prior authorization program based upon the program data collected during fiscal year 1994-1995, including a review of a sampling of specific drugs for which prior authorization is required. The study shall be completed by October 1, 1995, and a report of the findings of the study shall be submitted to the chairpersons and ranking members of the senate and house appropriations committees, to the chairpersons and ranking members of the joint human services appropriations committee, and to the legislative fiscal bureau. The study shall address and include information and recommendations regarding all of the following:

(a) A comparison of the costs associated with the prescribing of generic drugs rather than brand name drugs, taking into consideration any rebates or other cost reductions associated with the use of brand name drugs.

(b) A review of the time associated with the prior authorization process including telephone communications between providers and the department's prior authorization fiscal agent and with delays for either party. The review shall include an analysis of the average time associated with each inquiry by classification of drug.

(c) A review of the number of denials of authorization by classification of drug by the fiscal agent and the rationale for the denials.

(d) A review of the actual and projected cost savings and workability of the prior authorization program.

(e) A review of the services provided by the fiscal agent including a comparison of the services of the fiscal agent with private pay insurers in providing a similar service, and an evaluation of the current availability of the fiscal agent and any improvements to the program which might result from increased availability.

(f) A review of the volume of inquiries for prior authorization during a weekly period including an analysis of the days and times of peak volume as compared with the availability of the fiscal agent for responding to inquiries.

(g) An analysis of the time which elapses between the submission of a bill to the department for reimbursement and actual reimbursement.

(2) Following receipt of the report from the department, the legislative fiscal bureau shall review the study. The review shall include all of the following:

(a) An evaluation of the cost and savings methodology utilized by the department, including an analysis of whether all governmental costs and savings were included or adequately addressed in the savings methodology used during fiscal year 1994-1995. If the legislative fiscal bureau determines that the cost and savings methodology utilized by the department or the fiscal agent did not include or adequately address all governmental costs, the legislative fiscal bureau shall provide recommendations to the general assembly to improve the cost and savings methodology for future application.

(b) An individualized assessment of the prior authorization program based on a random sample of not more than 50 individual prior authorization actions, of which one-half shall be approval actions and one-half shall be denial actions. The random sample shall be provided by the department to the legislative fiscal bureau based upon a random sampling methodology submitted by the legislative fiscal bureau. All data deemed necessary by the legislative fiscal bureau to conduct the assessment shall be provided by the department including but not limited to the date and time of the prior authorization contact between the fiscal agent and the provider; the name, address, and telephone number of the provider; and the classification of the drug for which prior authorization was sought. If the action was an approval action, the department shall provide a statement of the actual cost associated with the substituted drug and the cost associated with the alternative drug. If the action was a denial action, the department shall provide the rationale for the denial.

d. The department of human services shall, when it is economically beneficial, implement maximum allowable costs for multiple source drugs in accordance with federal guidelines.

e. The department shall develop a plan to administratively pursue reimbursement for pharmacy services for which a recipient of medical assistance also has third-party coverage. The department shall develop the plan in cooperation with the insurance division of the department of commerce and with representatives of the Iowa pharmacists association. The department shall submit the plan to the general assembly on or before January 1, 1996*, *and shall implement the plan on or before May 1, 1996. The department shall also include a preliminary estimate of the costs of administratively pursuing reimbursement for pharmacy services in the budget submitted to the council of human services for fiscal year 1996-1997.**

11. The department shall develop strategies to address administrative and provider concerns associated with discretionary medical assistance provided to individuals and families pursuant to section 249A.3, subsection 4, and the provisions relating to the expenditure of income to a level which qualifies the individual or family as eligible for participation in the medical assistance program. The department shall submit a report regarding the strategies developed to the general assembly on or before November 30, 1995.

12. The department may seek qualification of supervised community treatment for children under the medical assistance program.

13. The department shall amend the department's current home and community-based waivers under medical assistance to include "consumer directed attendant care" as allowed by federal regulation. The department shall also develop and implement a new home and community-based waiver for persons with physical disabilities as a means to further develop the personal assistance services program under section 225C.46. The waiver shall not be implemented in a manner which would require additional county or state costs for assistance provided to an individual served under the waiver. A waiver amended, developed, or implemented pursuant to this subsection shall be consistent with the provisions of the appropriation in this Act for a personal assistance services pilot project and the provisions of chapter 255C** relating to personal assistance services.

**14. The department of human services shall seek federal approval on or before August 1, 1995, for the implementation of a pilot program to allow medical assistance program reimbursement for payment of services provided by persons who provide a home and services to a total of seventy-five persons who currently reside in nursing homes. The department, in cooperation with the department of elder affairs, shall develop a program which will result in a cost savings to the state or in cost neutrality, and shall develop parameters for the program which shall include but are not limited to all of the following:*

a. A maximum income eligibility level, established by the department, which applies to persons providing a home and services and seeking reimbursement through the medical assistance program.

b. An evaluative component which enables the department to measure the financial and quality of life aspects of the pilot program in comparison with placement of a person in a nursing home.

c. A maximum reimbursement rate of $15,000, annually, for housing and services provided by the home provider under the pilot program.

*d. Any other criteria necessary to implement the pilot program including but not limited to implementation in a manner which targets current nursing home residents in both rural and urban areas of the state.**

15. The department of human services shall consult with the department of inspections and appeals, the Iowa state association of counties, and the Iowa association of rehabilitation and residential facilities in adopting administrative rules identifying optimum staffing ratios for intermediate care facilities for the mentally retarded (ICFMR). The administrative rules shall be implemented on or before January 1, 1996.

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, 1995, and ending June 30, 1996, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

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*Item veto; see message at end of the Act

**See Chapter 209, §29 herein

For medical contracts:

..... $ 6,226,400

1. The department shall continue to contract for drug utilization review under the medical assistance program.

2. The department may use not more than $22,500 of the funds appropriated in this section for contracting for the rebasing-recalibration of the ambulatory patient grouping system.

3. The department may use not more than $75,000 of the funds appropriated in this section for the independent evaluation of the prepaid mental health services plan. The department shall submit a report on a quarterly basis to the general assembly during the months in which the general assembly is in session and to the fiscal committee of the legislative council during the months in which the general assembly is not in session, describing the progress and activities of the prepaid mental health services plan.

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, 1995, and ending June 30, 1996, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For state supplementary assistance:

..... $ 19,115,000

1. The department shall increase the personal needs allowance for residents of residential care facilities by the same percentage and at the same time as federal supplemental security income and federal social security benefits are increased due to a recognized increase in the cost of living. The department may adopt emergency rules to implement this subsection.

2. a. If during the fiscal year beginning July 1, 1995, the department projects that state supplementary assistance expenditures for a calendar year will not meet the federal pass-along requirement specified in Title XVI of the federal Social Security Act, section 1618, as codified in 42 U.S.C. § 1382g, the department may take actions including but not limited to increasing the personal needs allowance for residential care facility residents and making programmatic adjustments or upward adjustments of the residential care facility or in-home health-related care reimbursement rates prescribed in this Act to ensure that federal requirements are met. The department may adopt emergency rules to implement the provisions of this subsection.

b. If during the fiscal year beginning July 1, 1995, the department projects that state supplementary assistance expenditures will exceed the amount appropriated, the department may transfer funds appropriated in this Act for medical assistance for the purposes of the state supplementary assistance program. However, funds shall only be transferred from the medical assistance appropriation if the funds transferred are projected to be in excess of the funds necessary for the medical assistance program.

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, 1995, and ending June 30, 1996, 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:

..... $ 7,740,000

1. Of the funds appropriated in this section, $2,496,286 shall be used for protective child day care assistance.

2. Of the funds appropriated in this section, $2,895,934 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. For state child care assistance, eligibility shall be limited to children whose family income is equal to or less than 100 percent of the United States office of management and budget poverty guidelines. However, on or after October 1, 1995, the department may increase the income eligibility limit to be equal to or less than 75 percent of the Iowa median family income.

b. Migrant seasonal farm worker families whose family income is equal to or less than 100 percent of the United States office of management and budget poverty guidelines are eligible for state child care assistance. The monthly family income shall be determined by calculating the total amount of family income earned during the 12-month period preceding the date of application for the assistance and dividing the total amount by 12. The department may adopt emergency rules to implement the provisions of this lettered paragraph. For purposes of eligibility for state child care assistance, a migrant seasonal farm worker is an individual to which all of the following conditions apply:

(1) The worker performs seasonal agricultural work which requires travel so that the worker is unable to return to the worker's permanent residence within the same day.

(2) Most of the worker's income is derived from seasonal agricultural work performed during the months of July through October.

(3) The worker generally performs seasonal agricultural work in this state during the months of July through October.

c. The department may adopt administrative 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. The department shall develop, in cooperation with child day care resource and referral services and with the state child day care advisory council, incentives to encourage the registration of child day care providers and shall report the recommendations developed to the chairpersons and the ranking members of the joint appropriations subcommittee on human services on or before January 1, 1996.

6. Of the funds appropriated in this section, $636,641 is allocated for the statewide program for child day care resource and referral services under section 237A.26.

7. 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.

8. Of the funds appropriated in this section, $1,676,139 shall be used for transitional child care assistance.

9. During the 1995-1996 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.

10. Of the funds appropriated in this section, $35,000 is allocated for use by the united Mexican-American center in Des Moines for the center's child day care program.

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, 1995, and ending June 30, 1996, 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, entrepreneurial training, and implementing family investment agreements, in accordance with this section:

..... $ 11,935,189

1. Of the funds appropriated in this section, $11,025,889 is allocated for the JOBS program.

2. The department shall continue to contract for services in developing, delivering, and monitoring an entrepreneural training waiver program to provide technical assistance in self-employment training to families which receive assistance under the family investment program, contingent upon federal approval of waiver renewal requests.

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, 1995, and ending June 30, 1996, 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 and for not more than the following full-time equivalent positions:

..... $ 6,390,000

..... FTEs 226.22

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. The department shall spend up to $50,000, including federal financial participation, for the fiscal year beginning July 1, 1995, for continuation of the child support public awareness campaign. The department shall continue to cooperate with the office of the attorney general in continuation of the campaign.

7. The department shall continue the pilot program option 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.

8. The director of human services may enter a contract with private collection agencies to collect support payments for cases which have been identified by the department as difficult collection cases if the department determines that this form of collection is more cost effective than departmental collection methods. The director may use a portion of the state share of funds collected through this means to pay the costs of any contracts authorized under this subsection.

9. The department shall employ at least one full-time equivalent position to respond to telephone inquiries during all weekly business hours.

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, 1995, and ending June 30, 1996, 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 and for not more than the following full-time equivalent positions:

For the state juvenile institutions:

..... $ 13,480,000
..... FTEs 320.77

1. The following amounts of the funds appropriated and full-time equivalent positions authorized in this section are allocated for the Iowa juvenile home at Toledo:

..... $ 4,980,000
..... FTEs 118.54

2. The following amounts of the funds appropriated and full-time equivalent positions authorized in this section are allocated for the state training school at Eldora:

..... $ 8,500,000
..... FTEs 202.23

3. During the fiscal year beginning July 1, 1995, 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, 1995.

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.

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, 1995, and ending June 30, 1996, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For child and family services:

..... $ 83,380,000

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 $20,937,703 is allocated for group foster care maintenance and services. For the fiscal year beginning July 1, 1995, the statewide target, as provided in section 232.143, for the daily average number of children placed in group foster care services which are a charge upon or paid for by the state shall be 1,220. 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. 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 1995-1996 fiscal year. However, regions may transfer bed days between regions as necessary to meet group foster care needs. 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, 1995. The department may adopt emergency rules to implement the provisions of this paragraph.

e. The department shall not certify any additional enhanced residential treatment beds, 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.

f. (1) Of the funds appropriated in this section, not more than $6,439,398 is allocated as the state match funding for psychiatric medical institutions for children.

(2) Based upon the director's decision pursuant to 1994 Iowa Acts, chapter 1186, section 10, subsection 19, regarding the managed care approaches for determining service necessity for children served by psychiatric medical institutions for children (PMICs), the department may transfer all or a portion of the moneys appropriated in this section for PMICs to the appropriation in this Act for medical assistance and may amend the managed mental health care contract to include PMICs, and may increase the statewide target for group foster care placements in paragraph "a" of this subsection, accordingly. The department may adopt emergency rules to implement the provisions of this paragraph.

g. Of the funds allocated in this subsection, not more than $995,764 is allocated as the state match funding for 50 highly structured juvenile program beds.

3. The department shall establish a goal that not more than 15 percent of the children placed in foster care funded under the federal Social Security Act, Title IV-E, may be placed in foster care for a period of more than 24 months.

4. In accordance with the provisions of section 232.188, the department shall continue the program to decategorize child welfare services in additional counties or clusters of counties.

5. Of the funds appropriated in this section, up to $96,512 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 3, 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 department's 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.

6. 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, 1995, shall be limited to $872,500. Funds allocated in this subsection shall be prorated among eligible detention homes.

7. 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 director or the director's designee on behalf 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.

8. A portion 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.

9. Notwithstanding section 234.35, subsection 1, for the fiscal year beginning July 1, 1995, state funding for shelter care paid pursuant to section 234.35, subsection 1, paragraph "h", shall be limited to $3,383,736. The department may adopt emergency rules to implement the provisions of this subsection.

10. Of the funds appropriated in this section, not more than $512,862 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.

*11. *Of the funds appropriated in this section, $1,000,000 is allocated for respite services to families of children with mental retardation or other developmental disabilities, who would otherwise enter or continue group care or foster family home placement. On or before January 4, 1996, the department shall review the use of the funding allocated in this subsection and project whether an amount of the funding will be unused by the close of the*

*Item veto; see message at end of the Act

*fiscal year. If an amount is projected, the department shall transfer the projected amount to the appropriation in this Act for family support subsidy for use to provide assistance to additional families who would otherwise remain on the waiting list for that program. The department shall work with the Iowa governor's planning council for developmental disabilities, the arc of Iowa, the Iowa respite coalition, and the Iowa family support initiative to review use of the program funded in this section and develop recommendations for consideration in the 1996 legislative session. The recommendations shall address how much of the funding should be directed to families trying to keep their children with disabilities in the family home, potential administrative rule revisions to improve the program, and actions for the department to take to inform families about the program. The department may adopt administrative rules to implement the provisions of this subsection.**

12. Of the funds appropriated in this section, up to $673,217 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.

13. The department may adopt administrative rules to implement outcome-based child welfare services pilot projects. The rules may include, but are not limited to, the development of program descriptions, provider licensing and certification standards, reimbursement and payment amounts, contract requirements, assessment and service necessity requirements, eligibility criteria, claims submission procedures, and accountability standards.

14. Of the funds appropriated in this section, up to $133,230 may be used to develop a performance-based monitoring program to evaluate and improve outcomes for children and families. The department may adopt administrative rules to implement this subsection.

15. The department may develop, within the funds available, a pilot kinship care project to enhance family involvement in the development of the permanency plan required under chapter 232 for children who are removed from their homes. The project components may include family involvement before and after removal of the child and shall stress safety for the child.

16. Within the funds appropriated in this section, the department may develop a subsidized guardianship program to provide financial assistance to guardians of children who have a permanency order under section 232.104, subsection 2, paragraph "d", subparagraph (1), in cases in which all of the following conditions exist:

a. The option of reunification has been eliminated and termination of parental rights is not appropriate.

b. The child has lived with the potential guardian for at least six months.

c. The child is either 14 years of age or older or, if under 14 years of age, is part of a sibling group and cannot be made available for adoption.

d. The placement does not require departmental supervision.

The financial assistance provided shall be in the same amount as provided for family foster care. For purposes of medical assistance and child support recovery, these payments shall be considered foster care payments.

17. Of the funds appropriated in this section, up to $175,000 may be used to establish and maintain a truancy pilot initiative in the fifth judicial district which shall be directed to keeping targeted youth in school by providing noneducational supportive and therapy services both inside and outside the school setting. The department may adopt administrative rules to implement supportive and therapy services in the truancy pilot initiative. The rules may include, but are not limited to, the development of program descriptions, certification standards, reimbursement, contract requirements, and eligibility and accountability standards.

*Item veto; see message at end of the Act

18. The department, in cooperation with interested social service providers, shall study the feasibility of expanding existing confidentiality provisions to allow social service providers to form local teams to discuss provision of the most appropriate services in individual cases. The department shall submit a report of the findings of the study to the chairpersons and ranking members of the joint appropriations subcommittee on human services on or before January 1, 1996.

*19. *Notwithstanding section 234.39, if a child was removed from the child's home and placed in foster care during the fiscal year beginning July 1, 1994, based upon an allegation of child abuse that was subsequently determined to be unfounded, a support obligation shall not be established for the child's parent or guardian for the cost of the foster care.**

20. The department shall continue to make adoption presubsidy and adoption subsidy payments to adoptive parents at the beginning of the month for the current month.

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, 1995, and ending June 30, 1996, 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 and for not more than the following full-time equivalent positions:

.....	$	2,620,000
.....	FTEs	1.0

1. Of the funds appropriated in this section, $754,000 shall be used for adolescent pregnancy prevention grants, including not more than $156,048 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.

2. Of the funds appropriated in this section, $298,000 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.

*Item veto; see message at end of the Act

3. Of the funds appropriated in this section, $731,014 shall be used by the department for child abuse prevention grants.

*4. *Of the funds appropriated in this section, an additional $100,000, based upon the amount allocated 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, 1995, and ending June 30, 1996, 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

*Item veto; see message at end of the Act

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 $400,000 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, 1995, and ending June 30, 1996, 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 and for not more than the following full-time equivalent positions:

..... $ 43,190,000
..... FTEs 954.75

1. The funds appropriated and full-time equivalent positions authorized in this section are allocated as follows:

a. State mental health institute at Cherokee:

..... $ 14,840,000
..... FTEs 331.13

b. State mental health institute at Clarinda:

..... $ 6,000,000
..... FTEs 136.82

c. State mental health institute at Independence:

..... $ 17,590,000
..... FTEs 401.82

d. State mental health institute at Mount Pleasant:

..... $ 4,760,000
..... FTEs 84.98

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. As part of the discharge planning process at the state mental health institutes, the department shall provide assistance in obtaining eligibility for federal supplemental security income (SSI) to those individuals whose care at a state mental health institute is the financial responsibility of the state.

Sec. 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, 1995, and ending June 30, 1996, 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 and for not more than the following full-time equivalent positions:

..... $ 66,260,000
..... FTEs 1,666.00

1. The funds appropriated and full-time equivalent positions authorized in this section are allocated as follows:

a. State hospital-school at Glenwood:

..... $ 35,830,000

..... FTEs 910.00

b. State hospital-school at Woodward:

..... $ 30,430,000

..... FTEs 756.00

2. Within the funds appropriated in this section, the department may reallocate funds as necessary to best fulfill the needs of the institutions provided for in the appropriation.

Sec. 15. MENTAL ILLNESS 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, 1995, and ending June 30, 1996, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For mental illness 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 the development of affordable community-based housing facilities. The department shall assure that clients are referred to the housing as it is developed.

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 with mental illness who are 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, 1995, and ending June 30, 1996, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the family support subsidy program:

..... $ 1,110,000

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, 1995, and ending June 30, 1996, 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, 1995, and ending June 30, 1996, 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 where the client has no established county of legal settlement:

..... $ 5,470,000

Sec. 19. MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES – COMMUNITY SERVICES FUND. There is appropriated from the general fund of the state to the mental

health and developmental disabilities community services fund created in section 225C.7 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 the purpose designated:

For mental health and developmental disabilities community services in accordance with this Act:

..... $ 16,230,000

1. Of the funds appropriated in this section, $15,951,138 shall be allocated to counties for funding of community-based mental health and developmental disabilities 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 a disability, as defined in section 225C.2. 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 a disability.

c. The mental health and developmental disabilities commission shall adopt rules pursuant to chapter 17A describing the contemporary services. The commission may adopt administrative 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. A mental health and developmental disabilities regional planning council established pursuant to section 225C.18 shall develop plans for the provision of services for the fiscal year beginning July 1, 1995, for persons with a disability in the county or counties comprising the planning council.

b. County expenditure reports for services provided to persons with a disability for the prior fiscal year are due to the department on or before October 15, 1995. The county MI/MR/DD/BI plan for the fiscal year beginning July 1, 1995, is due to the department on or before April 1, 1995.

6. Of the funds appropriated in this section, not more than $248,862 shall be provided to those counties having supplemental per diem contracts in effect on June 30, 1994, which were originally initiated 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, 1995.

7. a. Funding from the federal social services block grant in the amount of $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.

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.

Sec. 20. PERSONAL ASSISTANCE – FAMILY SUPPORT. There is appropriated from the general fund of the state to the department of human services 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 the purpose designated:

For implementing a pilot project for the personal assistance services program in accordance with this section:

..... $ 250,000

1. The funds appropriated in this section shall be used by the division of mental health and developmental disabilities to implement a pilot project for the personal assistance services program under section 225C.46 in an urban and a rural area. A portion of the funds may be used for costs to develop a federal home and community-based waiver under the medical assistance program for persons with physical disabilities or other expenditures necessary to develop the personal assistance program in the most appropriate and cost-effective manner. However, not more than $50,000 shall be used for administrative costs. The pilot project and the waiver shall not be implemented in a manner that would require additional county or state costs for assistance provided to an individual served under the pilot project or the waiver.

2. In cooperation with the personal assistance and family support services council, the Iowa family support initiative, and the governor's planning council for developmental disabilities, the department shall apply for any federal funds made available through the federal Families of Children with Disabilities Support Act of 1994, provided no new state

or county funds are needed to match the federal funds. The department may use funds from existing programs as matching funds, provided the program goals are consistent and reductions in services for program recipients do not occur. The department shall use the personal assistance and family support services council to meet any federal requirements for a state board policy group, or may use a subgroup of the council if necessary for meeting federal specifications on size, composition, configuration, or functioning relating to a federal requirement for a policy group. The department's planning for a comprehensive family support initiative under section 225C.47 and this subsection shall address options for a means test eligibility requirement and for local review of eligibility by existing bodies such as the mental health and developmental disabilities regional planning councils created pursuant to section 225C.18.

Sec. 21. FIELD OPERATIONS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1995, and ending June 30, 1996, 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 and for not more than the following full-time equivalent positions:

..... $	38,140,000
..... FTEs	2009.50

The department may exceed the quantity of full-time equivalent positions authorized in this section by up to 8.5 FTEs as necessary to increase services for the permanent placement of children for whom parental rights have been terminated and who are under the guardianship of the department.

Sec. 22. GENERAL ADMINISTRATION. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1995, and ending June 30, 1996, 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 and for not more than the following full-time equivalent positions:

..... $	10,907,951
..... FTEs	375.50

Of the funds appropriated in this section, $57,090 is allocated for the prevention of disabilities policy council established in section 225B.3.

Sec. 23. VOLUNTEERS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1995, and ending June 30, 1996, 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, 1995, and ending June 30, 1996, 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 and for not more than the following full-time equivalent positions:

..... $	919,000
..... FTEs	17.00

Moneys appropriated in this section shall be considered encumbered for the purposes of section 8.33.

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, 1995, 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, 1995, providers of obstetric services when provided by physicians or certified nurse-midwives shall have their medical assistance reimbursement rates increased by 5.0 percent over the rates in effect on June 30, 1995.

c. For the fiscal year beginning July 1, 1995, skilled nursing facilities shall have their medical assistance rates increased by 4.6 percent over the rates in effect on June 30, 1995.

d. The dispensing fee for pharmacists shall remain at the rate in effect on June 30, 1995. The reimbursement policy for drug product costs shall be in accordance with federal requirements.

e. Reimbursement rates for in-patient and outpatient hospital services shall be increased by an average of 4.2 percent over the rates in effect on June 30, 1995. The department shall continue the outpatient hospital reimbursement system based upon ambulatory patient groups implemented pursuant to 1994 Iowa Acts, chapter 1186, section 25, subsection 1, paragraph "f". In addition, the department shall continue the revised medical assistance payment policy implemented pursuant to that paragraph to provide 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.

f. Reimbursement rates for rural health clinics shall be increased in accordance with increases under the federal medicare program.

g. Home health agencies certified for the federal medicare program, hospice services, and acute care mental hospitals shall be reimbursed for their current federal medicare audited costs.

h. The basis for establishing the maximum medical assistance reimbursement rate for nursing facilities shall be the 70th percentile of facility costs as calculated from the June 30, 1995, 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, 1995, unaudited compilation of cost and statistical data and the adjustment shall take effect January 1, 1996.

i. The department may revise the fee schedule used for physician reimbursement.

j. Federally qualified health centers shall be reimbursed at 100 percent of reasonable costs as determined by the department in accordance with federal requirements.

k. Reimbursement for air ambulance service shall be $7.50 per mile and the base rate is $200.

2. For the fiscal year beginning July 1, 1995, the maximum cost reimbursement rate for residential care facilities reimbursed by the department shall be $21.32 per day. The flat reimbursement rate for facilities electing not to file semiannual cost reports shall be $15.25 per day. For the fiscal year beginning July 1, 1995, the maximum reimbursement rate for providers reimbursed under the in-home health-related care program shall be $409.89 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, 1994.

4. Notwithstanding section 234.38, in the fiscal year beginning July 1, 1995, the foster family basic daily maintenance rate and the maximum adoption subsidy rate for children ages 0 through 5 years shall be $12.00, the rate for children ages 6 through 11 years shall be $12.72, the rate for children ages 12 through 15 years shall be $13.89, and the rate for children ages 16 and older shall be $14.73. Effective July 1, 1995, payments to foster and adoptive families shall be calculated on a daily basis. Effective July 1, 1995, the special care allowance paid to adoptive families who have adopted a child with special needs and are eligible for an adoptive subsidy shall be the same as foster care.

5. For the fiscal year beginning July 1, 1995, the maximum reimbursement rates for social service providers shall be the same as the rates in effect on June 30, 1995, except under any of the following circumstances:

a. If a new service was added after June 30, 1995, the initial reimbursement rate for the service shall be based upon actual and allowable costs.

b. If a social service provider loses a source of income used to determine the reimbursement rate for the provider, the provider's reimbursement rate may be adjusted to reflect the loss of income, provided that the lost income was used to support actual and allowable costs of a service purchased under a purchase of service contract.

c. The department revises the reimbursement rates due to implementation of a redesigned purchase of services system.

6. The group foster care 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. The payment of the daily rate shall be based on the number of days in the calendar month in which service is provided.

7. For the fiscal year beginning July 1, 1995, the combined service and maintenance components of the reimbursement rate paid to a shelter care provider shall be based on the cost report submitted to the department. The maximum reimbursement rate shall be $76.61 per day. If the department would reimburse the provider at less than the maximum rate but the provider's cost report justifies a rate of at least $76.61, the department shall readjust the provider's reimbursement rate to the maximum reimbursement rate. In January 1996, the department shall review the usage of shelter care and the funding allocated for shelter care, if the usage is less than anticipated and the existing contracts for provision of shelter care do not obligate the total amount of the funds allocated, the department may utilize moneys in the allocation, which would otherwise be unexpended, for wrap-around services or support to enable group foster care placement to be prevented or the length of stay reduced.

8. The department shall continue the pilot project to implement the alternative payment system, recommended in the study completed by the drug utilization review commission, for compensation of pharmacists for pharmaceutical care services under medical assistance. A report of the findings and recommendations resulting from an evaluation of the pilot project regarding the payment system shall be submitted to the legislative fiscal bureau and to the chairpersons and ranking members of the joint appropriations subcommittee on human services by January 15, 1997.

9. The department shall modify reimbursement provisions applicable to agencies providing services under the department's rehabilitative treatment program for children and their families. The modification shall address the service utilization reimbursement rates under the program to include the time a child is away from the agency for good cause.

10. The department may adopt emergency rules to implement the provisions of this section.

11. For the period beginning on the effective date of this subsection and ending June 30, 1996, the department shall not reduce the percentile amount used to calculate reimbursement rates for intermediate care facilities for the mentally retarded.

Sec. 26. STANDARDS FOR CASELOADS AND REIMBURSEMENT.

*1. *The department of human services shall develop a plan for meeting national standards on caseloads for the department's social workers.**

2. The department shall also develop a plan for improving the adequacy of reimbursement for family foster care. The foster care reimbursement rate improvement provisions shall provide for basing the reimbursement rates on at least 75 percent of the United States department of agriculture estimate of the costs to raise a child in the calendar year immediately preceding the fiscal year. In addition the family foster care provisions of the plan shall address additional reimbursement for respite care, including in-home respite care, and adequate allowances for clothing and school expenses. The clothing allowance upon a child's initial placement shall be at least $250 and at least $50 per month for the remainder of the placement. School expenses shall be reimbursed for elementary and developmental preschool children at not more than $50 per semester and for grades seven through twelve at not more than $100 per semester. Driver's education expenses shall be reimbursed in full.

3. The department shall submit the planning provisions required by this section to the members of the joint appropriations subcommittee on human services of the senate and house of representatives on or before January 8, 1996.

Sec. 27. STATE INSTITUTIONS – CLOSINGS AND REDUCTIONS. If a state institution administered by the department of human services is to be closed or reduced in size, prior to the closing or reduction the department shall initiate and coordinate efforts in cooperation with the Iowa department of economic development to develop new jobs in the area in which the state institution is located. 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. 28. 1994 Iowa Acts, chapter 1186, section 10, unnumbered paragraph 2, is amended to read as follows:

For child and family services:

..... $ ~~74,617,612~~
81,264,807

Sec. 29. 1994 Iowa Acts, chapter 1186, section 18, unnumbered paragraph 2, is amended to read as follows:

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~~
2,973,492

Sec. 30. 1994 Iowa Acts, chapter 1186, section 19, unnumbered paragraph 2, is amended to read as follows:

For mental illness, mental retardation, developmental disabilities, and brain injury community services in accordance with the provisions of this Act:

..... $ ~~29,277,958~~
21,860,789

Sec. 31. 1994 Iowa Acts, chapter 1186, section 19, subsection 6, paragraph a, as amended by 1994 Iowa Acts, chapter 1199, section 70, is amended to read as follows:

a. Of the funds appropriated in this section, ~~$13,038,763~~ $5,621,594 is allocated for distribution to counties for local purchase of services for persons with mental illness or mental retardation or other developmental disability.

Sec. 32. 1994 Iowa Acts, chapter 1186, section 20, unnumbered paragraph 2, is amended to read as follows:

*Item veto; see message at end of the Act

For field operations, including salaries, support, maintenance, and miscellaneous purposes:

..... $ ~~37,567,639~~
41,337,613

Sec. 33. 1994 Iowa Acts, chapter 1194, section 10, subsections 2 and 3, are amended to read as follows:

2. Not more than ~~$1,725,148~~ 2,078,730 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~~
11,322,332

b. Child and family services:

..... $ ~~14,101,019~~
-0-

c. Child care assistance:

..... $ ~~1,310,652~~
1,581,230

d. Local administrative costs and other local services:

..... $ ~~1,164,210~~
1,462,851

e. Volunteers:

..... $ ~~122,778~~
148,259

f. Community-based services:

..... $ ~~146,321~~
183,855

g. Local purchase:

..... $ 10,917,169

h. MI/MR state cases:

..... $ 3,000,000

Sec. 34. Section 99D.7, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 22. To cooperate with the gamblers assistance program administered by the department of human services to incorporate information regarding the gamblers assistance program and its toll-free telephone number in printed materials distributed by the commission. The commission may require licensees to have the information available in a conspicuous place as a condition of licensure.

Sec. 35. Section 99E.9, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 8. The Iowa lottery board shall cooperate with the gamblers assistance program administered by the department of human services to incorporate information regarding the gamblers assistance program and its toll-free telephone number in printed materials distributed by the board.

Sec. 36. Section 217.3, subsection 4, Code 1995, is amended to read as follows:

4. Approve the budget of the department of human services prior to submission to the governor. ~~Within two weeks of the date~~ Prior to approval of the budget ~~is approved~~, the council shall publicize and hold a public hearing to provide explanations and hear questions, opinions, and suggestions regarding the budget. Invitations to the hearing shall be extended to the governor, the governor-elect, the director of the department of management, and other persons deemed by the council as integral to the budget process.

*Sec. 37. *Section 232.188, subsection 6, Code 1995, is amended to read as follows:*

*6. Initially the department shall work with the five counties previously authorized under law to enter into decategorization agreements with the state. At a minimum, any of those counties may elect to use funding for foster care, family-centered services, subsidized adoption, child day care, local purchase of service, state juvenile institution care, state mental health institute care, state hospital-school care, juvenile detention, department direct services, and court-ordered services for juveniles in the child welfare fund established for that county. A portion of the fund may also be used for emergency family assistance to provide resources for families to remain intact or to be reunified. The department shall inform each county in advance of a fiscal year of the amount of funding that is available on account for the county at the state institutions for the fiscal year.**

Sec. 38. 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 during the fiscal year beginning July 1, 1995, and ending June 30, 1996. 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. 39. EFFECTIVE DATE. Section 3, subsection 10, of this Act, relating to drug prior authorization, section 3, subsection 14, relating to the nursing home waiver pilot program, section 25, subsection 11, relating to reimbursement rates for intermediate care facilities for the mentally retarded, and sections 28 through 33, amending 1994 Iowa Acts, being deemed of immediate importance, take effect upon enactment.

Approved April 27, 1995, except the items which I hereby disapprove and which are designated as those portions of Section 3, subsection 10, paragraph e which are herein bracketed in ink and initialed by me; Section 3, subsection 14 in its entirety; Section 10, subsection 11 in its entirety; Section 10, subsection 19 in its entirety; Section 11, subsection 4 in its entirety; Section 26, subsection 1 in its entirety; and Section 37 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 462, 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.

*Item veto; see message at end of the Act

Senate File 462 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the designated portions of Section 3, subsection 10, paragraph e. These items would require the Department of Human Services to implement a plan to pursue reimbursement for pharmacy services from third-party payors by May 1, 1996, and to include the administrative costs of adopting this new policy in the department's proposed FY 1997 budget. While I support asking the department to explore the feasibility of a "pay and chase" policy to recover the costs of pharmacy services, it would be premature to direct the department to implement the policy before a plan is even developed. Further, implementation of such a policy will result in costs to the Medicaid program which have not been included in the funds appropriated to the department for FY 1996. Also, the requirement that the director include the costs of implementing the policy in the department's FY 1997 budget requests goes beyond the authority the legislature has in the budgeting process, and for that reason can not be approved.

I am unable to approve the item designated as Section 3, subsection 14, in its entirety. This item would require the Department of Human Services to seek federal approval to develop a new program to pay persons, including relatives, to provide care in their homes for elderly individuals who are currently residing in nursing homes. In recent years, several very good programs have been established to provide alternatives to nursing home care for Iowa's elderly. As a result, the elderly who are entering nursing homes are doing so only after they have become so frail or infirm that alternative services are no longer appropriate. I am concerned that because this proposal targets the elderly who have already been placed in nursing homes, it has the potential of encouraging abuses of the Medicaid program and perhaps even of elderly Iowans who are best cared for in the nursing home setting. I urge the Department of Human Services to continue to work with the Department of Elder Affairs to develop alternative services that are cost effective and that address the needs of Iowa's elderly citizens.

I am unable to approve the item designated as Section 10, subsection 11, in its entirety. This item utilizes a budgeting gimmick to shift funds from one area of the Department of Human Services' budget to another, the result of which reduces the department's flexibility to design delinquency and child welfare services and creates built-in increases in future years. Again this is an example of the bad budgeting practices of the past which can no longer be tolerated.

I am unable to approve the item designated as Section 10, subsection 19, in its entirety. This item provides an exception to the Department of Human Services' policies relating to foster care support obligations. The cases that would be impacted can not be easily identified and for that reason the exception as written would be difficult, if not impossible, to administer. The department has existing procedures that allow persons to request an exception to policy in appropriate cases which is already available as a remedy.

I am unable to approve the item designated as Section 11, subsection 4, in its entirety. This item would provide an additional $100,000 for family planning services over and above the $739,000 otherwise provided in the bill. This level of funding goes beyond the amount requested by the department and recommended by me for the program.

I am unable to approve the item designated as Section 26, subsection 1, in its entirety. This item directs the Department of Human Services to develop a plan for meeting national standards for social worker caseloads. Social worker duties vary from state to state and the differences are often related to the technology available to workers in performing

their tasks. New technologies are being implemented to make it possible for our workers to perform more efficiently and effectively. Also services that may be included as part of a social worker's duties in other states are contracted out in Iowa. Given these variances, national standards can not be directly applied to Iowa's experience.

I am unable to approve the item designated as Section 37, in its entirety. This proposed statutory change fails to address the relationships of the local decategorization accounts and the current funding mechanisms for the mental health institutes and state hospital-schools. Traditionally child welfare funds have not been used for mental health institutes or hospital-school costs. Counties that decategorize child welfare funding will be able to continue to carry out their plans.

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 462 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 206

INCOME AND PROPERTY TAX RELIEF - MENTAL HEALTH FUNDING
S.F. 69

AN ACT relating to tax provisions involving state income tax, certain county property tax and services associated with mental health and developmental disabilities services, the county property tax limitation, and property tax on industrial machinery, equipment and computers, providing appropriations, and providing effective and applicability dates.

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

DIVISION I
INCOME TAX

Section 1. Section 422.7, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 33. For a person who is disabled, or is fifty-five years of age or older, or is the surviving spouse of an individual or a survivor having an insurable interest in an individual who would have qualified for the exemption under this subsection for the tax year, subtract, to the extent included, the total amount of a governmental or other pension or retirement pay, including, but not limited to, defined benefit or defined contribution plans, annuities, individual retirement accounts, plans maintained or contributed to by an employer, or maintained or contributed to by a self-employed person as an employer, and deferred compensation plans or any earnings attributable to the deferred compensation plans, up to a maximum of three thousand dollars for a person who files a separate state income tax return and up to a maximum of six thousand dollars for a husband and wife who file a joint state income tax return. However, a surviving spouse who is not disabled or fifty-five years of age or older can only exclude the amount of pension or retirement pay received as a result of the death of the other spouse.

Sec. 2. Section 422.12, subsection 1, paragraph c, Code 1995, is amended to read as follows:

c. For each dependent, an additional ~~fifteen~~ forty dollars. As used in this section, the term "dependent" has the same meaning as provided by the Internal Revenue Code.

Sec. 3. TAXATION STUDY. The legislative council is requested to establish a taxation study during the 1995 legislative interim period. The study would address taxation of businesses, including subchapter S corporations, taxation incentives and disincentives for economic development, and the long-term objectives of business taxation. The legislative council is requested to authorize up to $100,000 for consultants and other costs associated with the business taxation study.

Sec. 4. RETROACTIVE APPLICABILITY. This division of this Act applies retroactively to January 1, 1995, for tax years beginning on or after that date.

DIVISION II
SUPPLEMENTAL LEVY AND COUNTY MENTAL HEALTH FUND

Sec. 5. Section 123.38, unnumbered paragraph 2, Code 1995, is amended to read as follows:

Any licensee or permittee, or the licensee's or permittee's executor or administrator, or any person duly appointed by the court to take charge of and administer the property or assets of the licensee or permittee for the benefit of the licensee's or permittee's creditors, may voluntarily surrender a license or permit to the division. When a license or permit is surrendered the division shall notify the local authority, and the division or the local authority shall refund to the person surrendering the license or permit, a proportionate amount of the fee received by the division or the local authority for the license or permit as follows: If a license or permit is surrendered during the first three months of the period for which it was issued, the refund shall be three-fourths of the amount of the fee; if surrendered more than three months but not more than six months after issuance, the refund shall be one-half of the amount of the fee; if surrendered more than six months but not more than nine months after issuance, the refund shall be one-fourth of the amount of the fee. No refund shall be made, however, for any special liquor permit, nor for a liquor control license, wine permit, or beer permit surrendered more than nine months after issuance. For purposes of this paragraph, any portion of license or permit fees used for the purposes authorized in section 331.424, subsection 1, paragraphs "a"~~,~~ and "b"~~, "c", "d", "e", "f", "g", and "h"~~, and in section 331.424A, shall not be deemed received either by the division or by a local authority. No refund shall be made to any licensee or permittee, upon the surrender of the license or permit, if there is at the time of surrender, a complaint filed with the division or local authority, charging the licensee or permittee with a violation of this chapter. If upon a hearing on a complaint the license or permit is not revoked or suspended, then the licensee or permittee is eligible, upon surrender of the license or permit, to receive a refund as provided in this section; but if the license or permit is revoked or suspended upon hearing the licensee or permittee is not eligible for the refund of any portion of the license or permit fee.

Sec. 6. Section 218.99, Code 1995, is amended to read as follows:

218.99 COUNTY AUDITORS TO BE NOTIFIED OF PATIENTS' PERSONAL ACCOUNTS.

The administrator of a division of the department of human services in control of a state institution shall direct the business manager of each institution under the administrator's jurisdiction which is mentioned in section 331.424, subsection 1, paragraphs "a" ~~through "g"~~ and "b" and for which services are paid under section 331.424A to quarterly inform the auditor of the county of legal settlement of any patient or resident who has an amount in excess of two hundred dollars on account in the patients' personal deposit fund and the amount on deposit. The administrators shall direct the business manager to further notify the auditor of the county at least fifteen days before the release of funds in excess of two hundred dollars or upon the death of the patient or resident. If the patient or resident has

no county of legal settlement, notice shall be made to the director of the department of human services and the administrator of the division of the department in control of the institution involved.

Sec. 7. Section 225C.4, subsection 2, paragraph b, Code 1995, is amended to read as follows:

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.

Sec. 8. Section 331.301, subsection 12, Code 1995, is amended to read as follows:

12. The board of supervisors may credit funds to a reserve for the purposes authorized by subsection 11 of this section; section 331.424, subsection 1, paragraph ~~"1"~~ "f"; and section 331.441, subsection 2, paragraph "b". Moneys credited to the reserve, and interest earned on such moneys, shall remain in the reserve until expended for purposes authorized by subsection 11 of this section; section 331.424, subsection 1, paragraph ~~"1"~~ "f"; or section 331.441, subsection 2, paragraph "b".

Sec. 9. Section 331.424, subsection 1, Code 1995, is amended to read as follows:

1. For general county services, an amount sufficient to pay the charges for the following:

a. To the extent that the county is obligated by statute to pay the charges for:

~~(1) Care and treatment of patients by a state mental health institute.~~

~~(2) Care and treatment of patients by either of the state hospital schools or by any other facility established under chapter 222 and diagnostic evaluation under section 222.31.~~

~~(3) Care and treatment of patients under chapter 225.~~

~~(4)~~ (1) Care and treatment of persons at the alcoholic treatment center at Oakdale. However, the county may require that an admission to the center shall be reported to the board by the center within five days as a condition of the payment of county funds for that admission.

~~(5)~~ (2) Care of children admitted or committed to the Iowa juvenile home at Toledo.

~~(6)~~ (3) Clothing, transportation, medical, or other services provided persons attending the Iowa braille and sight saving school, the Iowa school for the deaf, or the state hospital-school for severely handicapped children at Iowa City, for which the county becomes obligated to pay pursuant to sections 263.12, 269.2, and 270.4 through 270.7.

~~b. To the extent that the board deems it advisable to pay, the charges for professional evaluation, treatment, training, habilitation, and care of persons who are mentally retarded, autistic persons, or persons who are afflicted by any other developmental disability, at a suitable public or private facility providing inpatient or outpatient care in the county. As used in this paragraph:~~

~~(1) "Developmental disability" has the meaning assigned that term by 42 U.S.C. sec. 6001(7) (1976), Supp. II, 1978, and Supp. III, 1979.~~

~~(2) "Autistic persons" means persons, regardless of age, with severe communication and behavior disorders that became manifest during the early stages of childhood development and that are characterized by a severely disabling inability to understand, communicate, learn, and participate in social relationships. "Autistic persons" includes but is not limited to those persons afflicted by infantile autism, profound aphasia, and childhood psychosis.~~

~~c. Care and treatment of persons placed in the county hospital, county care facility, a health care facility as defined in section 135C.1, subsection 6, or any other public or private facility, which placement is in lieu of admission or commitment to or is upon discharge,~~

~~removal, or transfer from a state mental health institute, hospital-school, or other facility established pursuant to chapter 222.~~

~~d. Amounts budgeted by the board for the cost of establishment and initial operation of a community mental health center in the manner and subject to the limitations provided by state law.~~

~~e.~~ b. Foster care and related services provided under court order to a child who is under the jurisdiction of the juvenile court, including court-ordered costs for a guardian ad litem under section 232.71.

~~f. The care, admission, commitment, and transportation of mentally ill patients in state hospitals, to the extent that expenses for these services are required to be paid by the county, including compensation for the advocate appointed under section 229.19.~~

~~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 developmental disabilities commission created in section 225C.5 and are consistent with the annual plan for services approved by the board.~~

~~h. Reimbursement on behalf of mentally retarded persons under section 249A.12.~~

~~i.~~ c. Elections, and voter registration pursuant to chapter 48A.

~~j.~~ d. Employee benefits under chapters 96, 97B, and 97C, which are associated with salaries for general county services.

~~k.~~ e. Joint county and city building authorities established under section 346.27, as provided in subsection 22 of that section.

~~l.~~ f. Tort liability insurance, property insurance, and any other insurance that may be necessary in the operation of the county, costs of a self-insurance program, costs of a local government risk pool, and amounts payable under any insurance agreements to provide or procure such insurance, self-insurance program, or local government risk pool.

~~m.~~ g. The maintenance and operation of the courts, including but not limited to the salary and expenses of the clerk of the district court and other employees of the clerk's office, and bailiffs, court costs if the prosecution fails or if the costs cannot be collected from the person liable, costs and expenses of prosecution under section 189A.17, salaries and expenses of juvenile court officers under chapter 602, court-ordered costs in domestic abuse cases under section 236.5, the county's expense for confinement of prisoners under chapter 356A, temporary assistance to the county attorney, county contributions to a retirement system for bailiffs, reimbursement for judicial magistrates under section 602.6501, claims filed under section 622.93, interpreters' fees under section 622B.7, uniform citation and complaint supplies under section 805.6, and costs of prosecution under section 815.13.

~~n.~~ h. Court-ordered costs of conciliation procedures under section 598.16.

~~o.~~ i. Establishment and maintenance of a joint county indigent defense fund pursuant to an agreement under section 28E.19.

~~p.~~ j. The maintenance and operation of a local emergency management agency established pursuant to chapter 29C.

The board may require a public or private facility, as a condition of receiving payment from county funds for services it has provided, to furnish the board with a statement of the income, assets, and legal residence including township and county of each person who has received services from that facility for which payment has been made from county funds under paragraphs "a" ~~through "h"~~ and "b". However, the facility shall not disclose to anyone the name or street or route address of a person receiving services for which commitment is not required, without first obtaining that person's written permission.

Parents or other persons may voluntarily reimburse the county or state for the reasonable cost of caring for a patient or an inmate in a county or state facility.

Sec. 10. NEW SECTION. 331.424A COUNTY MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES SERVICES FUND.

1. For the purposes of this chapter, unless the context otherwise requires, "services

fund" means the county mental health, mental retardation, and developmental disabilities services fund created in subsection 2. The county finance committee created in section 333A.2 shall consult with the state-county management committee in adopting rules and prescribing forms for administering the services fund.

2. For the fiscal year beginning July 1, 1996, and succeeding fiscal years, county revenues from taxes and other sources designated for mental health, mental retardation, and developmental disabilities services shall be credited to the mental health, mental retardation, and developmental disabilities services fund of the county. The board shall make appropriations from the fund for payment of services provided under the county management plan approved pursuant to section 331.439.

3. For the fiscal year beginning July 1, 1996, and succeeding fiscal years, receipts from the state or federal government for such services shall be credited to the services fund, including moneys allotted to the county from the state payment made pursuant to section 331.439 and moneys allotted to the county for property tax relief pursuant to section 426B.1.

4. For the fiscal year beginning July 1, 1996, and for each subsequent fiscal year, the county shall certify a levy for payment of services. Unless otherwise provided by state law, for each fiscal year, county revenues from taxes imposed by the county credited to the services fund shall not exceed an amount equal to the amount of base year expenditures for services in the fiscal year beginning July 1, 1993, and ending June 30, 1994, as defined in section 331.438 less the amount of property tax relief to be received pursuant to section 426B.2, subsections 1 and 3, in the fiscal year for which the budget is certified. The county auditor and the board of supervisors shall reduce the amount of the levy certified for the services fund by the amount of property tax relief to be received.

5. Appropriations specifically authorized to be made from the mental health, mental retardation, and developmental disabilities services fund shall not be made from any other fund of the county.

Sec. 11. Section 444.25A, subsection 3, paragraph b, subparagraph (3), Code 1995, is amended to read as follows:

(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"~~ and "b".

Sec. 12. EFFECTIVE AND APPLICABILITY DATES. This division of this Act takes effect January 1, 1996, and is applicable to taxes payable in the fiscal year beginning July 1, 1996, and subsequent fiscal years.

DIVISION III
PROPERTY TAX RELIEF PROVISIONS

Sec. 13. Section 222.60, unnumbered paragraph 1, Code 1995, as amended by 1995 Iowa Acts, House File 483,* section 12, is amended to read as follows:

All necessary and legal expenses for the cost of admission or commitment or for the treatment, training, instruction, care, habilitation, support and transportation of persons with mental retardation, as provided for in the county management plan provisions implemented pursuant to section 331.439, subsection 1, in a state hospital-school, or in a special unit, or any public or private facility within or without the state, approved by the director of the department of human services, shall be paid by either:

Sec. 14. Section 331.438, subsection 1, paragraph b, Code 1995, is amended to read as follows:

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.

1A. 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~~

*Chapter 82 herein

~~expenditures during the immediately preceding fiscal year were in excess of the amount of the county's base year expenditures~~ by applying the inflation factor adjustment established in accordance with section 331.439, subsection 3, for that fiscal year to the amount of county expenditures for qualified services in the previous fiscal year. A state payment is the state funding a county receives pursuant to section 426B.2, subsection 2. Any state funding received by a county for property tax relief in accordance with section 426B.2, subsections 1 and 3, is not a state payment and shall not be included in the state payment calculation made pursuant to this subsection.

Sec. 15. Section 331.439, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

331.439 ELIGIBILITY FOR STATE PAYMENT.

1. The state payment to eligible counties under this section shall be made as provided in sections 331.438 and 426B.2. A county is eligible for the 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, in consultation with the state-county management committee, determines for a specific fiscal year that all of the following conditions are met:

a. The county accurately reported by October 15 the county's expenditures for mental health, mental retardation, and developmental disabilities services for the previous fiscal year on forms prescribed by the department of human services.

b. The county developed and implemented a county management plan for the county's mental health, mental retardation, and developmental disabilities services in accordance with the provisions of this paragraph. 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 service management provision for mental health, mental retardation, and developmental disabilities services. For mental retardation and developmental disabilities service management, the plan shall describe the county's development and implementation of a managed system of cost-effective individualized services and shall comply with the provisions of paragraph "d". The goal of this part of the plan shall be to assist the individuals served to be as independent, productive, and integrated into the community as possible. The service management provisions for mental health shall comply with the provisions of paragraph "c".

c. (1) For mental health service management, the county may either directly implement a system of service management and contract with service providers, or contract with a private entity to manage the system, provided all requirements of this lettered paragraph are met by the private entity. The mental health service management shall incorporate a single entry point and clinical assessment process developed in accordance with the provisions of section 331.440. The county shall submit this part of the plan to the department of human services for approval by April 1 for the succeeding year. Initially, this part of the plan shall be submitted to the department by April 1, 1996, and the county shall implement the approved plan by July 1, 1996.

(2) The basis for determining whether a managed care system for mental health proposed by a county is comparable to a mental health managed care contractor approved by the department of human services shall include but is not limited to all of the following elements which shall be specified in administrative rules adopted by the council on human services in consultation with the state-county management committee:

(a) The enrollment and eligibility process.

(b) The scope of services included.

(c) The method of plan administration.

(d) The process for managing utilization and access to services and other assistance.

(e) The quality assurance process.

(f) The risk management provisions and fiscal viability of the provisions, if the county contracts with a private managed care entity.

d. For mental retardation and developmental disabilities services management, the county must either develop and implement a managed system of care which addresses a full array of appropriate services and cost-effective delivery of services or contract with a state-approved managed care contractor or contractors. Any system or contract implemented under this paragraph shall incorporate a single entry point and clinical assessment process developed in accordance with the provisions of section 331.440. The elements of the managed system of care and the state-approved managed care contract or contracts shall be specified in rules developed by the department of human services in consultation with the state-county management committee and adopted by the council on human services. Initially, this part of the plan shall be submitted to the department for approval on or before October 1, 1996, and shall be implemented on or before January 1, 1997. In fiscal years succeeding the fiscal year of initial implementation, this part of the plan shall be submitted to the department of human services for approval by April 1 for the succeeding fiscal year.

e. Changes to the approved plan are submitted at least sixty days prior to the proposed change and are not to be implemented prior to the director of human services' approval.

2. The county management plan shall address the county's criteria for serving persons with chronic mental illness, including any rationale used for decision making regarding this population.

3. a. For the fiscal year beginning July 1, 1996, and succeeding fiscal years, the county's mental health, mental retardation, and developmental disabilities service expenditures for a fiscal year are limited to a fixed budget amount. The fixed budget amount shall be the amount identified in the county's management plan and budget for the fiscal year. **The county shall be allowed an inflation factor adjustment for services paid from the county's services fund under section 331.424A which is in accordance with the county's management plan and budget, implemented pursuant to this section.*

b. Based upon information contained in county management plans and budgets, the state-county management committee shall recommend an inflation factor adjustment to the council on human services by November 15 for the succeeding fiscal year. The inflation factor adjustment shall address costs associated with new consumers of service, service cost inflation, and investments for economy and efficiency. The council on human services shall recommend to the governor the amount of the inflation factor adjustment for the succeeding fiscal year for inclusion in the governor's proposed budget for the succeeding fiscal year.

*c. If the general assembly has not revised the amount of the inflation factor adjustment for a fiscal year on the date county budgets must be approved and levies must be certified for that fiscal year, the budgets and levies shall utilize the inflation factor adjustment for that fiscal year recommended by the governor in the governor's proposed budget.**

4. A county may provide assistance to service populations with disabilities to which the county has historically provided assistance but who are not included in the service management provisions required under subsection 1, subject to the availability of funding.

5. Notwithstanding any other provision of law to the contrary, a county shall have no obligation to pay for or provide mental health, mental retardation, or developmental disabilities services for any person that applies through the county's single entry point and clinical assessment process after the moneys in the county services fund under section 331.424A are expended.

6. A county shall implement the county's management plan in a manner so as to provide adequate funding for the entire fiscal year by budgeting for ninety-nine percent of the funding anticipated to be available for the plan. A county may expend all of the funding anticipated to be available for the plan.

7. 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.

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*Item veto; see message at end of the Act

Sec. 16. Section 331.440, subsection 1, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. The single entry point and clinical assessment process shall include provision for the county's participation in a management information system developed in accordance with rules adopted pursuant to subsection 3.

Sec. 17. NEW SECTION. 426B.1 APPROPRIATIONS - PROPERTY TAX RELIEF FUND.

1. A property tax relief fund is created in the state treasury under the authority of the department of revenue and finance. The 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 for payment of state obligations. The moneys in the fund are not subject to the provisions of section 8.33 and shall not be transferred, used, obligated, appropriated, or otherwise encumbered except as provided in this section. Moneys in the fund may be used for cash flow purposes, provided that any moneys so allocated are returned to the fund by the end of each fiscal year. However, the fund shall be considered a special account for the purposes of section 8.53, relating to elimination of any GAAP deficit. For the purposes of this chapter, unless the context otherwise requires, "property tax relief fund" means the property tax relief fund created in this section.

2. There is appropriated to the property tax relief fund for the indicated fiscal years from the general fund of the state the following amounts:

a. For the fiscal year beginning July 1, 1995, sixty-one million dollars.

b. For the fiscal year beginning July 1, 1996, seventy-eight million dollars.

c. For the fiscal year beginning July 1, 1997, and succeeding fiscal years, ninety-five million dollars.

Sec. 18. NEW SECTION. 426B.2 PROPERTY TAX RELIEF FUND DISTRIBUTIONS.

Moneys in the property tax relief fund shall be utilized in each fiscal year as follows in the order listed:

1. The first sixty-one million dollars plus the amount paid pursuant to subsection 3 in the previous fiscal year in the property tax relief fund shall be distributed to counties under this subsection. A county's proportion of the moneys shall be equivalent to the sum of the following three factors:

a. One-third based upon the county's proportion of the state's general population.

b. One-third based upon the county's proportion of the state's total taxable property valuation assessed for taxes payable in the previous fiscal year.

c. One-third based upon the county's proportion of all counties' base year expenditures, as defined in section 331.438.

Moneys provided to a county for property tax relief in a fiscal year in accordance with this section shall not be less than the amount provided for property tax relief in the previous fiscal year.

2. Payment of moneys to eligible counties of the state payment in accordance with the provisions of sections 331.438 and 331.439.

3. For the fiscal year beginning July 1, 1996, and succeeding fiscal years, the department of human services shall estimate the amount of moneys required for the state payment pursuant to subsection 2. Moneys remaining in the property tax relief fund following the payment made pursuant to subsection 1 and the estimated amount of the state payment pursuant to subsection 2 shall be paid for property tax relief in the same manner as provided in subsection 1 to counties eligible for state payment under subsection 2. These payments shall continue until the combined amount of the payments made under this subsection and subsection 1 are equal to fifty percent of the total of all counties' base year expenditures as defined in section 331.438. The amount of moneys paid to a county pursuant to this subsection shall be added in subsequent fiscal years to the amount of moneys paid under subsection 1.

*Item veto; see message at end of the Act

4. Moneys remaining in the property tax relief fund following the payments made pursuant to subsections 1, 2, and 3 shall be transferred to the homestead credit fund created in section 425.1. This transfer shall continue until the homestead credit is fully funded.

5. The department of human services shall notify the director of revenue and finance of the amounts due a county in accordance with the provisions of this section. The director of revenue and finance shall draw warrants on the property tax relief fund, payable to the county treasurer in the amount due to a county in accordance with subsections 1 and 3 and mail the warrants to the county auditors in September and March of each year. Warrants for the state payment in accordance with subsection 2 shall be mailed in January of each year.

Sec. 19. NEW SECTION. 426B.3 NOTIFICATION OF MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES EXPENDITURE RELIEF FUND PAYMENT.

1. The county auditor shall reduce the certified budget amount received from the board of supervisors for the succeeding fiscal year for the county mental health, mental retardation, and developmental disabilities services fund created in section 331.424A by an amount equal to the amount the county will receive from the property tax relief fund pursuant to section 426B.2, subsections 1 and 3, for the succeeding fiscal year and the auditor shall determine the rate of taxation necessary to raise the reduced amount. On the tax list, the county auditor shall compute the amount of taxes due and payable on each parcel before and after the amount received from the property tax relief fund is used to reduce the county budget. The director of revenue and finance shall notify the county auditor of each county of the amount of moneys the county will receive from the property tax relief fund pursuant to section 426B.2, subsections 1 and 3, for the succeeding fiscal year.

2. The amount of property tax dollars reduced on each parcel as a result of the moneys received from the property tax relief fund pursuant to section 426B.2, subsections 1 and 3, shall be noted on each tax statement prepared by the county treasurer pursuant to section 445.23.

Sec. 20. NEW SECTION. 426B.4 RULES.

The council on human services shall consult with the state-county management committee created in section 331.438 and the director of revenue and finance in prescribing forms and adopting rules pursuant to chapter 17A to administer this chapter.

Sec. 21. PROPERTY TAX RELIEF – FISCAL YEAR 1995-1996. For the fiscal year beginning July 1, 1995, the department of management shall notify each county auditor by June 1, 1995, of the amount the county will receive from the property tax relief fund for property tax relief pursuant to section 426B.2, subsection 1, for that fiscal year. The county auditor shall reduce by the notified amount the amount of the county's certified budget to be raised by property tax for that fiscal year which is to be expended for mental health, mental retardation, and developmental disabilities services and shall revise the rate of taxation as necessary to raise the reduced amount. The county auditor shall report the reduction in the certified budget and the revised rate of taxation to the department of management by June 30, 1995.

Sec. 22. FUNDING OF SESSION LAW REQUIREMENTS. If the appropriations in section 426B.1, subsection 2, as created in this division of this Act, are enacted by this Act, the requirements of 1994 Iowa Acts, chapter 1163, section 8, subsection 2, to fully fund provisions of sections 331.438 and 331.439 shall be considered to be met and the repeals contained in 1994 Iowa Acts, chapter 1163, section 8, subsection 2, shall be void.

Sec. 23. STATE-COUNTY MANAGEMENT COMMITTEE REVIEW – 1995 INTERIM. The state-county management committee created in section 331.438 shall review statutory provisions and administrative rules which are intended to regulate and contain county

expenditures for mental health, mental retardation, and developmental disabilities (MH/MR/DD) services and the formula for distribution of property tax relief moneys to counties under section 426B.2. The committee should consider proposals from counties and other interested persons for a distribution formula factor which rewards or provides incentives for economy and efficiency in providing mental health, mental retardation, and developmental disabilities services; and a mechanism for a county to appeal to the state if it is believed the county is unfairly treated under an established funding formula. In addition, the committee shall consider tort and other liability issues associated with a county managing MH/MR/DD expenditures in accordance with a fixed budget and make recommendations to address the issues. The committee shall review the dates required under section 331.439 and chapter 426B, as enacted by this Act and make recommendations for change if revisions are deemed necessary. The committee shall report to the governor and the general assembly on or before December 1, 1995.

Sec. 24. LEVY STUDY. The county finance committee created in chapter 333A shall consult with any interested parties in studying the ramifications of consolidating the county general basic levies and the general supplemental levies and other proposals involving the levies. The committee shall be assisted by four legislators with one each appointed by the following leaders: majority leader of the senate, minority leader of the senate, speaker of the house of representatives, and minority leader of the house of representatives. The legislative appointees are eligible for per diem and actual expenses for their assistance to the committee. The committee shall report to the governor and the general assembly with findings and recommendations on or before January 4, 1996.

Sec. 25. EFFECTIVE DATE. Section 21 of this division of this Act, relating to property tax relief for fiscal year 1995-1996, being deemed of immediate importance, takes effect upon enactment.

DIVISION IV
COUNTY PROPERTY TAX LIMITATION

Sec. 26. Section 444.25A, subsection 1, Code 1995, is amended to read as follows:

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, minus the amount of property tax relief moneys to be received by the county for the fiscal year beginning July 1, 1995, pursuant to section 426B.2, subsection 1, 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, minus the amount by which the property tax relief moneys to be received by the county in the fiscal year beginning July 1, 1996, pursuant to section 426B.2, subsections 1 and 3, exceeds the amount of the property tax relief moneys received 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.

Sec. 27. NEW SECTION. 444.25B PROPERTY TAX LIMITATION FOR FISCAL YEAR 1998.

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, 1997, shall not exceed the amount of property tax dollars certified by the county for taxes payable in the fiscal year beginning July 1, 1996, minus the amount by which the property tax relief moneys to be received by the county in the fiscal year beginning July 1, 1997, pursuant to section 426B.2, subsections 1 and 3, exceeds the amount of the property tax relief moneys received in the fiscal year beginning July 1, 1996, 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, 1997.
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, 1997, is limited to no more than the product of the total tax dollars levied in the fiscal year beginning July 1, 1996, 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 1996 from that computed for the third quarter of calendar year 1995.

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 year beginning July 1, 1997, the price index used shall be the revision published in the November 1996 edition of the United States department of commerce publication, "survey of current business". For purposes of this paragraph, tax dollars levied in the fiscal year beginning July 1, 1996, 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, 1997, shall be frozen at the fiscal year beginning July 1, 1996, 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 year beginning July 1, 1997, 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 pursuant to section 331.424, subsection 1, paragraphs "a" and "b".

(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. 28. Section 444.27, Code 1995, is amended to read as follows:

444.27 SECTIONS VOID.

1. 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.

2. For purposes of section 444.25B, sections 24.48 and 331.426 are void for the fiscal year beginning July 1, 1997.

DIVISION V
INDUSTRIAL MACHINERY, EQUIPMENT AND COMPUTERS PROPERTY TAX EXEMPTION AND REPLACEMENT

Sec. 29. Section 427B.17, Code 1995, is amended to read as follows:

427B.17 PROPERTY SUBJECT TO SPECIAL VALUATION.

1. For property defined in section 427A.1, subsection 1, paragraphs "e" and "j", acquired or initially leased on or after January 1, 1982, the taxpayer's valuation shall be

limited to thirty percent of the net acquisition cost of the property, except as otherwise provided in subsections 2 and 3. For purposes of this section, "net acquisition cost" means the acquired cost of the property including all foundations and installation cost less any excess cost adjustment.

For purposes of this ~~section~~ subsection:

~~1. Property assessed by the department of revenue and finance pursuant to sections 428.24 to 428.29, or chapters 433, 434 and 436 to 438 shall not receive the benefits of this section.~~

~~2.~~ a. Property acquired before January 1, 1982, which was owned or used before January 1, 1982, by a related person shall not receive the benefits of this ~~section~~ subsection.

~~3.~~ b. Property acquired on or after January 1, 1982, which was owned and used by a related person shall not receive any additional benefits under this ~~section~~ subsection.

~~4.~~ c. Property which was owned or used before January 1, 1982, and subsequently acquired by an exchange of like property shall not receive the benefits of this ~~section~~ subsection.

~~5.~~ d. Property which was acquired on or after January 1, 1982, and subsequently exchanged for like property shall not receive any additional benefits under this ~~section~~ subsection.

~~6.~~ e. Property acquired before January 1, 1982, which is subsequently leased to a taxpayer or related person who previously owned the property shall not receive the benefits of this ~~section~~ subsection.

~~7.~~ f. Property acquired on or after January 1, 1982, which is subsequently leased to a taxpayer or related person who previously owned the property shall not receive any additional benefits under this ~~section~~ subsection.

For purposes of this ~~section~~ subsection, "related person" means a person who owns or controls the taxpayer's business and another business entity from which property is acquired or leased or to which property is sold or leased. Business entities are owned or controlled by the same person if the same person directly or indirectly owns or controls fifty percent or more of the assets or any class of stock or who directly or indirectly has an interest of fifty percent or more in the ownership or profits.

2. Property defined in section 427A.1, subsection 1, paragraphs "e" and "j", which is first assessed for taxation in this state on or after January 1, 1995, shall be exempt from taxation.

3. Property defined in section 427A.1, subsection 1, paragraphs "e" and "j", and assessed under section 427B.17, subsection 1, shall be valued by the local assessor as follows for the following assessment years:

a. For the assessment year beginning January 1, 1999, at twenty-two percent of the net acquisition cost.

b. For the assessment year beginning January 1, 2000, at fourteen percent of the net acquisition cost.

c. For the assessment year beginning January 1, 2001, at six percent of the net acquisition cost.

d. For the assessment year beginning January 1, 2002, and succeeding assessment years, at zero percent of the net acquisition cost.

4. Property assessed pursuant to this section shall not be eligible to receive a partial exemption under sections 427B.1 to 427B.6.

5. This section shall not apply to property assessed by the department of revenue and finance pursuant to sections 428.24 to 428.29, or chapters 433, 434, and 436 to 438, and such property shall not receive the benefits of this section.

Any electric power generating plant which operated during the preceding assessment year at a net capacity factor of more than twenty percent, shall not receive the benefits of this section or of sections 15.332 and 15.334. For purposes of this section, "electric power generating plant" means any name plate rated electric power generating plant, in which

electric energy is produced from other forms of energy, including all taxable land, buildings, and equipment used in the production of such energy. "Net capacity factor" means net actual generation divided by the product of net maximum capacity times the number of hours the unit was in the active state during the assessment year. Upon commissioning, a unit is in the active state until it is decommissioned. "Net actual generation" means net electrical megawatt hours produced by the unit during the preceding assessment year. "Net maximum capacity" means the capacity the unit can sustain over a specified period when not restricted by ambient conditions or equipment deratings, minus the losses associated with station service or auxiliary loads.

6. The taxpayer's valuation of property defined in section 427A.1, subsection 1, paragraphs "e" and "j", and located in an urban renewal area for which an urban renewal plan provides for the division of taxes as provided in section 403.19 to pay the principal and interest on loans, advances, bonds issued under the authority of section 403.9, subsection 1, or indebtedness incurred by a city or county to finance an urban renewal project within the urban renewal area, if such loans, advances, or bonds were issued or indebtedness incurred, on or after January 1, 1982, and on or before June 30, 1995, shall be limited to thirty percent of the net acquisition cost of the property. Such property located in an urban renewal area shall not be valued pursuant to subsection 2 or 3, whichever is applicable, until the assessment year following the calendar year in which the obligations created by any loans, advances, bonds, or indebtedness payable from the division of taxes as provided in section 403.19 have been retired. The taxpayer's valuation for such property shall then be the valuation specified in subsection 2 or 3, whichever is applicable, for the applicable assessment year. If the loans, advances, or bonds issued, or indebtedness incurred between January 1, 1982, and June 30, 1995, are refinanced or refunded after June 30, 1995, the valuation of such property shall then be the valuation specified in subsection 2 or 3, whichever is applicable, for the applicable assessment year beginning with the assessment year following the calendar year in which any of those loans, advances, bonds, or other indebtedness are refinanced or refunded after June 30, 1995.

7. For the purpose of dividing taxes under section 260E.4 or 260F.4, the employer's or business's valuation of property defined in section 427A.1, subsection 1, paragraphs "e" and "j", and used to fund a new jobs training project which project's first written agreement providing for a division of taxes as provided in section 403.19 is approved on or before June 30, 1995, shall be limited to thirty percent of the net acquisition cost of the property. An employer's or business's taxable property used to fund a new jobs training project shall not be valued pursuant to subsection 2 or 3, whichever is applicable, until the assessment year following the calendar year in which the certificates or other funding obligations have been retired or escrowed. The taxpayer's valuation for such property shall then be the valuation specified in subsection 1 for the applicable assessment year. If the certificates issued, or other funding obligations incurred, between January 1, 1982, and June 30, 1995, are refinanced or refunded after June 30, 1995, the valuation of such property shall then be the valuation specified in subsection 2 or 3, whichever is applicable, for the applicable assessment year beginning with the assessment year following the calendar year in which those certificates or other funding obligations are refinanced or refunded after June 30, 1995.

Sec. 30. NEW SECTION. 427B.18 REPLACEMENT.

Beginning with the fiscal year beginning July 1, 1996, each county treasurer shall be paid from the industrial machinery, equipment and computers replacement fund an amount equal to the amount of the industrial machinery, equipment and computers tax replacement claim, as calculated in section 427B.19.

Sec. 31. NEW SECTION. 427B.19 ASSESSOR AND COUNTY AUDITOR DUTIES.

1. On or before July 1 of each fiscal year, the assessor shall determine the total assessed

value of the property assessed under section 427B.17 for taxes payable in that fiscal year and the total assessed value of such property assessed as of January 1, 1994, and shall report the valuations to the county auditor.

2. On or before July 1 of each fiscal year, the assessor shall determine the valuation of all commercial and industrial property assessed for taxes payable in that fiscal year and the valuation of such property assessed as of January 1, 1994, and shall report the valuations to the county auditor.

3. On or before July 1, 1996, and on or before July 1 of each succeeding fiscal year through June 30, 2006, the county auditor shall prepare a statement, based upon the report received pursuant to subsections 1 and 2, listing for each taxing district in the county:

a. Beginning with the assessment year beginning January 1, 1995, the difference between the assessed valuation of property assessed pursuant to section 427B.17 for that year and the total assessed value of such property assessed as of January 1, 1994. If the total assessed value of the property assessed as of January 1, 1994, is less, there is no tax replacement for the fiscal year.

b. The tax levy rate for each taxing district for that fiscal year.

c. The industrial machinery, equipment and computers tax replacement claim for each taxing district. For fiscal years beginning July 1, 1996, and ending June 30, 2001, the replacement claim is equal to the amount determined pursuant to paragraph "a", multiplied by the tax rate specified in paragraph "b". For fiscal years beginning July 1, 2001, and ending June 30, 2006, the replacement claim is equal to the product of the amount determined pursuant to paragraph "a", less any increase in valuations determined in paragraph "d", and the tax rate specified in paragraph "b". If the amount subtracted under paragraph "d" is more than the amount determined in paragraph "a", there is no tax replacement for the fiscal year.

d. Beginning with the assessment year beginning January 1, 2000, the auditor shall reduce the amount listed in paragraph "a", by the increase, if any, in assessed valuations of commercial and industrial property in the assessment year beginning January 1, 1994, and the assessment year for which taxes are due and payable in that fiscal year. If the calculation under this paragraph indicates a net decrease in aggregate valuation of such property, the industrial machinery, equipment and computers tax replacement claim for each taxing district is equal to the amount determined pursuant to paragraph "a", multiplied by the tax rate specified in paragraph "b".

4. The county auditor shall certify and forward one copy of the statement to the department of revenue and finance not later than July 1 of each year.

Sec. 32. NEW SECTION. 427B.19A FUND CREATED.

1. The industrial machinery, equipment and computers property tax replacement fund is created. For the fiscal year beginning July 1, 1996, through the fiscal year ending June 30, 2006, there is appropriated annually from the general fund of the state to the department of revenue and finance to be credited to the industrial machinery, equipment and computers property tax replacement fund, an amount sufficient to implement this division.

2. If an amount appropriated for a fiscal year is insufficient to pay all claims, the director shall prorate the disbursements from the fund to the county treasurers and shall notify the county auditors of the pro rata percentage on or before August 1.

3. The replacement claims shall be paid to each county treasurer in equal installments in September and March of each year. The county treasurer shall apportion the replacement claim payments among the eligible taxing districts in the county.

Sec. 33. NEW SECTION. 427B.19B GUARANTEE OF STATE REPLACEMENT FUNDS.

For the fiscal years beginning July 1, 1996, and ending June 30, 2006, if the industrial machinery, equipment and computers property tax replacement fund is insufficient to pay

in full the total of the amounts certified to the director of revenue and finance, the director shall compute for each county the difference between the total of all replacement claims for each taxing district within the county and the amount paid to the county treasurer for disbursement to each taxing district in the county. The assessor, for the assessment year for which taxes are due and payable in the fiscal year for which a sufficient appropriation was not made, shall revalue all industrial machinery, equipment and computers described in section 427B.17, subsections 2 and 3, in the county at a percentage of net acquisition cost which will yield from each taxing district its shortfall and the property shall be assessed and taxed in such manner for taxes due and payable in the following fiscal year in addition to being assessed and taxed in the applicable manner under section 427B.17. When conducting the revaluation, the assessor shall increase the percentage of net acquisition cost of such property by the same percentage point. Property tax dollar amounts certified pursuant to this section shall not be considered property tax dollars certified for purposes of the property tax limitation in chapter 444.

Sec. 34. Section 257.3, subsection 1, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The amount paid to each school district for the tax replacement claim for industrial machinery, equipment and computers under section 427B.19A shall be regarded as property tax. The portion of the payment which is foundation property tax shall be determined by applying the foundation property tax rate to the amount computed under section 427B.19, subsection 3, paragraph "a", as adjusted by paragraph "d", if any adjustment was made.

DIVISION VI
FISCAL YEAR 1996 PAYMENT

Sec. 35. FISCAL YEAR 1996 RELIEF FUND PAYMENT. Notwithstanding 1995 Iowa Acts, House File 132,* section 13, the appropriation in that section shall not be made from the general fund of the state but shall be made from the property tax relief fund created in section 426B.1, as enacted by this Act. Notwithstanding section 426B.2, subsection 2, as enacted by this Act, for the fiscal year beginning July 1, 1995, the amount of moneys distributed under that subsection shall be $54.4 million.

Approved May 2, 1995, except the items which I hereby disapprove and which are designated as those portions of Section 15 which are herein bracketed in ink and initialed by me; and that portion of Section 18 which is herein bracketed in ink and initialed by me. My reasons for vetoing these items are delineated in the item veto message pertaining to this Act to the President of the Senate this same date, a copy of which is attached hereto.

TERRY E. BRANSTAD, *Governor*

Dear Mr. President:

I hereby transmit Senate File 69, an Act relating to tax provisions involving state income tax, certain county property tax and services associated with mental health and developmental disabilities services, the county property tax limitation, and property tax on industrial machinery, equipment and computers, providing appropriations, and providing effective and applicability dates.

Senate File 69 represents landmark legislation for the first session of the Seventy-Sixth General Assembly. The bill contains nearly $100 million in tax reductions for Iowa families and businesses in fiscal year 1996, growing to $172 million in fiscal year 2001.

*Chapter 202 herein

With the repeal of property taxes on new machinery and equipment, this bill will have an immediate impact on Iowa's ability to attract and keep high paying jobs. This impact will grow in the future, as all property taxes on existing equipment are gradually eliminated. County taxpayers will also receive property tax relief through the mental health provisions, where 50 percent of mental health financing is shifted to the State and a process for cost containment is begun. Finally, families and retirees will see their Iowa income tax bills go down as a result of increasing the dependent credit from $15 to $40, and allowing the exclusion from taxable income of $3,000 of pension income ($6,000 for married filers).

I believe that Senate File 69 is an excellent first step towards the goals of increasing jobs, personal income and population growth. I expect additional action to be taken during the next legislative session to reduce income tax rates and treating small businesses the same as other corporations under the single-factor corporate income tax. These changes are critical to attaining our goals.

Senate File 69 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the designated portion of Section 15, identified as the third sentence of Section 331.439, subsection 3a, and Section 331.439, subsections 3b and 3c, in their entirety. These items require counties to receive an inflation factor for mental health beginning in fiscal year 1997, and spell out specific factors and procedures relating to its determination. These items fail to allow for savings from managed care, and could significantly dilute the property tax relief. Moreover, the portion of Section 15, identified as Section 331.439, subsection 3b, contains a provision that intrudes upon my executive budgeting responsibilities. The concept of an inflation factor may be appropriate to reconsider at a later date, after adequate cost containment has been achieved through the rule-making process.

I am unable to approve the designated portion of Section 15, identified as Section 331.439, subsection 5, in its entirety. This item limits counties' obligations for payment of mental health, mental retardation and developmental disabilities services. I support the concept of limiting counties' obligations, except in those instances where a county elects to become its own managed care provider. The assumption of financial risk is one of the defining characteristics of managed care. If a county chooses to become its own managed care provider, it should also assume the financial risk. I will approve language that is subsequently enacted as long as it contains this exclusion.

I am unable to approve the designated portion of Section 18, identified as Section 426B.2, second unnumbered and unlettered paragraph, in its entirety. This item will hinder future efforts to change the allocation formula.

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 69 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 207

APPROPRIATIONS - JUSTICE SYSTEM

S.F. 459

AN ACT relating to and making appropriations to the department of justice, office of consumer advocate, board of parole, department of corrections, judicial district departments of correctional services, judicial department, state public defender, Iowa law enforcement academy, department of public defense, and for the department of public safety's administration, division of criminal investigation and bureau of identification, division of narcotics enforcement, undercover purchases, and the state fire marshal's office, for the fiscal year beginning July 1, 1995, and providing effective dates and retroactive applicability.

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, 1995, and ending June 30, 1996, 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:

..... $ 5,242,801
..... FTEs 177.50

It is the intent of the general assembly that the general office of attorney general shall establish within the office a farm services unit and a juvenile unit within the funds appropriated in this subsection:

2. Prosecuting attorney training program for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 122,415
..... FTEs 4.00

a. In addition to the funds appropriated in this subsection for the fiscal year beginning July 1, 1995, and ending June 30, 1996, 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, 1995, and ending June 30, 1996, 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 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, 1995, and ending June 30, 1996, 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, 1995, and ending June 30, 1996, 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:

..... $ 1,359,806

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 in 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:

..... $ 106,451
..... 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 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, 1994, and actual and expected reimbursements for the fiscal year commencing July 1, 1995.

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, 1996.

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, 1995, and ending June 30, 1996, 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:

..... $	2,155,779
..... 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, 1995, and ending June 30, 1996, 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:

..... $	805,400
..... FTEs	17.00

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.

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, 1995, and ending June 30, 1996, 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:

..... $	25,528,267
..... FTEs	494.00

b. For the operation of the Anamosa correctional facility, including salaries, support, maintenance, employment of 222 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:

..... $	19,337,558
..... FTEs	366.25

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:

..... $	15,966,313
..... FTEs	321.80

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:

..... $	5,687,373
..... FTEs	116.25

e. For the operation of the Mt. Pleasant correctional facility, including salaries, support, maintenance, employment of 150 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:

..... $ 13,869,795
..... FTEs 268.92

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:

..... $ 5,510,246
..... FTEs 111.00

g. For the operation of the Clarinda correctional facility, including salaries, support, maintenance, employment of 120.66 correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 10,768,008
..... FTEs 203.85

Moneys received by the department of corrections as reimbursement for services provided to the Clarinda youth corporation are appropriated to the department and shall be used for the purpose of operating the Clarinda correctional facility.

h. For the operation of the Mitchellville correctional facility, including salaries, support, maintenance, employment of 71.5 correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 6,288,619
..... FTEs 132.00

2. a. 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.

b. 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.

3. The department of corrections shall conduct a study to compare the costs and consider the feasibility of leasing an existing building or of constructing, remodeling, or renovating a building for use as a residential facility and office in Fort Dodge by the second judicial district department of corrections. The department of corrections shall submit a report on the study, including the findings and recommendations of the department, to the general assembly on or before January 30, 1996.

4. The department of corrections shall conduct a study to consider the establishment and location of a 50-bed infirmary unit to provide nursing, medical, and other health care-related services to inmates. The department shall submit a report on the study, including the findings and recommendations of the department, to the general assembly on or before January 8, 1996.

5. The department of corrections shall, in consultation with the board of parole, the criminal and juvenile justice planning division of the department of human rights, and the office of the attorney general, conduct a study to consider whether to establish a supermaximum security facility for inmates. The study shall consider the number of beds needed at such a facility, the best location for the facility, whether existing facilities or new construction should be used to establish the facility, and whether constructing or establishing a new facility could result in removal of the court-ordered limit on the number of prison inmates allowed at Fort Madison. The department of corrections shall submit a report on the study, including the findings and recommendations of the department, to the general assembly on or before January 8, 1996.

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, 1995, and ending June 30, 1996, 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:

..... $ 2,298,531
..... FTEs 38.18

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.

It is the intent of the general assembly that as a condition of receiving the appropriation provided in this subsection, the department of corrections shall not enter into a new contract, unless the contract is a renewal of an existing contract, for the expenditure of moneys in excess of one hundred thousand dollars during the fiscal year beginning July 1, 1995, for the privatization of services performed by the department using state employees as of July 1, 1995, or for the privatization of new services by the department, without prior consultation with any applicable state employee organization affected by the proposed new contract and prior notification of the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system.

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:

..... $ 384,597
..... 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:

..... $ 3,180,990

7. For educational programs for inmates at state penal institutions:

..... $ 1,850,600

It is the intent of the general assembly that moneys appropriated in this subsection shall be used solely for the purpose indicated and that the moneys shall not be transferred for any other purpose.

Notwithstanding section 8.33, moneys appropriated in this subsection which remain unobligated or unexpended at the close of the fiscal year shall not revert to the general fund of the state but shall remain available only for the purposes designated in this subsection in the succeeding fiscal year.

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, 1995, and ending June 30, 1996, 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:

..... $ 6,648,762

(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:

..... $ 5,375,715

(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:

..... $ 3,284,176

(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:

..... $ 2,398,328

(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:

..... $ 8,784,368

(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:

..... $ 6,918,725

(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).

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:

..... $ 4,372,318

(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:

..... $ 3,905,921

(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:

..... $ 83,576

2. 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.

3. 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.

4. 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.

5. 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, 1996.

6. 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.

7. In addition to the requirements of section 8.39, 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.

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, 1995, and ending June 30, 1996, 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, 1995, and maintenance, equipment, and miscellaneous purposes:

..... $ 87,220,772

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. Of the funds appropriated in this subsection, the judicial department shall use not more than $968,716 for an additional 7 district court judges and an additional 7 court

reporters. Of the additional district court judges and court reporters, 1 additional district court judge and 1 court reporter shall be assigned one each to judicial election subdistricts one-B and eight-A and to judicial election districts four, six, and seven, and 2 additional district court judges and 2 court reporters shall be assigned to the judicial election subdistrict five-C.

f. Of the funds appropriated in this subsection, the judicial department shall use not more than $507,184 for an additional 4 district associate judges and 4 additional court reporters, with 3 of the additional district associate judges and 3 additional court reporters for Polk county, and 1 additional district associate judge and one additional court reporter for Bremer, Floyd, and Hardin counties, notwithstanding the provisions of section 602.6301.

g. Of the funds appropriated in this subsection, the judicial department shall use the following amounts for the purposes indicated:

(1) For an additional 1 FTE for the expansion of the court-appointed special advocate program, $43,336.

(2) For an additional 4 juvenile court officers, $133,635.

h. It is the intent of the general assembly that the judicial department reduce the amounts expended for travel, office supplies, and printing by 5 percent from the amounts expended for these purposes during the 1994-1995 fiscal year.

i. Of the funds appropriated in this subsection, the judicial department shall use not more than $1,290,000 for increasing the existing capacity of the Iowa court information system by extending the system into 15 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. 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, 1996.

j. 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.

k. The judicial department shall report to the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system by February 1, 1996, 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.

l. 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:

..... $ 155,396

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, 1995, and ending June 30, 1996, 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. In addition to the requirements for transfers under section 8.39, 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. a. 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.

b. A report required by this section shall be made by January 15, 1996, for the counties added to the Iowa court information system during the 1994-1995 fiscal year, and by January 15, 1997, for the 15 additional counties added to the system by this Act, indicating whether the counties have reduced uncollected court fines and fees by 50 percent as a result of being added to the system.

Sec. 9. ENHANCED COURT COLLECTIONS FUND – DISTRIBUTION. Of the moneys collected and deposited in the enhanced court collections fund created in section 602.1304, as enacted by this Act, the first $359,000 deposited in the fund in the fiscal year beginning July 1, 1995, for use by the Iowa court information system shall be expended for the purchase of jury management software. Any additional moneys deposited in the enhanced court collections fund in the fiscal year beginning July 1, 1995, shall not be used for appellate software.

Sec. 10. 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, 1995, and ending June 30, 1996, 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

Sec. 11. 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. The judicial department shall continue to assist in the development of an automated data system for use in the sharing of information utilizing the generic program interface for legislative and executive branch uses.

Sec. 12. 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, 1996.

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, 1996.

Sec. 14. 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 1994 Iowa Acts, chapter 1196, 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, 1994. As used in this section, unless the context otherwise requires, "encumbered funds" means the moneys appropriated to the department of corrections pursuant to 1994 Iowa Acts, chapter 1196, 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, 1995, 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 surveillance cameras and other necessary surveillance or safety equipment for use in correctional institutions. The full-time equivalent positions provided in this section for the employment of correctional officers and the funding provided for the purchase of equipment are in addition to any full-time equivalent positions 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, 1995.

Sec. 15. 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. 16. STATE PUBLIC DEFENDER. There is appropriated from the general fund of the state to the office of the state public defender of the department of inspections and appeals for the fiscal year beginning July 1, 1995, and ending June 30, 1996, the following amounts, or so much thereof as is necessary, for the purposes designated, and for not more than the following full-time equivalent positions:

1. For salaries, support, maintenance, and miscellaneous purposes:

..... $ 9,020,095
..... FTEs 160.30

2. For indigent court-appointed attorney fees for adults and juveniles, notwithstanding section 232.141 and chapter 815:

..... $ 11,751,800

The department of inspections and appeals shall design a uniform statewide fee claim form for juvenile court cases for all attorneys to utilize in submitting fee claims to the counties for payment so as to enable the department to compile statewide cost and statistical information. The department may adopt emergency rules to implement this process.

Sec. 17. EMERGENCY RULES. If specifically authorized by a provision of this Act, the department of inspections and appeals 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. 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. 18. IOWA LAW ENFORCEMENT ACADEMY. There is appropriated from the general fund of the state to the Iowa law enforcement academy 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. For salaries, support, maintenance, miscellaneous purposes, including jailer training and technical assistance, and for not more than the following full-time equivalent positions:

..... $ 1,000,154
..... 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:

..... $ 30,000

3. 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.

Sec. 19. DEPARTMENT OF PUBLIC DEFENSE. There is appropriated from the general fund of the state to the department of public defense 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. MILITARY DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 3,852,724
..... FTEs 212.26

If there is a surplus in the general fund of the state for the fiscal year ending June 30, 1996, 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:

..... $ 486,498
..... FTEs 14.05

Sec. 20. 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, 1995, and ending June 30, 1996, 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:

..... $ 2,179,251
..... FTEs 40.00

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:

..... $ 8,883,350
..... FTEs 182.00

The department of public safety, with the approval of the department of management, may employ no more than two special agents and four gaming enforcement officers for each additional riverboat regulated on or after March 31, 1995.

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:

..... $ 2,401,001
..... 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:

..... $ 1,424,236
..... FTEs 31.00

5. For the capitol security division, 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:

..... $ 1,164,441
..... FTEs 27.00

6. An employee of the department of public safety who retires after the effective date of this Act but prior to June 30, 1996, 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.

7. For costs associated with the maintenance of the automated fingerprint information system (AFIS):

..... $ 211,576

8. 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:

..... $ 308,602

Sec. 21. The governor's traffic safety bureau of the department of public safety shall maximize funding to the division of health delivery systems of the Iowa department of public health during the fiscal year beginning July 1, 1995, from the moneys received from the federal highway administration due to the state's failure to enact a mandatory motorcycle helmet law pursuant to the federal Intermodal Surface Transportation Efficiency Act of 1991. The funds shall be allocated to emergency medical services associations for training of emergency medical services personnel and for the purchase of emergency medical equipment. Funding for emergency medical services shall be maximized to the extent that federal highway traffic safety funds are not jeopardized.

Sec. 22. Section 99F.10, subsection 4, Code 1995, is amended to read as follows:

4. In determining the license fees and state admission fees to be charged as provided under section 99F.4 and this section, the commission shall use the amount appropriated to the commission plus the cost of ~~auditing~~ salaries for no more than two special agents and no more than four gaming enforcement officers for each excursion gambling boat for the division of criminal investigation's excursion gambling boat activities as the basis for determining the amount of revenue to be raised from the license fees and admission fees. The division's salary costs shall be limited to sixty-five percent of the salary costs for special agents and sixty-five percent of the salary costs for gaming enforcement for personnel assigned to excursion gambling boats who enforce laws and rules adopted by the commission.

Sec. 23. Section 602.1302, subsection 1, Code 1995, is amended to read as follows:

1. Except as otherwise provided by ~~section~~ sections 602.1303 and 602.1304 or other applicable law, the expenses of operating and maintaining the department shall be paid out of the general fund of the state from funds appropriated by the general assembly for the department. State funding shall be phased in as provided in section 602.11101.

Sec. 24. Section 602.1304, Code 1995, is amended to read as follows:

602.1304 REVENUES - ENHANCED COURT COLLECTIONS FUND.

1. Except as provided in article 8 and subsection 2 of this section, all fees and other revenues collected by judicial officers and court employees shall be paid into the general fund of the state.

2. a. The enhanced court collections fund is created in the state treasury under the authority of the supreme court. 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. Notwithstanding section 8.33, moneys in the fund shall not revert to the general fund, unless and to the extent the total amount of moneys deposited into the fund in a fiscal year would exceed the maximum annual deposit amount established for the collections fund by the general assembly. The initial maximum annual deposit amount for

a fiscal year is four million dollars. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the collections fund shall remain in the collections fund and any interest and earnings shall be in addition to the maximum annual deposit amount.

b. For each fiscal year, a judicial collection estimate for that fiscal year shall be equally and proportionally divided into a quarterly amount. The judicial collection estimate shall be calculated by using the state revenue estimating conference estimate made by December 15 pursuant to section 8.22A, subsection 3, of the total amount of fines, fees, civil penalties, costs, surcharges, and other revenues collected by judicial officers and court employees for deposit into the general fund of the state. The revenue estimating conference estimate shall be reduced by the maximum amounts allocated to the Iowa prison infrastructure fund pursuant to section 602.8108A, and the court technology fund pursuant to section 602.8108, and the remainder shall be the judicial collection estimate. In each quarter of a fiscal year, after revenues collected by judicial officers and court employees equal to that quarterly amount are deposited into the general fund of the state and after the required amount is deposited during the quarter into the Iowa prison infrastructure fund pursuant to section 602.8108A and into the court technology fund pursuant to section 602.8108, the director of revenue and finance shall deposit the remaining revenues for that quarter into the enhanced court collections fund in lieu of the general fund. However, after total deposits into the collections fund for the fiscal year are equal to the maximum deposit amount established for the collections fund, remaining revenues for that fiscal year shall be deposited into the general fund. If the revenue estimating conference agrees to a different estimate at a later meeting which projects a lesser amount of revenue than the initial estimate amount used to calculate the judicial collection estimate, the director of revenue and finance shall recalculate the judicial collection estimate accordingly. If the revenue estimating conference agrees to a different estimate at a later meeting which projects a greater amount of revenue than the initial estimate amount used to calculate the judicial collection estimate, the director of revenue and finance shall recalculate the judicial collection estimate accordingly but only to the extent that the greater amount is due to an increase in the fines, fees, civil penalties, costs, surcharges, or other revenues allowed by law to be collected by judicial officers and court employees.

c. Moneys in the collections fund shall be used by the judicial department for the Iowa court information system.

Sec. 25. Section 602.6201, subsection 10, Code 1995, is amended to read as follows:

10. Notwithstanding the formula for determining the number of judgeships in this section, the number of district judges shall not exceed one hundred ~~one~~ eight during the period commencing July 1, ~~1990~~ 1995.

Sec. 26. NEW SECTION. 904.311A PRISON RECYCLING FUND.

The Iowa prison recycling fund is created and established as a separate and distinct fund in the state treasury. All moneys remitted to the department for recycling operations in each fiscal year commencing with the fiscal year beginning July 1, 1994, shall be deposited in the fund. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the fund shall be credited to the fund. Notwithstanding section 8.33, moneys in the fund shall not revert to the general fund of the state at the close of a fiscal year but shall remain in the fund and be used as directed in this section in the succeeding fiscal year. The treasurer of state shall act as custodian of the fund and disburse moneys from the fund as directed by the department for the purpose of payment of operating expenses for recycling.

Sec. 27. NEW SECTION. 904.508A INMATE TELEPHONE REBATE FUND.

The department is authorized to establish and maintain an inmate telephone rebate fund in each institution for the deposit of moneys received for inmate telephone rebates. All funds deposited in this fund shall be used for the benefit of inmates. The director shall adopt rules providing for the disbursement of moneys from the fund.

Sec. 28. 1993 Iowa Acts, chapter 171, section 11, subsection 4, as amended by 1994 Iowa Acts, chapter 1196, section 23 is amended to read as follows:

4. The task force shall submit the plan to the governor and the general assembly on or before January 15, ~~1995~~ 1996.

Sec. 29. INTERIM STUDY COMMITTEE. The legislative council is requested to authorize an interim study committee concerning the enforcement of activities on excursion gambling boats.

Sec. 30. 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 encumbrance of certain moneys appropriated to the department of corrections in the fiscal year commencing July 1, 1994, being deemed of immediate importance, takes effect upon enactment.
3. Section 28 of this Act, dealing with the intermediate criminal sanctions task force, takes effect upon enactment and is retroactively applicable to January 1, 1995.
4. Section 21 of this Act, dealing with the governor's traffic safety bureau, takes effect upon enactment.
5. Section 26 of this Act, dealing with the Iowa prison recycling fund, takes effect upon enactment and is retroactively applicable to July 1, 1994.

Approved May 4, 1995

CHAPTER 208

FEDERAL BLOCK GRANT APPROPRIATIONS

H.F. 481

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 retroactive 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, 1995, and ending September 30, 1996, the following amount:

..... $ 11,190,416

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.

The department shall expend no less than an amount equal to the amount expended for treatment services in state fiscal year beginning July 1, 1994, for pregnant women and women with dependent children.

Of the funds appropriated in this subsection, an amount not exceeding $24,585 shall be used for audits.

2. The funds remaining from the appropriation made in subsection 1 shall be allocated as follows:

a. At least 20 percent of the allocation shall be for prevention programs.

b. At least 35 percent of the allocation shall be spent on drug treatment and prevention activities.

c. At least 35 percent of the allocation shall be spent on alcohol treatment and prevention activities.

3. The substance abuse block grant funds received from the federal government in excess of the amount of the anticipated federal fiscal year 1995-1996 award appropriated in subsection 1 shall be distributed at least 50 percent to treatment programs and 50 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, 1995, and ending September 30, 1996, the following amount:

..... $ 2,829,397

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, 1995, and ending September 30, 1996, the following amount:

..... $ 6,949,058

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, 1995, 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, 1995, and ending September 30, 1996, the following amount:

..... $ 1,783,899

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 pursuant to this subsection shall not be used by the university of Iowa hospitals and clinics or by the state hygienic laboratory 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, 1995, and ending September 30, 1996, the following amount:

..... $ 5,297,000

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, 1995, and ending September 30, 1996, the following amount:

..... $ 4,216,399

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, 1995, and ending September 30, 1996, the following amount:

..... $ 31,501,000

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 $1,460,000 for the federal fiscal year beginning October 1, 1995, 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 $730,000 for the federal fiscal year beginning October 1, 1995, of funds appropriated in subsection 1 and a matching contribution from the state equal to $730,000 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, 1995, and ending June 30, 1996, the following amount:

..... $ 4,076,355

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 $815,271 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, 1995, and ending September 30, 1996, the following amount:

..... $ 23,976,768

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 $2,038,025 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, 1996, 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. 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, 1995, and ending September 30, 1996, the following amount:

..... $ 30,379,684

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 $1,844,952 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, 1995, for the following programs within the department of human services:

a. Field operations:
..... $ 11,034,866

b. Child and family services:
..... $ 1,650,509

c. Child care assistance:
..... $ 1,365,329

d. Local administrative costs and other local services:
..... $ 1,170,281

e. Volunteers:
..... $ 127,900

f. Community-based services:
..... $ 147,084

g. MH/MR/DD/BI community service (local purchase):
..... $ 13,038,763

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, 1995, and ending September 30, 1996, the following amount:

..... $ 8,306,132

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, 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, 1995, 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, 1994, as modified by the 1995 Session of the Seventy-sixth General Assembly for the state fiscal year beginning July 1, 1995, compared to the total federal funds received in the federal fiscal year beginning October 1, 1994, 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, 1994, but had anticipated applying for funds during the federal fiscal year beginning October 1, 1995, 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, 1994, 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, 1994, 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, 1994. 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, 1994, 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, 1995, and ending June 30, 1996, 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, 1995, and ending June 30, 1996, 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:
..... $ 665,540

2. For assistance for intrastate meat and poultry, grant number 10475:
..... $ 954,286

3. For farmers market nutrition program, grant number 10577:
..... $ 412,981

4. For soil and water conservation, grant number 10902:
..... $ 57,000
5. For food and drug – research grants, grant number 13103:
..... $ 154,522
6. For surface coal mining regulation, grant number 15250:
..... $ 153,169
7. For abandoned mine land reclamation, grant number 15252:
..... $ 3,462,736
8. For pesticide enforcement program, grant number 66700:
..... $ 672,170
9. For pesticide certification program, grant number 66720:
..... $ 65,520

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, 1995, and ending June 30, 1996, 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, 1995, and ending June 30, 1996, 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, 1995, and ending June 30, 1996, 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:
..... $ 286,876
2. For assistive technology information network, grant number 84224:
..... $ 22,980
3. For rehabilitation services – basic support, grant number 84126:
..... $ 4,394,181
4. For rehabilitation training, grant number 84129:
..... $ 18,894
5. For independent living project, grant number 84169:
..... $ 110,857
6. For older blind, grant number 84177:
..... $ 192,240
7. For supported employment, grant number 84187:
..... $ 52,541

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, 1995, and ending June 30, 1996, 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, 1995, and ending June 30, 1996, 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, 1995, and ending June 30, 1996, 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, 1995, and ending June 30, 1996, 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, 1995, and ending June 30, 1996, 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, 1995, and ending June 30, 1996, 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:
..... $ 524,572
2. For promotion of the arts – education, grant number 45003:
..... $ 95,500
3. For promotion of the arts – federal and state, grant number 45007:
..... $ 471,000
4. For promotion of the arts – special projects, grant number 45011:
..... $ 102,825

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, 1995, and ending June 30, 1996, 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:
..... $ 2,212,991
2. For senior community service employment program, grant number 17235:
..... $ 1,035,295
3. For prevention of elder abuse, grant number 93041:
..... $ 28,161
4. For preventive health, grant number 93043:
..... $ 201,504
5. For supportive services, grant number 93044:
..... $ 4,516,282
6. For nutrition, grant number 93045:
..... $ 6,038,894

7. For frail elderly, grant number 93046:
..... $ 83,704
8. For ombudsman activity, grant number 93042:
..... $ 54,182
9. For benefits counseling, grant number 93049:
..... $ 26,242

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, 1995, and ending June 30, 1996, 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:
..... $ 10,000
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:
..... $ 97,206
5. For labor certification, grant number 17202:
..... $ 108,885
6. For employment service, grant number 17207:
..... $ 10,720,817
7. For unemployment insurance grant to state, grant number 17225:
..... $ 19,730,000
8. For occupational safety and health, grant number 17500:
..... $ 1,676,362
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:
..... $ 184,010,000

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, 1995, and ending June 30, 1996, 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, 1995, and ending June 30, 1996, 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, 1995, and ending June 30, 1996, 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:
..... $ 612,558
2. For weatherization assistance, grant number 81042:
..... $ 4,992,011
3. For client assistance, grant number 84161:
..... $ 100,000
4. For low-income home energy assistance, grant number 93568:
..... $ 26,290,443
5. For community services block grant, grant number 93572:
..... $ 4,418,251

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, 1995, and ending June 30, 1996, 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:
..... $ 28,085
2. For food and drug – research grants, grant number 13103:
..... $ 8,388
3. For Title XVIII medicare inspections, grant number 13773:
..... $ 1,685,106
4. For state medicaid fraud control unit, grant number 13775:
..... $ 14,762
5. For state medicaid fraud control, grant number 93775:
..... $ 305,954

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, 1995, and ending June 30, 1996, 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, 1995, and ending June 30, 1996, 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, 1995, and ending June 30, 1996, 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, 1995, and ending June 30, 1996, 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:
..... $ 1,235,000
2. For cooperative forestry assistance, grant number 10664:
..... $ 485,000

3. For surface coal mining regulation, grant number 15250:
..... $ 28,894
4. For fish restoration, grant number 15605:
..... $ 3,855,000
5. For wildlife restoration, grant number 15611:
..... $ 2,700,000
6. For rare and endangered species conservation, grant number 15612:
..... $ 21,575
7. For acquisition, development, and planning, grant number 15916:
..... $ 250,000
8. For recreation boating safety financial assistance, grant number 20005:
..... $ 494,000
9. For Clean Lakes Act, grant number 66435:
..... $ 440,501
10. For consolidated environmental programs support, grant number 66600:
..... $ 8,993,210
11. For energy conservation, grant number 81041:
..... $ 431,006
12. For grants for local government, grant number 81052:
..... $ 695,853

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, 1995, and ending June 30, 1996, 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, 1995, and ending June 30, 1996, 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, 1995, and ending June 30, 1996, 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:
..... $ 7,612,676
2. For superfund authorization, grant number 83011:
..... $ 79,000
3. For federal hazmat training, grant number 83012:
..... $ 3,430
4. For emergency management training, grant number 83403:
..... $ 6,000
5. For emergency management assistance, grant number 83503:
..... $ 920,250
6. For state disaster preparedness grants, grant number 83505:
..... $ 20,000
7. For state and local emergency operation centers, grant number 83512:
..... $ 2,000,000
8. For disaster assistance, grant number 83516:
..... $ 16,681,513

9. 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, 1995, and ending June 30, 1996, 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, 1995, and ending June 30, 1996, 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:
..... $ 8,500,000
4. For school breakfast program, grant number 10553:
..... $ 9,054
5. For school lunch program, grant number 10555:
..... $ 209,429
6. For maternal and child health, grant number 13110:
..... $ 104,276
7. For cancer treatment research, grant number 13395:
..... $ 40,805
8. For general research, grant number 83500:
..... $ 226,358,348
9. For education of handicapped children, grant number 84009:
..... $ 20,713
10. For handicapped – state grants, grant number 84027:
..... $ 272,050

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, 1995, and ending June 30, 1996, 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, 1995, and ending June 30, 1996, 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, 1995, and ending June 30, 1996, 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, 1995, and ending June 30, 1996, 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, 1995, and ending June 30, 1996, 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, 1995, and ending June 30, 1996, 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:
..... $ 25,000
2. For department of justice, grant number 16000:
..... $ 480,000
3. For marijuana control, grant number 16580:
..... $ 58,000
4. For state and community highway safety, grant number 20600:
..... $ 3,587,883

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, 1995, and ending June 30, 1996, 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:
..... $ 29,397,925
2. For food and drug – research grants, grant number 13103:
..... $ 10,802
3. For primary care services, grant number 13130:
..... $ 144,715
4. For health services – grants and contracts, grant number 13226:
..... $ 185,605
5. For drug abuse research grant, grant number 13279:
..... $ 49,200
6. For prevention disability, grant number 13283:
..... $ 89,636
7. For asbestos enforcement, grant number 66706:
..... $ 16,739
8. For health programs for refugees, grant number 13987:
..... $ 37,980
9. For alcohol and drug abuse block grant, grant number 13992:
..... $ 12,315,234
10. For radon control, grant number 66032:
..... $ 348,853
11. For toxic substance compliance monitoring, grant number 66701:
..... $ 169,871
12. For asbestos enforcement program, grant number 66702:
..... $ 155,051

13. For drug-free schools – communities, grant number 84186:
..... $ 1,084,256
14. For hazardous waste, grant number 66802:
..... $ 50,596
15. For regional delivery systems, grant number 93110:
..... $ 242,076
16. For TB control – elimination, grant number 93116:
..... $ 211,649
17. For AIDS prevention project, grant number 93118:
..... $ 1,106,712
18. For physician education, grant number 93161:
..... $ 386,405
19. For childhood lead abatement, grant number 93197:
..... $ 730,303
20. For family planning projects, grant number 93217:
..... $ 598,468
21. For immunization program, grant number 93268:
..... $ 1,498,835
22. For needs assessment grant, grant number 93283:
..... $ 1,385,046
23. For model programs for adolescents, grant number 93902:
..... $ 702,961
24. For rural health, grant number 93913:
..... $ 43,341
25. For HIV cares grants, grant number 93917:
..... $ 333,799
26. For trauma care, grant number 93953:
..... $ 120,767
27. For preventive health services, grant number 93977:
..... $ 585,877
28. For preventive health blocks, grant number 93991:
..... $ 1,807,096
29. For maternal and child health block grant, grant number 93994:
..... $ 6,927,002
30. For Aids prevention project, grant number 93940:
..... $ 52,135
31. For substance abuse program grants, grant number 93959:
..... $ 685,751
32. For refugee health, grant number 93987:
..... $ 11,164
33. For alcohol/drug abuse block grant, grant number 93992:
..... $ 29,680

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, 1995, and ending June 30, 1996, 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:
..... $ 10,435,468
3. For commodity support food program, grant number 10565:
..... $ 309,557

4. For temporary emergency food assistance, grant number 10568:
..... $ 332,440
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:
..... $ 351,430
8. For retired senior volunteer program, grant number 72002:
..... $ 12,263
9. For child care for at-risk families, grant number 93574:
..... $ 197,708
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:
..... $ 300,000
13. For family support payments to states, grant number 93560:
..... $ 95,524,994
14. For job opportunities and basic skills training, grant number 93561:
..... $ 13,218,008
15. For child support enforcement, grant number 93563:
..... $ 20,497,111
16. For refugee and entrant assistance, grant number 93566:
..... $ 4,686,585
17. For child care development block grant, grant number 93575:
..... $ 8,546,421
18. For developmental disabilities basic support, grant number 93630:
..... $ 854,067
19. For children's justice, grant number 93643:
..... $ 171,347
20. For child welfare services, grant number 93645:
..... $ 4,962,484
21. For crisis nursery, grant number 93656:
..... $ 136,242
22. For foster care Title IV-E, grant number 93658:
..... $ 18,493,805
23. For adoption assistance, grant number 93659:
..... $ 7,898,799
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:
..... $ 2,662,000
30. For medical assistance, grant number 93778:
..... $ 777,216,322

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, 1995, and ending June 30, 1996, 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:
..... $ 122,000
2. For young adult conservation corps, grant number 10663:
..... $ 750,000
3. For state and local planning, grant number 11305:
..... $ 72,000
4. For procurement office/department of defense, grant number 12600:
..... $ 83,000
5. For community development block grant state program, grant number 14228:
..... $ 44,402,179
6. For national Affordable Housing Act, grant number 14239:
..... $ 9,715,815
7. For department of labor, grant number 17000:
..... $ 319,028
8. For Job Training Partnership Act, grant number 17250:
..... $ 19,055,048
9. For small business administration tree program, grant number 59045:
..... $ 160,000
10. For community service act funds, grant number 94003:
..... $ 946,000
11. For Job Training Partnership Act – dislocated workers, grant number 17246:
..... $ 7,229,202

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, 1995, and ending June 30, 1996, 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:
..... $ 269,267,000
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, 1995, and ending June 30, 1996, 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:
..... $ 5,512,500
2. For school lunch program, grant number 10555:
..... $ 44,210,250
3. For special milk program for children, grant number 10556:
..... $ 252,000
4. For child care food program, grant number 10558:
..... $ 17,565,030
5. For summer food service for children, grant number 10559:
..... $ 1,075,725
6. For administration expenses for child nutrition, grant number 10560:
..... $ 883,485
7. For public telecommunication facilities, grant number 11550:
..... $ 150,000
8. For vocational rehabilitation – state supplementary assistance, grant number 13625:
..... $ 350,572
9. For vocational rehabilitation – FICA, grant number 13802:
..... $ 9,025,345
10. For nutrition education and training, grant number 10564:
..... $ 115,000
11. For mine health and safety, grant number 17600:
..... $ 80,000
12. For veterans education, grant number 64111:
..... $ 172,270
13. For asbestos enforcement program, grant number 66702:
..... $ 6,000
14. For adult education, grant number 84002:
..... $ 892,176
15. For bilingual education, grant number 84003:
..... $ 75,000
16. For civil rights, grant number 84004:
..... $ 308,622
17. For education of handicapped children, grant number 84009:
..... $ 657,000
18. For E.C.I.A. – chapter 1, grant number 84010:
..... $ 46,000,000
19. For migrant education, grant number 84011:
..... $ 250,000
20. For educationally deprived children, grant number 84012:
..... $ 400,000
21. For education for neglected – delinquent children, grant number 84013:
..... $ 300,000
22. For handicapped education, grant number 84025:
..... $ 98,000
23. For handicapped – state grants, grant number 84027:
..... $ 25,558,783
24. For handicapped professional preparation, grant number 84029:
..... $ 118,000
25. For public library services, grant number 84034:
..... $ 971,153
26. For interlibrary cooperation, grant number 84035:
..... $ 229,155
27. For vocational education – state grants, grant number 84048:
..... $ 9,795,940

28. For vocational education – consumer and homemaking, grant number 84049:
..... $ 393,572
29. For vocational education – state advisory councils, grant number 84053:
..... $ 179,289
30. For national diffusion network, grant number 84073:
..... $ 95,405
31. For rehabilitation services – basic support, grant number 84126:
..... $ 16,629,105
32. For rehabilitation training, grant number 84129:
..... $ 59,689
33. For chapter 2 block grant, grant number 84151:
..... $ 4,171,482
34. For public library construction, grant number 84154:
..... $ 200,000
35. For transition services, grant number 84158:
..... $ 124,379
36. For emergency immigrant education, grant number 84162:
..... $ 58,395
37. For EESA Title II, grant number 84164:
..... $ 1,716,566
38. For independent living project, grant number 84169:
..... $ 337,007
39. For education of handicapped – incentive, grant number 84173:
..... $ 3,999,180
40. For education of handicapped – infants and toddlers, grant number 84181:
..... $ 1,980,000
41. For Byrd scholarship program, grant number 84185:
..... $ 219,000
42. For drug free schools/communities, grant number 84186:
..... $ 2,905,925
43. For supported employment, grant number 84187:
..... $ 271,267
44. For homeless youth and children, grant number 84196:
..... $ 189,344
45. For vocational education-community, grant number 84174:
..... $ 135,271
46. For even start, grant number 84213:
..... $ 670,265
47. For E.C.I.A. capital expense, grant number 84216:
..... $ 500,000
48. For E.C.I.A. state improvements, grant number 84218:
..... $ 400,000
49. For foreign language assistance, grant number 84249:
..... $ 136,491
50. For literacy resource center, grant number 84254:
..... $ 73,458
51. For AIDS prevention project, grant number 93118:
..... $ 265,000
52. For headstart collaborative grant, grant number 93600:
..... $ 128,816
53. For serve America, grant number 94001:
..... $ 177,784
54. For youth apprenticeship, grant number 17249:
..... $ 223,323

55. For environment education grants, grant number 66951:
..... $ 5,000
56. For teacher preparation education, grant number 84243:
..... $ 1,216,528
57. For department of education contracts, grant number 84999:
..... $ 50,000
58. For child development association scholarship, grant number 93614:
..... $ 14,840

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, 1995, and ending June 30, 1996, 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, 1995, and ending June 30, 1996, 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 amounts for the purposes indicated.

For narcotics control assistance, grant number 16579:
..... $ 13,267,000

Sec. 56. 1993 Iowa Acts, chapter 168, section 7, 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, 1993, and ending September 30, 1994, the following amount:
..... $ 35,461,000
Funds appropriated by this subsection are community development block grant funds awarded to the state under public law No. 103-211, Emergency Supplemental Appropriations Act of 1994. 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. Section 56 of this Act is retroactively applicable to October 1, 1993, and is applicable on and after that date.

Approved May 16, 1995

CHAPTER 209

MISCELLANEOUS APPROPRIATIONS, STATE BUDGET PROCESSES, AND STATUTORY CORRECTIONS

S.F. 486

AN ACT relating to and making standing and other appropriations, corrective amendments, and other 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 AND OTHER APPROPRIATIONS

Section 1. For the fiscal year beginning July 1, 1995, and ending June 30, 1996, the appropriation made to the department of education for the educational excellence program pursuant to section 294A.25, subsection 1, shall be increased by $5,000.

Sec. 2. Section 294A.25, subsection 1, Code 1995, is amended to read as follows:

1. For the fiscal year beginning July 1, 1990, there is appropriated from the general fund of the state to the department of education the amount of ninety-two million one hundred thousand eighty-five dollars to be used to improve teacher salaries. For each fiscal year in the fiscal period commencing July 1, 1991, and ending June 30, 1993, there is appropriated an amount equal to the amount appropriated for the fiscal year beginning July 1, 1990, plus an amount sufficient to pay the costs of the additional funding provided for school districts and area education agencies under sections 294A.9 and 294A.14. For each fiscal year beginning on or after July 1, ~~1993~~ 1995, there is appropriated the sum which was appropriated for the previous fiscal year ~~commencing July 1, 1992~~, including supplemental payments. The moneys shall be distributed as provided in this section.

Sec. 3. OKLAHOMA VICTIM ASSISTANCE. There is appropriated from the victim compensation fund established under section 912.14 to the department of justice for the fiscal year beginning July 1, 1994, and ending June 30, 1995, the amount of $100,000 to be transferred to the state of Oklahoma victim assistance fund to be used to provide compensation to the victims of the April 19, 1995, bombing of the Murrah federal building in Oklahoma City, Oklahoma.

Sec. 4. Section 421.31, subsection 11, if enacted by 1995 Iowa Acts, Senate File 475,* is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. There is annually appropriated from the general fund of the state to the department of revenue and finance an amount sufficient to pay interest costs that may be due the federal government as a result of implementation of the federal law. Nothing in this paragraph authorizes the payment of interest from the general fund of the state for any departmental revolving, trust, or special fund where monthly interest earnings accrue to the credit of the departmental revolving, trust, or special fund. For any departmental revolving, trust, or special fund where monthly interest is accrued to the credit of the fund, the director may authorize a supplemental expenditure to pay interest costs from the individual fund which are due the federal government as a result of implementation of the federal law.

Sec. 5. Sections 3 and 4 of this division of this Act, being deemed of immediate importance, take effect upon enactment.

DIVISION II
EDUCATION FINANCES - CONTINGENT PROVISION

Sec. 6. AT-RISK CHILDREN. For the fiscal year beginning July 1, 1995, and ending June 30, 1996, the appropriation made to the department of education pursuant to section

*Chapter 214 herein

279.51, subsection 1, shall be increased by $5,000,000 to be allocated as provided in section 279.51, subsection 1, paragraph "b", for four-year old at-risk children programs.

Sec. 7. CONTINGENT APPROPRIATION. If the actual taxable valuation of real property located in this state, based upon January 1, 1994, assessments, which is used in the computation of property taxes payable in the fiscal year beginning July 1, 1995, 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 section 6 of this division of this Act. If the amount of the reduction in state foundation aid is insufficient to fully fund the increase set out in section 6 of this division of this Act, section 6 shall be funded only to the extent of the reduction.

Sec. 8. CONTINGENT EFFECTIVE DATE. Section 6 of this division of this Act takes effect upon the enactment of section 7.

DIVISION III
MISCELLANEOUS PROVISIONS

Sec. 9. 1994 Iowa Acts, chapter 1193, sections 2, 4, and 35, are repealed.

Sec. 10. SPECIAL FUNDS - SPECIAL AUTHORIZATION FOR GAAP SALARY ACCRUAL. The department of management may authorize supplemental expenditures for the fiscal year beginning July 1, 1994, in amounts necessary to accrue salaries in accordance with generally accepted accounting principles, for those departmental revolving, trust, or special funds which are not part of the general fund of the state and for which the general assembly has established an operating budget.

Sec. 11. Section 8.57, subsection 1, paragraph a, Code 1995, is amended by striking the paragraph and inserting in lieu thereof the following:

a. The "cash reserve goal percentage" for fiscal years beginning on or after July 1, 1995, is five percent of the adjusted revenue estimate. For each fiscal year beginning on or after July 1, 1995, in which the appropriation of the surplus existing in the general fund of the state at the conclusion of the prior fiscal year pursuant to paragraph "b" was not sufficient for the cash reserve fund to reach the cash reserve goal percentage for the current fiscal year, there is appropriated from the general fund of the state an amount to be determined as follows:

(1) If the balance of the cash reserve fund in the current fiscal year is not more than four percent of the adjusted revenue estimate for the current fiscal year, the amount of the appropriation under this lettered paragraph is one percent of the adjusted revenue estimate for the current fiscal year.

(2) If the balance of the cash reserve fund in the current fiscal year is more than four percent but less than five percent of the adjusted revenue estimate for that fiscal year, the amount of the appropriation under this lettered paragraph is the amount necessary for the cash reserve fund to reach five percent of the adjusted revenue estimate for the current fiscal year.

(3) The moneys appropriated under this lettered paragraph shall be credited in equal and proportionate amounts in each quarter of the current fiscal year.

Sec. 12. Section 8.57, subsection 1, paragraph b, Code 1995, is amended to read as follows:

b. ~~Commencing June 30, 1993, the~~ The surplus existing in the general fund of the state at the conclusion of the fiscal year is appropriated for distribution in the succeeding fiscal year as provided in ~~this section~~ subsections 2 and 3. Moneys credited to the cash reserve fund from the appropriation made in this paragraph shall not exceed the amount necessary for the cash reserve fund to reach the cash reserve goal percentage for the succeeding fiscal year. As used in this paragraph, "surplus" means the excess of revenues and other

financing sources over expenditures and other financing uses for the general fund of the state in a fiscal year.

Sec. 13. Section 257.11, subsection 2, unnumbered paragraph 1, Code 1995, is amended to read as follows:

If the school budget review committee certifies to the department of management that the shared classes or teachers would otherwise not be implemented without the assignment of additional weighting, pupils attending classes in another school district or a community college, attending classes taught by a teacher who is employed jointly under section 280.15, or attending classes taught by a teacher who is employed by another school district, are assigned a weighting of one plus an additional portion equal to one times the percent of the pupil's school day during which the pupil attends classes in another district or community college, attends classes taught by a teacher who is jointly employed under section 280.15, or attends classes taught by a teacher who is employed by another school district. A pupil attending a class in which students from one or more other school districts are enrolled and the class is taught via the Iowa communications network is not deemed to be attending a class in another school district for the purposes of this subsection and the school district is not eligible for additional weighting for that class under this subsection.

Sec. 14. Section 279.51, subsection 1, unnumbered paragraph 1, Code 1995, is amended to read as follows:

There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 1990, the sum of eight million seven hundred thousand dollars. For each fiscal year beginning on or after July 1, ~~1993~~ 1995, there is appropriated the sum which was appropriated for the fiscal year commencing July 1, ~~1992~~ 1994.

Sec. 15. Section 285.1, subsection 1, paragraph c, Code 1995, is amended to read as follows:

c. Children attending prekindergarten programs offered or sponsored by the district or nonpublic school and approved by the department of education or department of human services may be provided transportation services. However, transportation services provided nonpublic school children are not eligible for reimbursement under this chapter.

Sec. 16. Sections 9 and 10 of this division of this Act, being deemed of immediate importance, take effect upon enactment.

DIVISION IV
AMENDMENTS TO 1995 IOWA ACTS

Sec. 17. REPEALS. 1995 Iowa Acts, Senate File 278,* sections 8 and 9, are repealed.

Sec. 18. If enacted, 1995 Iowa Acts, House File 203,** section 5, subsection 2, is amended to read as follows:

2. Study the costs of training provided to executive directors of county commissions of veteran affairs under section 35A.3, subsection 12. The commission shall submit a report of its findings and recommendations to the general assembly by January 1, 1996.

Sec. 19. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION V
AMENDMENTS TO 1995 IOWA ACTS

Sec. 20. Section 142C.13, as enacted by 1995 Iowa Acts, Senate File 117,*** section 13, is amended to read as follows:

142C.13 TRANSITIONAL PROVISIONS.

*Chapter 43 herein
**Chapter 161 herein
***Chapter 39 herein

This chapter applies to a document of gift, revocation, or refusal to make an anatomical gift signed by the donor or a person authorized to make or object to the making of an anatomical gift on or after July 1, 1995. A document of gift, revocation, or refusal to make an anatomical gift pursuant to the law in effect prior to July 1, 1995, shall not be affected by the provisions of this chapter.

Sec. 21. Section 147A.28, as enacted by 1995 Iowa Acts, Senate File 118,* section 9, is amended to read as follows:

147A.28 PROHIBITED ACTS.

A hospital or emergency care facility that imparts or conveys, or causes to be imparted or conveyed, that it is a trauma care facility, or that uses any other term to indicate or imply that the hospital or emergency care facility is a trauma care facility without having obtained a certificate of verification under this division is subject to a civil penalty not to exceed one hundred dollars per day for each offense. In addition, the director may apply to the district court for a writ of injunction to restrain the use of the term "trauma ~~health~~ care facility". However, nothing in this division shall be construed to restrict a hospital or emergency facility from providing any services for which it is duly authorized.

Sec. 22. Section 196A.17, Code 1995, is amended to read as follows:

196A.17 ADMINISTRATION OF MONEYS.

Subject to the provisions of section 196A.15, the ~~tax~~ assessment 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~~ assessment was collected. Amounts collected from the ~~tax~~ assessment 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. 23. Section 252J.4, subsection 4, paragraph b, if enacted by 1995 Iowa Acts, Senate File 431,** section 4, is amended to read as follows:

b. The unit finds a mistake in determining that the amount of delinquent support is equal to or greater than ~~one month~~ ninety days.

Sec. 24. Section 252J.6, subsection 3, paragraph b, if enacted by 1995 Iowa Acts, Senate File 431,** section 6, is amended to read as follows:

b. The unit or the court finds a mistake in determining that the amount of delinquent support due is equal to or greater than ~~one month~~ ninety days.

Sec. 25. Section 455D.3, subsection 3, paragraph c, Code 1995, as amended by 1995 Iowa Acts, House File 289,*** section 2, and relettered as paragraph "b" is amended to read as follows:

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. This amount shall be in addition to any ~~amounts~~ amount subtracted pursuant to ~~paragraphs~~ paragraph "a" ~~and "b"~~ of this subsection. 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 funding alternatives to landfills pursuant to section 455E.11, subsection 2, paragraph "a", subparagraph (1).

Sec. 26. Section 514C.3A, subsection 1, unnumbered paragraph 1, as enacted by 1995 Iowa Acts, House File 139,**** section 1, is amended to read as follows:

*Chapter 40 herein
**Chapter 115 herein
***Chapter 80 herein
****Chapter 78 herein

An individual or group policy of accident or health insurance or individual or group hospital or health care service contract issued pursuant to chapter 509, 514, or 514A, and delivered, amended, or renewed on or after July 1, ~~1996~~ 1995, that provides dental care benefits with a base payment for those benefits determined upon a usual and customary fee charged by licensed dentists, shall disclose all of the following:

Sec. 27. Section 537.1302, Code 1995, as amended by 1995 Iowa Acts, Senate File 175,* is amended to read as follows:

537.1302 DEFINITION - TRUTH IN LENDING ACT.

As used in this chapter, "Truth in Lending Act" means title 1 of the Consumer Credit Protection Act, in subchapter 1 of ~~41~~ 15 U.S.C. ~~title 15~~ chapter 41, as amended to and including January 1, 1995, and includes regulations issued pursuant to that Act prior to January 1, 1995.

Sec. 28. Section 709C.12, if enacted by 1995 Iowa Acts, Senate File 432,** is amended to read as follows:

709C.12 EFFECTIVE DATE.

This chapter takes effect July 1, ~~1996~~ 1997, and applies to persons convicted of a sexually violent offense on or after July 1, 1997.

Sec. 29. If enacted, 1995 Iowa Acts, Senate File 462,*** section 3, subsection 13, is amended to read as follows:

13. The department shall amend the department's current home and community-based waivers under medical assistance to include "consumer directed attendant care" as allowed by federal regulation. The department shall also develop and implement a new home and community-based waiver for persons with physical disabilities as a means to further develop the personal assistance services program under section 225C.46. The waiver shall not be implemented in a manner which would require additional county or state costs for assistance provided to an individual served under the waiver. A waiver amended, developed, or implemented pursuant to this subsection shall be consistent with the provisions of the appropriation in this Act for a personal assistance services pilot project and the provisions of chapter ~~255C~~ 225C relating to personal assistance services.

Sec. 30. If enacted, 1995 Iowa Acts, Senate File 69,**** section 35, is amended to read as follows:

SEC. 35. FISCAL YEAR 1996 RELIEF FUND PAYMENT. Notwithstanding 1995 Iowa Acts, House File 132,***** section 13, the appropriation in that section shall not be made from the general fund of the state but shall be made from the property tax relief fund created in section 426B.1, as enacted by this Act. Notwithstanding section 426B.2, subsection ~~2~~ 1, as enacted by this Act, for the fiscal year beginning July 1, 1995, the amount of moneys distributed under that subsection shall be $54.4 million.

Sec. 31. REPEAL. 1995 Iowa Acts, Senate File 439,****** section 2, is repealed.

Approved May 16, 1995

*Chapter 31 herein
**Chapter 144 herein
***Chapter 205 herein
****Chapter 206 herein
*****Chapter 202 herein
******Chapter 89 herein

CHAPTER 210

IOWA COMMUNICATIONS NETWORK - SUPPLEMENTAL, OPERATIONAL, AND MISCELLANEOUS APPROPRIATIONS

H.F. 482

AN ACT relating to the funding for the Iowa communications network and providing an appropriation.

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

Section 1. Section 8D.3, subsection 3, paragraph i, Code 1995, is amended to read as follows:

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~~ excluding the cost of construction and lease costs for Parts I, II, and III. 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.

Sec. 2. *Section 8D.13, Code 1995, is amended by adding the following new subsection: NEW SUBSECTION. 13B. Access to the network shall not be offered or provided to an unauthorized user pursuant to an agreement entered into pursuant to chapter 28E between any public or private agency and such unauthorized user.

Sec. 3. There is appropriated from the general fund of the state to the Iowa communications network fund created in section 8D.14 for the fiscal year beginning July 1, 1994, and ending June 30, 1995, the following amount, or so much thereof as is necessary:

..... $ 5,202,234

Sec. 4. There is appropriated from the general fund of the state to the Iowa communications network fund created in section 8D.14 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 the purposes designated:

1. OPERATIONS

For salaries, support, maintenance, miscellaneous purposes, for the subsidization of video rates for authorized users as determined by the commission and consistent with chapter 8D, and for not more than the following full-time equivalent positions:

..... $ 4,658,185
..... FTEs 56.0

2. NETWORK OPERATIONS REVOLVING FUND

For a network operations revolving account established in the Iowa communications network fund:

..... $ 1,000,000

3. STUDY RELATING TO SALE OR CONVERSION OF NETWORK.

For the coordination and completion of the study relating to the sale or conversion of the Iowa communications network pursuant to House File 461,** if enacted by the general assembly during the 1995 regular session, the following amount, or so much thereof as is necessary:

..... $ 250,000

Sec. 5. There is appropriated from the general fund of the state to the public broadcasting division in 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 is necessary, to be used for the purpose designated:

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*Item veto; see message at end of the Act
**Chapter 131 herein

..... $ 361,420

Sec. 6. Section 3 of this Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 7. Section 8D.14, Code 1995, is amended to read as follows:

8D.14 IOWA COMMUNICATIONS NETWORK FUND.

There is created in the office of the treasurer of state a fund to be known as the Iowa communications network fund under the control of the Iowa telecommunications and technology commission. ~~There is appropriated from the general fund of the state to the 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.~~ There shall ~~also~~ be deposited into the Iowa communications network fund proceeds from bonds issued for purposes of projects authorized pursuant to section 8D.13, funds received from leases pursuant to section 8D.11, and other moneys by law credited to or designated by a person for deposit into the fund.

Sec. 8. There is appropriated from the general fund of the state to the Iowa communications network fund under control of the Iowa telecommunications and technology commission 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 debt service:

..... $ 12,783,000

Upon the appropriation of the funds in this section to the Iowa communications network fund, the Iowa telecommunications and technology commission shall immediately transfer $12,783,000 of the appropriated amount to a separate fund established in the office of the treasurer of state, to be used solely for debt service for the Iowa communications network. The commission shall certify to the treasurer of state when a debt service 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 19, 1995, except the item which I hereby disapprove and which is designated as Section 2 in its entirety. My reasons for vetoing this item 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 Mr. Secretary:

I hereby transmit House File 482, an Act relating to the funding for the Iowa Communications Network and providing an appropriation.

House File 482 is, therefore, approved on this date with the following exception which I hereby disapprove.

I am unable to approve the item designated as Section 2, in its entirety. This item imposes new restrictions on Iowans' use of the Iowa Communications Network (ICN). The network should be accessible to the greatest extent possible so that Iowans can benefit from this new technology, particularly in the areas of education and medicine. This provision would unnecessarily restrict that access.

Further, the Iowa Telecommunications and Technology Commission currently has authority to set policy relating to the ICN, including establishing reasonable limits on use of the network. I have confidence that the Commission will do so appropriately.

For the above reason, I hereby respectfully disapprove this item in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 482 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 211

COMPENSATION FOR PUBLIC EMPLOYEES
H.F. 579

AN ACT relating to the compensation and benefits for public officials and employees and making appropriations and providing an effective date.

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 subsection 2 are effective for the fiscal year beginning July 1, 1995, with the pay period beginning June 30, 1995, and for subsequent fiscal years until otherwise provided by the general assembly. The salaries provided for in this section shall be paid from funds appropriated to the 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 June 30, 1995, and for subsequent pay periods.

a. Chief justice of the supreme court:
..... $ 100,400

b. Each justice of the supreme court:
..... $ 96,700

c. Chief judge of the court of appeals:
..... $ 96,600

d. Each associate judge of the court of appeals:
..... $ 93,000

e. Each chief judge of a judicial district:
..... $ 92,100

f. Each district judge except the chief judge of a judicial district:
..... $ 88,500

g. Each district associate judge:
..... $ 77,000

h. Each judicial magistrate:
..... $ 19,500

i. Each judge who retires after July 1, 1994, and who is assigned and who is appointed a senior judge by the state supreme court:
..... $ 5,000

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. ELECTIVE EXECUTIVE OFFICIALS.

1. The annual salary rates specified in this section are effective for the fiscal year beginning July 1, 1995, with the pay period beginning June 30, 1995, and for subsequent fiscal years until otherwise provided by the general assembly. The salaries provided for in this section shall be paid from funds appropriated to the department or agency specified in this section pursuant to any Act of the general assembly or if the appropriation is not sufficient, from the salary adjustment fund.

2. The following annual salary rates shall be paid to the person holding the position indicated:

a. OFFICE OF THE GOVERNOR

(1) Salary for the governor:

..... $ 98,200

(2) Salary for the lieutenant governor which shall be seventy percent of the salary of the governor:

..... $ 68,740

b. DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

Salary for the secretary of agriculture:

..... $ 78,050

c. DEPARTMENT OF JUSTICE

Salary for the attorney general:

..... $ 93,520

d. OFFICE OF THE AUDITOR OF STATE

Salary for the auditor of state:

..... $ 78,050

e. OFFICE OF THE SECRETARY OF STATE

Salary for the secretary of state:

..... $ 78,050

f. OFFICE OF THE TREASURER OF STATE

Salary for the treasurer of state:

..... $ 78,050

Sec. 4. 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 5 of this Act within the range provided, by considering, among other items, the experience of the individual in the position, changes in the duties of the position, the incumbent's performance of assigned duties, 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 5 of this Act.

The governor, in establishing salaries as provided in section 5 of this Act, shall take into consideration other employee benefits which may be provided for an individual including, but not limited to, housing.

A person whose salary is established pursuant to section 5 of this Act and who is a full-time permanent employee of the state shall not receive any other remuneration from the state or 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. 5. 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, 1995, with the pay period beginning June 30, 1995, and for subsequent

fiscal years until otherwise provided by the general assembly. The governor or other person designated in section 4 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 are salary ranges 1 through 5:

SALARY RANGES	Minimum	Maximum
a. Range 1	$ 8,300	$25,200
b. Range 2	$30,500	$50,600
c. Range 3	$41,800	$59,100
d. Range 4	$50,300	$67,600
e. Range 5	$59,100	$76,100

2. The following are range 1 positions: There are no range 1 positions.

3. The following are range 2 positions: 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 criminal and juvenile justice planning of the department of human rights, 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: consumer advocate, job service commissioner, labor commissioner, industrial commissioner, 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 are salary ranges 6 through 9:

SALARY RANGES	Minimum	Maximum
a. Range 6	$45,700	$ 61,300
b. Range 7	$62,500	$ 76,700
c. Range 8	$67,000	$ 89,100
d. Range 9	$74,800	$106,000

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: commissioner of insurance, 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, director of the department of employment services, and chairperson of the utilities board. The other members of the utilities board shall receive an annual salary within a range of not less than ninety percent but not more than ninety-five percent of the annual salary of the chairperson of the utilities board.

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. 6. PUBLIC EMPLOYMENT RELATIONS BOARD.

1. The salary rates specified in this section are effective for the fiscal year beginning July 1, 1995, with the pay period beginning June 30, 1995, and for subsequent fiscal years until otherwise provided by the general assembly. The salaries provided for in this section shall be paid from funds appropriated to the 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:
..... $ 59,600

b. Two members of the public employment relations board:
..... $ 55,400

Sec. 7. COLLECTIVE BARGAINING AGREEMENTS FUNDED - GENERAL FUND. There is appropriated from the general fund of the state to the salary adjustment fund for the fiscal year beginning July 1, 1995, and ending June 30, 1996, for distribution by the department of management to the various state departments, boards, commissions, councils, and agencies, including the state board of regents, the amount of $34,700,000, or so much thereof as may be necessary, to fully fund the following annual pay adjustments, expense reimbursements, and related benefits:

1. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the blue collar bargaining unit.

2. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the 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 collective bargaining agreement negotiated pursuant to chapter 20 for employees in the science bargaining unit.

13. 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.

Sec. 8. NONCONTRACT STATE EMPLOYEES - GENERAL.

1. a. For the fiscal year beginning July 1, 1995, 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, 1995, shall be increased by 3 percent for the pay period beginning June 30, 1995.

b. In addition to the increases specified in this subsection, for the fiscal year beginning July 1, 1995, 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. Funds from the appropriation in section 7 of this Act shall be allocated to 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, 1995, 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, 1995, 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, 1995, and ending June 30, 1996, 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:

..... $ 1,246,687

2. There is appropriated from the primary road fund to the salary adjustment fund, 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:

To supplement other funds appropriated by the general assembly:

..... $ 3,055,214

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. It is the intent of the general assembly that the department of management and the legislative fiscal bureau in

conjunction with the state agency affected by this section to prepare recommendations concerning the application of this section to the general assembly not later than February 1, 1996.

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.

Sec. 14. Section 2.10, subsections 1, 3, 6, and 7, Code 1995, are amended to read as follows:

1. Every member of the general assembly except the presiding officer of the senate, the speaker of the house, the majority and minority floor leader of each house, and the president pro tempore of the senate and speaker pro tempore of the house, shall receive an annual salary of ~~eighteen~~ twenty thousand ~~eight~~ one hundred twenty dollars for the year ~~1995~~ 1997 and subsequent years while serving as a member of the general assembly. In addition, each such member shall receive the sum of ~~sixty~~ eighty-six dollars per day for expenses of office, except travel, for each day the general assembly is in session commencing with the first day of a legislative session and ending with the day of final adjournment of each legislative session as indicated by the journals of the house and senate, except that if the length of the first regular session of the general assembly exceeds one hundred ten calendar days and the second regular session exceeds one hundred calendar days, the payments shall be made only for one hundred ten calendar days for the first session and one hundred calendar days for the second session. ~~However, members~~ Members from Polk county shall receive ~~forty-five~~ sixty-five dollars per day. Each member shall receive a ~~one~~ two hundred ~~twenty-five~~ dollar per month allowance for legislative district constituency postage, travel, telephone costs, and other expenses. Travel expenses shall be paid at the rate established by section 18.117 for actual travel in going to and returning from the seat of government by the nearest traveled route for not more than one time per week during a legislative session. ~~However, any increase from time to time in the mileage rate established by section 18.117 shall not become effective for members of the general assembly until the convening of the next general assembly following the session in which the increase is adopted; and this provision shall prevail over any inconsistent provision of any present or future statute.~~

3. The speaker of the house, presiding officer of the senate, and the majority and minority floor leader of each house shall each receive an annual salary of ~~twenty-nine~~ thirty-one thousand thirty dollars for the year ~~1995~~ 1997 and subsequent years while serving in that capacity. The president pro tempore of the senate and the speaker pro tempore of the house shall receive an annual salary of ~~nineteen~~ twenty-one thousand ~~nine~~ two hundred ninety dollars for the year ~~1995~~ 1997 and subsequent years while serving in that capacity. Expense and travel allowances shall be the same for the speaker of the house and the presiding officer of the senate, the president pro tempore of the senate and the speaker pro tempore of the house, and the majority and minority leader of each house as provided for other members of the general assembly.

6. In addition to the salaries and expenses authorized by this section, ~~members~~ a member of the general assembly shall be paid ~~sixty~~ eighty-six dollars per day, and necessary travel and actual expenses incurred in attending meetings for which per diem or expenses are authorized by law for members of the general assembly who serve on statutory boards, commissions, or councils, and for standing or interim committee or subcommittee meetings subject to the provisions of section 2.14, or when on authorized legislative business when the general assembly is not in session. However, if a member of the general assembly is engaged in authorized legislative business at a location other than at the seat of government during the time the general assembly is in session, payment may be made for the actual transportation and lodging costs incurred because of the business. Such per diem or expenses shall be paid promptly from funds appropriated pursuant to section 2.12.

7. If a special session of the general assembly is convened, members of the general assembly shall receive, in addition to their annual salaries, the sum of ~~sixty~~ eighty-six dollars per day for each day the general assembly is actually in special session, and the same travel allowances and expenses as authorized by this section. A member of the general assembly shall receive the additional per diem, travel allowances and expenses only for the days of attendance during a special session.

Sec. 15. Section 2.40, subsection 1, unnumbered paragraph 2, Code 1995, is amended to read as follows:

A member of the general assembly may elect to become a member of a state group insurance plan. A member of the general assembly may continue membership in a state group insurance plan without reapplication during the member's tenure as a member of consecutive general assemblies. For the purpose of electing to become a member of the state health or medical service group insurance plan, a member of the general assembly has the status of a "new hire", full-time state employee following each election of that member in a general or special election, or during the first subsequent annual open enrollment. In lieu of membership in a state health or medical group insurance plan, a member of the general assembly may elect to receive reimbursement for the costs paid by the member for a continuation of a group coverage (COBRA) health or medical insurance plan. The member shall apply for reimbursement by submitting evidence of payment for a COBRA health or medical insurance plan. The maximum reimbursement shall be no greater than the state's contribution for health or medical insurance family plan II. A member of the general assembly who elects to become a member of a state health or medical group insurance plan shall be exempted from preexisting medical condition waiting periods. A member of the general assembly may change programs or coverage under the state health or medical service group insurance plan during the month of January of odd-numbered years, but program and coverage change selections shall be subject to the enrollment rules established for full-time state employees excluded from collective bargaining as provided in chapter 20. A person who has been a member of the general assembly for two years and who has elected to be a member of a state health or medical group insurance plan may continue to be a member of such state health or medical group insurance plan by requesting continuation in writing to the finance officer within thirty-one days after leaving office. The continuing former member of the general assembly shall pay the total premium for the state plan and shall have the same rights to change programs or coverage as state employees. In the event of the death of a former member of the general assembly who has elected to continue to be a member of a state health or medical group insurance plan, the surviving spouse of the former member whose insurance would otherwise terminate because of the death of the former member may elect to continue to be a member of such state health or medical group insurance plan by requesting continuation in writing to the finance officer within thirty-one days after the death of the former member. The surviving spouse of the former member shall pay the total premium for the state plan and shall have the same rights to change programs or coverage as state employees.

Sec. 16. Section 7G.1, subsection 8, paragraph a, Code 1995, is amended to read as follows:

a. The commission may employ personnel, including an executive director whose salary shall not exceed executive branch pay grade classification ~~35~~ 40, to administer its programs and services. The personnel shall be considered state employees.

Sec. 17. EFFECTIVE DATE. Section 14 of this Act takes effect upon the convening of the Seventy-seventh General Assembly in January 1997.

Approved May 19, 1995

CHAPTER 212

APPROPRIATIONS - HEALTH AND HUMAN RIGHTS

H.F. 530

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, the commission of veterans affairs, and the governor's alliance on substance abuse.

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, 1995, and ending June 30, 1996, 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:

..... $ 1,377,786
..... 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, 1995, and ending June 30, 1996, 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:

..... $ 1,107,462
..... FTEs 31.00

If the anticipated amount of federal funding from the federal equal employment opportunity commission and the federal department of housing and urban development exceeds $457,900 during the fiscal year beginning July 1, 1995, and ending June 30, 1996, the Iowa state civil rights commission may exceed the staffing level authorized by this section as necessary to hire additional staff to process or to support the processing of 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, 1995, and ending June 30, 1996, 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:

..... $ 444,877
..... FTEs 28.00

2. For aging programs and services:

..... $ 2,576,528

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 in accordance with rules adopted by the department.

Sec. 4. GOVERNOR'S SUBSTANCE ABUSE PREVENTION COORDINATOR. There is appropriated from the general fund of the state to the office of the governor's substance abuse prevention coordinator 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. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 299,252
..... FTEs 10.00

2. For the Iowa substance abuse clearinghouse in Cedar Rapids for staff, materials, and operating expenses:

..... $ 32,894

Sec. 5. 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, 1995, and ending June 30, 1996, 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:

..... $ 2,089,708
..... FTEs 64.65

(1) Of the funds appropriated in this lettered paragraph, $741,123 shall be used for the chronic renal disease program. The types of assistance available to eligible recipients under the program may include insurance premiums, travel reimbursement, and prescription and nonprescription drugs. The program expenditures shall not exceed this allocation. If projected expenditures would 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 amount allocated in this paragraph.

(2) 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.

(3) Of the funds appropriated in this lettered paragraph, $112,987 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:

..... $ 765,272
..... FTEs 11.00

The director of public health, when estimating expenditure requirements for the boards funded under this paragraph, shall base the budget on 85 percent of the average annual fees generated for the previous two fiscal years. 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 fiscal years. The department may expend funds in addition to amounts budgeted, if those additional expenditures are directly the result of unanticipated litigation

costs arising from the discharge of the board's regulatory duties. Before the department expends or encumbers an amount in excess of the funds budgeted for a board, the director of the department of management shall approve the expenditure or encumbrance. The amounts necessary to fund the unanticipated litigation in the fiscal year beginning July 1, 1995, shall not exceed 5 percent of the average annual fees generated by the board for the previous two fiscal years.

c. HEALTH DELIVERY SYSTEMS

(1) For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,311,846
..... FTEs 19.00

(2) Of the funds appropriated in this lettered paragraph, $163,859 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, $1,015,358 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, $132,629 shall be used to develop, implement, and maintain rural health provider recruitment and retention efforts.

d. CENTER FOR RURAL HEALTH AND PRIMARY CARE.

For primary care provider recruitment and retention endeavors:

..... $ 235,000

e. HEALTH DATA COMMISSION

For the health data commission:

..... $ 75,000

(1) The funds appropriated in this lettered paragraph, plus any other funds received, shall be used for the collection, verification, updating, and storage of data received pursuant to chapters 145 and 255A, and for the production of mandated reports. 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.

(2) Prior to December 1, 1995, 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.

(3) The health data commission shall provide a match of one dollar in advance of each state dollar provided.

2. HEALTH PROTECTION DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,148,541
..... FTEs 78.62

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.

The Iowa department of public health shall organize a coalition to consider federal requirements concerning lead poisoning and develop recommendations for submission to the general assembly on or before January 1, 1996, for proposed legislation regarding lead-poisoned persons. The coalition formed shall include, but is not limited to, representatives of real estate agents, landlords, painting contractors, lead inspectors, local public health officials, and consumers.

*e. *The radon program shall be eliminated July 1, 1995.**

f. The state university of Iowa hospitals and clinics shall not receive indirect costs from the funds appropriated in this subsection.

g. As of July 1, 1995, the department shall no longer inspect laser light shows.

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:

..... $ 614,617
..... FTEs 35.48

(1) The division shall continue the 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) 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.

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.

Of the funds appropriated in this lettered paragraph, a minimum of $950,000 shall be used by the Iowa department of public health to implement an integrated substance abuse managed care system. The Iowa department of public health and the department of human services shall collaborate with other appropriate state agencies, shall consider the recommendations of the 1994 legislative interim study committee findings and the recommendations of the center for substance abuse technical assistance team in the development of an integrated managed care system, and shall assist in the submission of an application for a federal waiver relating to the system to the federal Health Care Financing Administration (HCFA). As part of this collaboration, the Iowa department of public health shall request outside technical assistance to provide recommendations on implementing this system. The Iowa department of public health and the department of human services shall implement an integrated managed care system starting July 1, 1995.

4. FAMILY AND COMMUNITY HEALTH DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 3,040,236
..... FTEs 62.00

(1) Of the funds appropriated in this lettered paragraph at least $587,865 shall be allocated by the division for the birth defects and genetics counseling program and of these funds, $279,402 is 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.

*Item veto; see message at end of the Act

(2) Of the funds appropriated in this lettered paragraph, the following amounts are 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.

Of the funds allocated in this subparagraph, $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.

(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) The state university of Iowa hospitals and clinics shall not receive indirect costs from the funds allocated in this lettered paragraph.

(5) Of the funds appropriated in this lettered paragraph, $1,001,209 shall be used for maternal and child health services.

(6) If during the 1995-1996 fiscal year, the federal government incorporates the special supplemental nutrition program for women, infants, and children into a block grant, the department of human services, Iowa department of public health, or any other state agency which administers the block grant shall require a competitive bid process for infant formula purchased by or for families under the block grant.

(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 may budget for the programs in the family and community health division in accordance with the performance-based budgeting method. Notwithstanding section 8.23, for the budget process for the fiscal year beginning July 1, 1996, the department is not required to submit a budget for the programs using 75 percent base budgeting and decision package methodology. The department shall work cooperatively with the council on human investment in transitioning the performance-based budgeting method to the outcomes-based budget model developed by the council.

(9) The department shall continue efforts to realize the "Healthy Iowans 2000" goal of promoting prevention and health promotion to improve the quality of life of Iowans and to hold down health care costs and shall submit an annual "Healthy Iowans 2000" progress report to the general assembly on January 1 of each fiscal year.

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 the pool to counties with demonstrated special needs for public health nursing.

(5) The department shall maintain rules governing the expenditure of funds appropriated in 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 amount of anticipated excess funds to any county is 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 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 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

The appropriation in this lettered paragraph shall be distributed 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 for the medical treatment of children and shall include coverage of diagnostic procedures, prescription drugs, and physician-ordered treatments necessary to treat an acute condition. 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 Iowa healthy family program under section 135.106:

..... $ 665,000

The moneys appropriated in this lettered paragraph shall be granted pursuant to 1992 Iowa Acts, Second Extraordinary Session, chapter 1001, section 415, except that the grants shall be extended for an additional year. Notwithstanding the provisions of 1992 Iowa Acts, Second Extraordinary Session, chapter 1001, section 416, the use of mid-level practitioners to improve access to prenatal care shall include obstetrical-gynecological nurse practitioners and family nurse practitioners focusing on maternal and child health. The department is encouraged to expand funding eligibility under the program to private physician and clinic-sponsored programs servicing low-income populations. The administrative entities of the Iowa health family program 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 healthy family program and make any recommendations for improvements. By January 1, 1996, the department shall submit a report to the governor and the general assembly on the efforts to increase the use of mid-level practitioners under the program. Any funds contracted to agencies under this paragraph which are projected to be unused at the close of the fiscal year shall be allowed to be reallocated within the health family program by April 1, 1996.

The Iowa department of public health and the department of human services shall determine if expenses under any portion of the healthy family program would qualify for payment under the medical assistance program and if so, shall apply to the federal government for a medical assistance waiver. The Iowa department of public health and the department of human services shall evaluate the funding change's potential impact upon clients of the healthy family program.

Contingent upon appropriation by the general assembly, the healthy opportunities for parents to experience success program, authorized in the 1992 Iowa Acts, Second Extraordinary Session, chapter 1001, section 414, shall be implemented or expanded in the following priority order:

(1) Expansion of the program to be fully funded in Scott, Woodbury, and Polk counties.

(2) Implementation of the program in Adams, Decatur, Ringgold, and Union counties.

(3) Implementation of the program in Boone and Dickinson counties.

If there is inadequate funding for the priority in subparagraph (1), the moneys available shall be divided among the three counties. If the implementation in any county enumerated in subparagraph (2) or (3) is unsuccessful, the contractor may substitute another county with similar demographics.

5. STATE BOARD OF DENTAL EXAMINERS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 285,314
..... FTEs 4.00

6. STATE BOARD OF MEDICAL EXAMINERS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,002,545
..... FTEs 18.00

7. STATE BOARD OF NURSING EXAMINERS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 923,661
..... FTEs 17.00

8. STATE BOARD OF PHARMACY EXAMINERS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 657,113
..... FTEs 11.00

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 Iowa department of public health shall provide documentation that the provider or organization has coordinated its services with other local entities providing similar services.

Sec. 6. 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, 1995, and ending June 30, 1996, 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:

..... $ 181,314
..... FTEs 6.60

2. COMMUNITY ACTION AGENCIES DIVISION

For the expenses of the community action agencies commission:

..... $ 3,366

3. DEAF SERVICES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 248,574
..... 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:

..... $ 57,206
..... FTEs 1.0

5. LATINO AFFAIRS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 97,207
..... FTEs 2.00

6. STATUS OF WOMEN DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 390,486
..... 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 $41,297 shall be spent for the mentoring project for family investment program participants developed in accordance with section 239.22.

7. STATUS OF AFRICAN-AMERICANS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 99,301
..... FTEs 2.00

8. CRIMINAL AND JUVENILE JUSTICE PLANNING DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 459,523
..... FTEs 10.05

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. COMMUNITY GRANT FUND

For the community grant fund established under section 232.190 for new grants and the continuation of existing grants for the fiscal year beginning July 1, 1995, and ending June 30, 1996, to be used for the purposes of the community grant fund:

..... $ 1,800,000

New grant proposals and continuation grant recipients shall demonstrate community collaboration, not merely disbursements of funds to various organizations, and shall show significant progress toward achieving objectives set forth in the proposal such as process and impact evaluation objectives, including objectives related to the number of persons served. Letters of support shall include specific commitments and shall be binding.

10. SHARED STAFF. Except for the persons with disabilities division which shall be administered by the director of the department of human rights, the divisions of the department of human rights shall retain their individual administrators, but shall share staff to the greatest extent possible.

Sec. 7. 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, 1995, and ending June 30, 1996, 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:

..... $ 213,107
..... FTEs 5.00

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:

..... $ 37,795,008
..... FTEs 803.62

a. The Iowa veterans home may use the gifts accepted by the chairperson of the commission of veterans affairs and other resources available to the commission for use at the Iowa veterans home.

b. 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, 1995, and ending June 30, 1996, 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.

*Sec. 8. *DEPARTMENT OF HUMAN RIGHTS – ADMINISTRATIVE STRUCTURE. The divisions of the department of human rights shall study options for transferring the responsibilities of the department into other agencies of state government, should the department of human rights be eliminated at the commencement of the fiscal year beginning July 1, 1996. The goal of the shift of the administrative responsibilities of the divisions is to eliminate duplication and increase efficiency while maintaining the advocacy responsibilities of the divisions. The study shall include advantages and disadvantages of any proposed options. The divisions shall report the study findings to the governor and the general assembly on or before December 15, 1995. The study shall include the following:*

1. The community action agencies division shall identify the most appropriate state agencies as options for relocation for administrative efficiency.

2. The deaf services division shall plan for becoming a separate department of state government.

3. The Iowa state civil rights commission and the divisions of persons with disabilities, Latino affairs, and the status of African-Americans shall plan for incorporating the divisions' functions into the commission.

4. The division on the status of women and the director of the department of economic development shall plan for incorporating the division into the department.

*5. The criminal and juvenile justice planning division shall consult with the office of the attorney general and the governor's substance abuse coordinator to identify the most appropriate state agency to which the division would relocate.**

Sec. 9. Section 216A.2, Code 1995, is amended to read as follows:

216A.2 APPOINTMENT OF DEPARTMENT DIRECTOR AND ADMINISTRATORS.

The governor shall appoint a director of the department of human rights, subject to confirmation by the senate. The department director shall serve at the pleasure of the governor. The department director shall:

*Item veto; see message at end of the Act

1. Establish general operating policies for the department to provide general uniformity among the divisions while providing for necessary flexibility.
2. Receive budgets submitted by each commission and reconcile the budgets among the divisions. The department director shall submit a budget for the department, subject to the budget requirements pursuant to chapter 8.
3. Coordinate and supervise personnel services and shared administrative support services to assure maximum support and assistance to the divisions.
4. Identify and, with the chief administrative officers of each division, facilitate the opportunities for consolidation and efficiencies within the department.
5. In cooperation with the commissions, make recommendations to the governor regarding the appointment of the administrator of each division.
6. Serve as an ex officio member of all commissions or councils within the department.
7. Serve as chairperson of the human rights administrative-coordinating council.
8. Evaluate each administrator, after receiving recommendations from the appropriate commissions or councils, and submit a written report of the completed evaluations to the governor and the appropriate commissions or councils, annually.
9. Administer the division of persons with disabilities.

The governor shall appoint the administrators of each of the divisions, except for the division of persons with disabilities, subject to confirmation by the senate. Each administrator shall serve at the pleasure of the governor and is exempt from the merit system provisions of chapter 19A. The governor shall set the salary of the division administrators within the ranges set by the general assembly.

Sec. 10. Section 216A.71, subsection 1, Code 1995, is amended to read as follows:
1. "Administrator" means the administrator ~~of the division of persons with disabilities~~ of the department of human rights.

Sec. 11. Section 216A.112, unnumbered paragraph 1, Code 1995, is amended to read as follows:
A commission on the deaf is established, consisting of seven members appointed by the governor, subject to confirmation by the senate. Lists of nominees for appointment to membership on the commission may be submitted by the Iowa association of the deaf, the Iowa state registry of interpreters for the deaf, the Iowa school for the deaf, and the commission of persons with disabilities. At least four members shall be persons who are deaf and who cannot hear human speech with or without use of amplification and at least one member who is hard-of-hearing. All members shall reside in Iowa. The members of the commission shall appoint the chairperson of the commission. A majority of the members of the commission constitutes a quorum.

Approved May 19, 1995, except the items which I hereby disapprove and which are designated as Section 5, subsection 2, paragraph e 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 Mr. Secretary:

I hereby transmit House File 530, 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, the Commission of Veterans Affairs, and the Governor's Alliance on Substance Abuse.

House File 530 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 2, paragraph e, in its entirety. This item would eliminate the radon certification programs in the Department of Public Health effective July 1, 1995. Programs to certify persons qualified and trained to perform radon testing and abatement services were established in 1989. A federal survey issued at that time revealed that 70–75 percent of Iowans' homes had unacceptably high levels of radon, a radioactive gas that significantly increases one's risk of lung cancer. The certification programs were implemented to encourage Iowans to take action to test for and reduce radon levels in their homes and to provide protection from unscrupulous individuals who might try to bilk them out of thousands of dollars by performing shoddy or unnecessary work. The certification programs have been effective in meeting these goals and for that reason should be continued.

I am unable to approve the item designated as Section 8, in its entirety. This item directs the divisions within the Department of Human Rights to "study" options for transferring the department's responsibilities to other agencies within state government. A review of the department's responsibilities to determine if opportunities exist to eliminate duplication and to increase efficiencies is appropriate and I will be asking the department to work with the Department of Management to conduct such a study. However, the options to be recommended should be based on findings which result from the study. They should not be assumed prior to the study and specifically prescribed as they are in this bill. For that reason, the item can not 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 House File 530 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 213

CREDITING THE REBUILD IOWA INFRASTRUCTURE FUND – MISCELLANEOUS APPROPRIATION PROVISIONS
H.F. 584

AN ACT relating to state appropriation matters by providing for the crediting of moneys to the rebuild Iowa infrastructure fund, revising education appropriation provisions, and other properly related matters, and providing an effective date.

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

Section 1. REBUILD IOWA INFRASTRUCTURE FUND. On or after July 1, 1995, the department of management shall estimate the amount of funds that would be credited to the Iowa economic emergency fund from the ending balance of the general fund of the state at the close of the fiscal year beginning July 1, 1994, following the appropriation to the cash reserve fund and payment of the items in the schedule submitted in the governor's budget for the fiscal year beginning July 1, 1995, pursuant to the provisions of section 8.57. If funds are estimated to be available to be credited to the Iowa economic emergency fund, the department shall credit not more than $50,000,000 of the ending balance to the rebuild Iowa infrastructure fund and the amount to be credited to the Iowa economic emergency fund made pursuant to section 8.57, subsection 2, is reduced accordingly. The credit

to the infrastructure fund shall be made at the time the estimate is made under this section. If the amount credited to the infrastructure fund pursuant to this section is less than $50,000,000 but the amount of the shortfall is available at the time the credit to the Iowa economic emergency fund is to be made, the shortfall amount shall be credited to the infrastructure fund and any remaining moneys shall be credited to the Iowa economic emergency fund.

Sec. 2. Of the moneys appropriated to the state board of regents and allocated to Iowa state university of science and technology for the agricultural experiment station for the fiscal year beginning July 1, 1995, and ending June 30, 1996, in 1995 Iowa Acts, Senate File 266,* if enacted by the general assembly, $100,000 shall be expended to support a beginning farmer center as provided in section 266.39E.

Sec. 3. 1995 Iowa Acts, Senate File 266,* section 1, subsection 11, unnumbered paragraph 2, if enacted, is amended to read as follows:

Of the funds appropriated in this subsection, for the fiscal year beginning July 1, 1995, and ending June 30, 1996, $50,000 ~~shall~~ may be expended for purposes of employing an individual to administer and direct the career ~~opportunities~~ pathways program. The individual employed shall possess a background in business and secondary and postsecondary education.

Sec. 4. 1995 Iowa Acts, House File 579,** section 12, if enacted by the General Assembly, is amended to read as follows:

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. It is the intent of the general assembly that the department of management and the legislative fiscal bureau in conjunction with the state agency affected by this section ~~to~~ shall prepare recommendations concerning the application of this section and present them to the general assembly not later than February 1, 1996.

Sec. 5. Notwithstanding the number of full-time equivalent positions authorized for the department of education for general administration in 1995 Iowa Acts, Senate File 266,* if enacted by the general assembly, the department shall be authorized 94.95 FTEs for general administration for the fiscal year beginning July 1, 1995, and ending June 30, 1996. The additional 1.0 FTE shall be funded from moneys transferred in 1995 Iowa Acts, Senate File 266* to the department of education from additional funds transferred from phase 1 to phase III for development of a K-12 and community college management information system. The provision in 1995 Iowa Acts, Senate File 266,* requiring the department of education to devote one full-time equivalent position under general administration to direct and administer the management information system, is void.

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

Approved May 24, 1995

*Chapter 218 herein
**Chapter 211 herein

CHAPTER 214

STATE FINANCIAL PROVISIONS

S.F. 475

AN ACT relating to state financial provisions and providing applicability provisions and effective dates.

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

DIVISION I
CAPITAL PROJECT AND LEASE-PURCHASE REQUIREMENTS

Section 1. Section 2.47A, subsection 1, paragraph d, Code 1995, is amended to read as follows:

d. Receive ~~semiannual~~ annual status reports for all ongoing capital projects of state agencies, pursuant to section 18.12, subsection 15.

Sec. 2. Section 8.46, Code 1995, is amended to read as follows:

8.46 LEASE-PURCHASE - REPORTING.

1. For the purposes of this section, unless the context otherwise requires~~, "state:~~

a. "Installment acquisition" includes, but is not limited to, an arrangement in which title of ownership passes when the first installment payment is made.

b. "Lease-purchase arrangement" includes, but is not limited to, an arrangement in which title of ownership passes when the final installment payment is made.

c. "State agency" means any executive, judicial, or legislative department, commission, board, institution, division, bureau, office, agency, or other entity of state government.

~~1.~~ 2. ~~Before~~ At least thirty days prior to entering into a contract involving a lease-purchase or installment acquisition arrangement in which any part or the total amount of the contract is at least fifty thousand dollars, a state agency shall notify the legislative fiscal bureau concerning the contract. The legislative fiscal bureau shall compile the notifications for submission to the legislative fiscal committee of the legislative council ~~regarding the contract~~. The notification is required regardless of the source of payment for the lease-purchase or installment acquisition arrangement. The notification shall include all of the following information:

a. A description of the object of the lease-purchase or installment acquisition arrangement.

~~b. The cost of the contract.~~

~~c.~~b. The proposed terms of the contract.

~~d.~~c. The ~~total~~ cost of the contract, including principal and interest costs. If the actual cost of a contract is not known at least thirty days prior to entering into the contract, the state agency shall estimate the principal and interest costs for the contract.

~~e.~~d. An identification of the means and source of payment of the contract.

~~f.~~e. An analysis of consequences of delaying or abandoning the commencement of the contract.

~~2.~~3. The legislative fiscal committee shall report to the legislative council concerning the notifications it receives pursuant to this section.

~~3. A state agency shall report quarterly to the legislative fiscal committee concerning its contracts involving a lease-purchase arrangement. The format of the report shall be determined by the legislative fiscal bureau in consultation with the department of management. The report shall include all of the following information:~~

~~a. A description of the objects of a lease-purchase arrangement under contract.~~

~~b. The total costs of the contracts.~~

~~c. Total principal and interest cost in each fiscal year of each contract.~~

~~d. An identification of the means and source of payment for each contract.~~

Sec. 3. Section 18.12, subsection 15, Code 1995, is amended to read as follows:

15. Prepare ~~semiannual~~ annual status reports for all ongoing capital projects of all state agencies, as defined in section 8.3A, and submit the status reports to the legislative capital projects committee.

DIVISION II
REVENUE ESTIMATING

*Sec. 4. Section 8.21, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Unless a collective bargaining agreement, as referred to in section 20.17, subsection 10, between a state public employer and the state employee organization which represents the largest number of state employees, providing for salary adjustment for the ensuing fiscal year is being negotiated at the time required for transmission of the governor's budget, the portion of the governor's budget for the ensuing fiscal year which provides the details of recommended appropriations and a draft appropriation bill for adjustment of state employee salaries shall be submitted to the general assembly on or before March 1 of the legislative session. If a collective bargaining agreement, as referred to in section 20.17, subsection 10, between a state public employer and the state employee organization which represents the largest number of state employees, providing for salary adjustment for the ensuing fiscal year is being negotiated at the time required for transmission of the governor's budget, the portion of the governor's budget for the ensuing fiscal year which provides the details of recommended appropriations and a draft appropriation bill for adjustment of state employee salaries shall be submitted to the general assembly within thirty days of the date by which the collective bargaining agreement between the state public employer and the state employee organization is completed, either through agreement or arbitration or prior to the date of final adjournment of that legislative session, whichever is earlier.*

Sec. 5. Section 8.22A, Code 1995, is amended by adding the following new subsections:

NEW SUBSECTION. 5. At the meeting in which the conference agrees to the revenue estimate for the succeeding fiscal year in accordance with the provisions of subsection 3, the conference shall also agree to the following estimate which shall be used by the governor and the general assembly in preparation of the budget message under section 8.22 and the general assembly in the budget process for the succeeding fiscal year:

The amount of lottery revenues for the following fiscal year to be available for disbursement following the deductions made pursuant to section 99E.10, subsection 1.

NEW SUBSECTION. 6. At the meeting in which the conference agrees to the revenue estimate for the succeeding fiscal year in accordance with the provisions of subsection 3, the conference shall also agree to a preliminary projection of the amount of the appropriation necessary for the succeeding fiscal year to fund the medical assistance program under chapter 249A. This preliminary projection shall be developed based upon the state and federal requirements for the medical assistance program in effect at the time the projection is made unless the members of the revenue estimating conference agree to assume different requirements for purposes of developing the projection. As a preliminary projection, it shall be used as the basis for later projections deemed necessary by the governor or used by the general assembly, which are developed due to revised budget assumptions, proposed policy revisions, or other adjustments.

DIVISION III
STATE PAYMENT PROVISIONS

Sec. 6. Section 282.31, subsection 1, Code 1995, is amended to read as follows:

1. a. A child who lives in a facility pursuant to section 282.30, subsection 1, paragraph

*Item veto; see message at end of the Act

"a", and who is not enrolled in the educational program of the district of residence of the child, shall receive appropriate educational services. The area education agency shall submit a proposed program and budget to the department of education by January 1 for the next succeeding school year. The department of education shall review and approve or modify the program and proposed budget and shall notify the department of revenue and finance and the area education agency of its action by February 1. ~~Beginning with the fiscal year commencing July 1, 1990, and ending June 30, 1991, and in succeeding years, the~~ The department of revenue and finance shall pay the approved budget amount for an area education agency in monthly installments beginning September 15 and ending June 15 of the next succeeding school year. The installments shall be as nearly equal as possible as determined by the department of management, taking into consideration the relative budget and cash position of the state's resources. The department of revenue and finance shall transfer the approved budget amount for an area education agency from the moneys appropriated under section 257.16 and make the payment to the area education agency. The area education agency shall submit an accounting for the actual cost of the program to the department of education by August 1 of the following school year. The department shall review and approve or modify all expenditures incurred in compliance with the guidelines pursuant to section 256.7, subsection 10, and shall notify the department of revenue and finance of the approved accounting amount. The approved accounting amount shall be compared with any amounts paid by the department of revenue and finance to the area education agency and any differences added to or subtracted from the October payment made under this paragraph for the next school year. Any amount paid by the department of revenue and finance shall be deducted monthly from the state foundation aid paid under section 257.16 to all school districts in the state during the ~~remainder of that~~ subsequent fiscal year ~~to all school districts in the state~~. The portion of the total amount of the approved budget that shall be deducted from the state aid of a school district shall be the same as the ratio that the budget enrollment for the budget year of the school district bears to the total budget enrollment in the state for that budget year in which the deduction is made.

b. A child who lives in a facility or home pursuant to section 282.19, and who does not require special education and who is not enrolled in the educational program of the district of residence of the child, shall be included in the basic enrollment of the school district in which the facility or home is located.

However, on June 30 of a school year, if the board of directors of a school district determines that the number of children under this paragraph who were counted in the basic enrollment of the school district on the third Friday of September of that school year is fewer than the sum of the number of months all children were enrolled in the school district under this paragraph during the school year divided by nine, the secretary of the school district may submit a claim to the department of education by August 1 following the school year for an amount equal to the district cost per pupil of the district for the previous school year multiplied by the difference between the number of children counted and the number of children calculated by the number of months of enrollment. The amount of the claim shall be paid by the department of revenue and finance to the school district by October 1. The department of revenue and finance shall transfer the total amount of the approved claim of a school district from the moneys appropriated under section 257.16 and the amount paid shall be deducted monthly from the state foundation aid paid to all school districts in the state during the remainder of ~~that~~ the subsequent fiscal year ~~to all school districts in the state~~ in the manner provided in paragraph "a".

Sec. 7. Section 282.31, subsection 3, Code 1995, is amended to read as follows:

3. The actual special education instructional costs, including transportation, for a child who requires special education shall be paid by the department of revenue and finance to the school district in which the facility or home is located, only when a district of residence cannot be determined, and the child was not included in the weighted enrollment of

any district pursuant to section 256B.9, and the payment pursuant to subsection 2, paragraph "a" was not made by any district. The district shall submit a proposed program and budget to the department of education by January 1 for the next succeeding school year. The department of education shall review and approve or modify the program and proposed budget and shall notify the district by February 1. The district shall submit a claim by August 1 following the school year for the actual cost of the program. The department shall review and approve or modify the claim and shall notify the department of revenue and finance of the approved claim amount by September 1. The total amount of the approved claim shall be paid by the department of revenue and finance to the school district by October 1. The total amount paid by the department of revenue and finance shall be deducted monthly from the state foundation aid paid under section 257.16 to all school districts in the state during the ~~remainder of that~~ subsequent fiscal year ~~to all school districts in the state~~. The portion of the total amount of the approved claims that shall be deducted from the state aid of a school district shall be the same as the ratio that the budget enrollment for the budget year of the school district bears to the total budget enrollment in the state for the budget year in which the deduction is made. The department of revenue and finance shall transfer the total amount of the approved claims from moneys appropriated under section 257.16 for payment to the school district.

Sec. 8. Section 421.31, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 11. FEDERAL CASH MANAGEMENT IMPROVEMENT ACT ADMINISTRATOR. To serve as administrator for state actions relating to the federal Cash Management and Improvement Act of 1990, Pub. L. No. 101-453, as codified in 31 U.S.C. § 6503. The director shall perform the following duties relating to the federal law:

a. Act as the designated representative of the state in the negotiation and administration of contracts between the state and federal government relating to the federal law.

b. Modify the centralized statewide accounting system and develop, or require to be developed by the appropriate departments of state government, the necessary reports and procedures necessary to complete the managerial and financial reports required to comply with the federal law.

Sec. 9. Section 260D.12, as amended by 1994 Iowa Acts, chapter 1181, section 13, 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~~ monthly installments due on or about ~~November 15, February 15, May 15, and August 15~~ the fifteenth day of each month of a 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.

Sec. 10. 1994 Iowa Acts, chapter 1181, section 18, is amended to read as follows:

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~~ July 1, 1995. ~~A report shall be made by the department of management to the Code editor on or before the publication date of the report.~~

Sec. 11. EFFECTIVE DATE. Section 9 of this division of this Act, amending section 260D.12, takes effect July 1, 1995, and the remainder of the division, being deemed of immediate importance, takes effect upon enactment.

DIVISION IV
CASH RESERVE AND SPECIAL FUNDS

Sec. 12. Section 8.55, subsection 3, Code 1995, is amended* to read as follows:

3. The moneys in the Iowa economic emergency fund may be appropriated by the general assembly only in the fiscal year for which the appropriation is made. The moneys shall only be appropriated by the general assembly for emergency expenditures. However, except as provided in section 8.58, the balance in the Iowa economic emergency fund may be used in determining the cash position of the general fund of the state for the payment of state obligations.

Sec. 13. Section 8.55, subsection 4, Code 1995, is amended to read as follows:

4. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the Iowa economic emergency fund shall be credited to the rebuild Iowa ~~economic emergency~~ infrastructure fund.

Sec. 14. Section 8.56, subsection 1, Code 1995, 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 rebuild Iowa ~~economic emergency fund~~ infrastructure fund created in section 8.57. 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. 15. Section 8.57, subsection 2, Code 1995, is 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. 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, chapter 1181, section 17. The schedule shall list each item of expenditure and the 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 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~~

*Amendment not enacted

~~of the making of any appropriation in an incorrect fiscal year, any moneys in the GAAP deficit reduction account shall be appropriated~~ On September 1 following the close of a fiscal year, moneys in the GAAP deficit reduction account which remain unexpended for items on the filed schedule for the previous fiscal year shall be credited to the Iowa economic emergency fund.

Sec. 16. Section 8.57, subsection 5, Code 1995, is amended to read as follows:

5. a. A rebuild Iowa infrastructure ~~account~~ fund is created under the authority of the department of management. ~~Moneys~~ The fund shall consist of appropriations made to the fund and transfers of interest, earnings, and moneys from other funds as provided by law. 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. However, the fund shall be considered a special account for the purposes of section 8.53, relating to generally accepted accounting principles.

b. Moneys in the infrastructure fund are not subject to section 8.33. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the infrastructure fund shall be credited to the infrastructure fund.

c. Moneys in the ~~account~~ fund in a fiscal year shall be used as directed by the general assembly for public infrastructure-related expenditures.

d. 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~~ fund in lieu of appropriation of the moneys to the Iowa economic emergency fund.

Sec. 17. Section 8.58, Code 1995, is amended to read as follows:

8.58 EXEMPTION FROM AUTOMATIC APPLICATION.

To the extent that moneys appropriated under section 8.57 do not result in moneys being credited to the general fund under section 8.55, subsection 2, moneys appropriated under section 8.57 and moneys contained in the cash reserve fund, rebuild Iowa infrastructure fund, and Iowa economic emergency fund shall not be considered in the application of any formula, index, or other statutory triggering mechanism which would affect appropriations, payments, or taxation rates, contrary provisions of the Code notwithstanding.

To the extent that moneys appropriated under section 8.57 do not result in moneys being credited to the general fund under section 8.55, subsection 2, moneys appropriated under section 8.57 and moneys contained in the cash reserve fund, rebuild Iowa infrastructure fund, and Iowa economic emergency fund shall not be considered by an arbitrator or in negotiations under chapter 20.

Sec. 18. NEW SECTION. 8.63 INNOVATIONS FUND.

1. An innovations fund is created in the state treasury under the control of the department of management for the purpose of stimulating and encouraging innovation in state government by the awarding of repayable loans to state agencies.

2. The director of the department of management shall establish an eight-member committee to be called the state innovations fund committee. The committee shall review all requests for funds and approve loans of funds if the committee determines that an agency request would result in cost savings or added revenue to the general fund of the state. Eligible projects are projects which cannot be funded from an agency's operating budget without adversely affecting the agency's normal service levels. Projects may include, but are not limited to, purchase of advanced technology, contracting for expert services, and acquisition of equipment or supplies.

3. A state agency seeking a loan from the innovations fund shall complete an application form designed by the state innovations fund committee which employs a return on investment concept and demonstrates how state general fund expenditures will be reduced or how state general fund revenues will increase. Minimum loan requirements for

state agency requests shall be determined by the committee. As an incentive to increase state general fund revenues, an agency may retain up to fifty percent of savings realized in connection with a loan from the innovations fund. The amount retained shall be determined by the innovations fund committee.

4. In order for the innovations fund to be self-supporting, the innovations fund committee shall establish repayment schedules for each innovation fund loan awarded. Agencies shall repay the funds over a period not to exceed five years with interest, at a rate to be determined by the innovations fund committee.

5. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the innovations fund shall be credited to the innovations fund. Notwithstanding section 8.33, moneys remaining in the innovations fund at the end of a fiscal year shall not revert to the general fund of the state.

Sec. 19. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION V
BUDGET SUBMISSIONS

Sec. 20. Section 8.23, unnumbered paragraph 1, Code 1995, is amended to read as follows:

On or before ~~September~~ October 1, prior to each legislative session, all departments and establishments of the government shall transmit to the director, on blanks to be furnished by the director, estimates of their expenditure requirements, including every proposed expenditure, for the ensuing fiscal year, classified so as to distinguish between expenditures estimated for administration, operation, and maintenance, and the cost of each project involving the purchase of land or the making of a public improvement or capital outlay of a permanent character, together with supporting data and explanations as called for by the director. The budget estimates shall include for those agencies which pay for energy directly a line item for energy expenses itemized by type of energy and location. The estimates of expenditure requirements shall be based upon seventy-five percent of the funding provided for the current fiscal year accounted for by program reduced by the historical employee vacancy factor in form specified by the director and the remainder of the estimate of expenditure requirements prioritized by program. The estimates shall be accompanied with performance measures for evaluating the effectiveness of the program. If a department or establishment fails to submit estimates within the time specified, the legislative fiscal bureau shall use the amounts of the appropriations to the department or establishment for the fiscal year in process at the time the estimates are required to be submitted as the amounts for the department's or establishment's request in the documents submitted to the general assembly for the ensuing fiscal year and the governor shall cause estimates to be prepared for that department or establishment as in the governor's opinion are reasonable and proper. The director shall furnish standard budget request forms to each department or agency of state government.

Sec. 21. Section 8.35A, subsection 2, Code 1995, is amended to read as follows:

2. Commencing ~~September~~ October 1, the director shall provide weekly budget tapes in the form and level of detail requested by the legislative fiscal bureau reflecting finalized agency budget requests for the following fiscal year as submitted to the governor. The director shall transmit all agency requests in final form to the legislative fiscal bureau by November 15. Final budget records containing the governor's recommendation and final agency requests shall be transmitted to the legislative fiscal bureau by January 1 or no later than the date the governor's budget document is delivered to the printer. The governor's recommendation included on this record shall be considered confidential by the legislative fiscal bureau until it is made public by the governor. The legislative fiscal bureau shall use this data in the preparation of information for the legislative appropriation process.

Sec. 22. Section 456A.19, unnumbered paragraph 2, Code 1995, is amended to read as follows:

The department shall ~~annually on or before September~~ by October 1 of each year submit to the department of management for transmission to the general assembly a detailed estimate of the amount required by the department during the succeeding year for carrying on the activities embraced in the fish and wildlife division. The estimate shall be in the same general form and detail as required by law in estimates submitted by other state departments.

Approved May 24, 1995, except the items which I hereby disapprove and which are designated as Section 4 in its entirety and that portion of Section 5 which is herein bracketed in ink and initialed by me. My reasons for vetoing these items are delineated in the item veto message pertaining to this Act to the Secretary of State this same date, a copy of which is attached hereto.

TERRY E. BRANSTAD, *Governor*

Dear Mr. Secretary:

I hereby transmit Senate File 475, an Act relating to state financial provisions and providing applicability provisions and effective dates.

The provisions in Senate File 475 reflect our ongoing effort to continually improve Iowa's finances and financial practices. For example, Iowa's improved financial condition is clearly reflected in the provision which changes the payment dates for Merged Area schools from four times per year, one of which occurred after the close of the fiscal year, to monthly. This will have a direct, positive impact on the cash flow position of the community colleges. Other provisions reflect similar improvement.

Senate File 475 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, in its entirety. This item specifies a date by which the salary bill must be submitted to the General Assembly. Because of the complexity of the collective bargaining process and the requirement for multiple agreements, the Governor should have the flexibility to determine the appropriate time to submit the salary bill.

I am unable to approve the designated portion of Section 5, identified as Section 8.22A, new subsection 6. This item would require the revenue estimating conference to develop a projection for medical assistance expenditures. It would be inappropriate to give the body responsible for estimating revenue the task of estimating expenditures. That is clearly not a revenue estimating responsibility.

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 475 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 215

UNDERGROUND STORAGE TANKS

H.F. 508

AN ACT relating to underground storage tanks by increasing the environmental protection charge, providing for the use of risk-based corrective action standards, expanding property transfer insurance and loan guarantees, extending the compliance date for upgrade requirements, relating to cost recovery, creating marketability and innocent landowner funds and providing benefits, requiring certification of groundwater professionals and creating a penalty, requiring a study, and providing for repeals, and implementation, effective date, and retroactive applicability provisions.

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

Section 1. Section 423.24, subsection 1, paragraph a, Code 1995, is amended to read as follows:

a. (1) Twenty-five percent of all such revenue, up to a maximum of ~~three~~ four million ~~eight~~ two hundred ~~twenty-five~~ fifty thousand dollars per quarter, shall be deposited into and credited to the Iowa comprehensive petroleum underground storage tank fund created in section 455G.3, and the moneys so deposited are a continuing appropriation for expenditure under chapter 455G, and moneys so appropriated shall not be used for other purposes.

(2) Beginning January 1, 1996, through December 31, 1997, two million five hundred thousand dollars per quarter, shall be deposited into and credited to the Iowa comprehensive petroleum underground storage tank marketability fund created in section 455G.21. Beginning January 1, 1998, through December 31, 2002, four million two hundred fifty thousand dollars per quarter, shall be deposited into and credited to the Iowa comprehensive petroleum underground storage tank marketability fund created in section 455G.21. The moneys so deposited are a continuing appropriation to be expended in accordance with section 455G.21, and the moneys shall not be used for other purposes.

Sec. 2. Section 424.3, subsection 5, Code 1995, is amended to read as follows:

5. The cost factor is an amount per gallon of diminution determined by the board pursuant to this subsection. The board, after public hearing, shall determine, or shall adjust, the cost factor to the greater of either an amount reasonably calculated to generate an annual average revenue, year to year, of ~~fifteen~~ seventeen million ~~three hundred thousand~~ dollars from the charge, excluding penalties and interest, or ten dollars. The board may determine or adjust the cost factor at any time but shall at minimum determine the cost factor at least once each fiscal year.

Sec. 3. Section 455B.304, subsection 15, Code 1995, is amended by striking the subsection.

Sec. 4. Section 455B.471, subsection 2, Code 1995, is amended by striking the subsection and inserting in lieu thereof the following:

2. "Corrective action" means an action taken to reduce, minimize, eliminate, clean up, control, or monitor a release to protect the public health and safety or the environment. Corrective action includes, but is not limited to, excavation of an underground storage tank for purposes of repairing a leak or removal of a tank, removal of contaminated soil, disposal or processing of contaminated soil, cleansing of groundwaters or surface waters, natural biodegradation, institutional controls, and site management practices. Corrective action does not include replacement of an underground storage tank. Corrective action specifically excludes third-party liability.

Sec. 5. Section 455B.474, subsection 1, paragraph d, subparagraph (2), subparagraph subdivision (a), unnumbered paragraph 1, Code 1995, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

A site shall be considered high risk when it is determined that contamination from the site presents an unreasonable risk to public health and safety or the environment under any of the following conditions:

Sec. 6. Section 455B.474, subsection 1, paragraph d, subparagraph (2), subparagraph subdivision (d), Code 1995, is amended by striking the subparagraph subdivision and inserting in lieu thereof the following:

(d) For purposes of classifying a site as either low risk or no action required, the department shall rely upon the example tier one risk-based screening level look-up table of the American society for testing of materials' emergency standard, ES38-94, or other look-up table as determined by the department by rule.

Sec. 7. Section 455B.474, subsection 1, paragraph d, subparagraph (2), Code 1995, is amended by adding the following new subparagraph subdivision:

NEW SUBPARAGRAPH SUBDIVISION. (e) A site cleanup report which classifies a site as either high risk, low risk, or no action required shall be submitted by a groundwater professional to the department with a certification that the report complies with the provisions of this chapter and rules adopted by the department. The report shall be determinative of the appropriate classification of the site. However, if the report is found to be inaccurate or incomplete, and if based upon information in the report the risk classification of the site cannot be reasonably determined by the department based upon industry standards, the department shall work with the groundwater professional to obtain the additional information necessary to appropriately classify the site. A groundwater professional who knowingly or intentionally makes a false statement or misrepresentation which results in a mistaken classification of a site shall be guilty of a serious misdemeanor and shall have the groundwater professional's certification revoked under section 455G.18.

Sec. 8. Section 455B.474, subsection 1, paragraph f, subparagraphs (4), (5), and (6), Code 1995, are amended by striking the subparagraphs and inserting in lieu thereof the following:

(4) High risk sites shall be addressed pursuant to a corrective action design report, as submitted by a groundwater professional and as accepted by the department. The corrective action design report shall determine the most appropriate response to the high risk conditions presented. The appropriate corrective action response shall be based upon industry standards and shall take into account the following:

(a) The extent of remediation required to reclassify the site as a low risk site.

(b) The most appropriate exposure scenarios based upon residential, commercial, or industrial use or other predefined industry accepted scenarios.

(c) Exposure pathway characterizations including contaminant sources, transport mechanisms, and exposure pathways.

(d) Affected human or environmental receptors and exposure scenarios based on current and projected use scenarios.

(e) Risk-based corrective action assessment principles which identify the risks presented to the public health and safety or the environment by each release in a manner that will protect the public health and safety or the environment using a tiered procedure consistent with the American society for testing of materials' emergency standard, ES38-94.

(f) Other relevant site specific factors such as the feasibility of available technologies, existing background contaminant levels, current and planned future uses, ecological, aesthetic, and other relevant criteria, and the applicability and availability of engineering and institutional controls.

(g) Remediation shall not be required on a site that does not present an increased cancer risk at the point of exposure of one in one million for residential areas or one in ten thousand for nonresidential areas.

(5) A corrective action design report, submitted by a groundwater professional shall be accepted by the department and shall be primarily relied upon by the department to

determine the corrective action response requirements of the site. However, if the corrective action design report is found to be inaccurate or incomplete, and if based upon information in the report the appropriate corrective action response cannot be reasonably determined by the department based upon industry standards, the department shall work with the groundwater professional to obtain the additional information necessary to appropriately determine the corrective action response requirements. A groundwater professional who knowingly or intentionally makes a false statement or misrepresentation which results in an improper or incorrect corrective action response shall be guilty of a serious misdemeanor and shall have the groundwater professional's certification revoked under section 455G.18.

(6) Low risk sites shall be monitored as deemed necessary by the department consistent with industry standards. Monitoring shall not be required on a site which has received a no further action certificate.

Sec. 9. Section 455B.474, subsection 1, paragraph f, Code 1995, is amended by adding the following new subparagraphs:

*NEW SUBPARAGRAPH. *(6A) Corrective action, for the release of a regulated substance from an underground storage tank required to maintain financial responsibility under chapter 455G, which occurs on or after January 1, 1996, shall be in accordance with corrective action rules of the department existing on January 1, 1995, rather than pursuant to this paragraph "f".**

NEW SUBPARAGRAPH. (6B) An owner or operator may elect to proceed with additional corrective action on the site. However, any action taken in addition to that required pursuant to this paragraph "f" shall be solely at the expense of the owner or operator and shall not be considered corrective action for purposes of section 455G.9.

Sec. 10. Section 455B.474, subsection 1, paragraph h, Code 1995, is amended by striking the paragraph and inserting in lieu thereof the following:

h. Issuing a no further action certificate or a monitoring certificate to the owner or operator of an underground storage tank site.

(1) A no further action certificate shall be issued by the department for a site which has been classified as a no further action site or which has been reclassified pursuant to completion of a corrective action plan or monitoring plan to be a no further action site.

(2) A monitoring certificate shall be issued by the department for a site which does not require remediation, but does require monitoring of the site.

(3) A certificate may be recorded with the county recorder. The owner or operator of a site who has been issued a certificate under this paragraph "h" or a subsequent purchaser of the site shall not be required to perform further corrective action solely because action standards are changed at a later date. A certificate shall not prevent the department from ordering corrective action of a new release.

Sec. 11. Section 455G.3, subsection 1, Code 1995, is amended to read as follows:

1. The Iowa comprehensive petroleum underground storage tank fund is created as a separate fund in the state treasury, and any funds remaining in the fund at the end of each fiscal year shall not revert to the general fund but shall remain in the Iowa comprehensive petroleum underground storage tank fund. Interest or other income earned by the fund shall be deposited in the fund. The fund shall include moneys credited to the fund under this section and sections 423.24, subsection 1, paragraph "a", subparagraph (1), 455G.8, 455G.9, 455G.10, and 455G.11, ~~and 455G.13,~~ and other funds which by law may be credited to the fund. The moneys in the fund are appropriated to and for the purposes of the board as provided in this chapter. Amounts in the fund shall not be subject to appropriation for any other purpose by the general assembly, but shall be used only for the purposes set forth in this chapter. The treasurer of state shall act as custodian of the fund and disburse amounts contained in it as directed by the board including automatic disbursements

*Item veto; see message at end of the Act

of funds as received 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 at the direction of the board and subject to any limitations contained in any applicable bond proceedings. The income from such investment shall be credited to and deposited in the fund. The fund shall be administered by the board which shall make expenditures from the fund consistent with the purposes of the programs set out in this chapter without further appropriation. The fund may be divided into different accounts with different depositories as determined by the board and to fulfill the purposes of this chapter.

Sec. 12. Section 455G.3, subsection 3, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. To establish a marketability fund for the purposes as stated in section 455G.21.

Sec. 13. Section 455G.6, subsection 4, Code 1995, is amended to read as follows:

4. Grant a mortgage, lien, pledge, assignment, or other encumbrance on one or more improvements, revenues, asset of right, accounts, or funds established or received in connection with the fund, including revenues derived from the use tax ~~imposed~~ under ~~chapter 423~~ section 423.24, subsection 1, paragraph "a", subparagraph (1), and deposited in the fund or an account of the fund.

Sec. 14. Section 455G.8, subsection 2, Code 1995, is amended to read as follows:

2. USE TAX. The revenues derived from the use tax imposed under chapter 423. The proceeds of the use tax under section 423.24, subsection 1, paragraph "a", subparagraph (1), shall be allocated, consistent with this chapter, among the fund's accounts, for debt service and other fund expenses, according to the fund budget, resolution, trust agreement, or other instrument prepared or entered into by the board or authority under direction of the board. The proceeds of the use tax under section 423.24, subsection 1, paragraph "a", subparagraph (2), shall be allocated in accordance with section 455G.21.

Sec. 15. Section 455G.8, subsection 5, Code 1995, is amended to read as follows:

5. COST RECOVERY ENFORCEMENT. Cost recovery enforcement net proceeds as provided by section 455G.13 shall be allocated ~~among the fund's accounts as directed by the board~~ to the innocent landowners fund created under section 455G.21, subsection 2, paragraph "a". When federal cleanup funds are recovered, the funds are to be deposited to the remedial account of the fund and used solely for the purpose of future cleanup activities.

Sec. 16. Section 455G.9, subsection 4, paragraph a, Code 1995, is amended to read as follows:

a. An owner or operator who reports a release to the department of natural resources after May 5, 1989, and on or before October 26, 1990, shall be required to pay the following copayment amounts:

(1) If the owner or operator has a net worth of one hundred thousand dollars or less and owns no more than one site, the owner or operator shall pay no more than eighteen percent of the total costs of corrective action for that release. For purposes of this subparagraph, "net worth" means the fair market value of the site, which shall include an adjustment for anticipated benefits under this section.

~~(1)~~ (2) If a site's total anticipated expenses are not reserved for more than, or actual expenses do not exceed, eighty thousand dollars, the owner or operator shall pay the greater of five thousand dollars or eighteen percent of the total costs of corrective action for that release.

~~(2)~~ (3) If a site's total anticipated expenses are reserved for more than, or actual expenses exceed, eighty thousand dollars, the owner or operator shall pay the amount as

designated in subparagraph ~~(1)~~ (2) plus thirty-five percent of the total costs of the corrective action for that release which exceed eighty thousand dollars.

Sec. 17. Section 455G.9, subsection 5, Code 1995, is amended by striking the subsection.

Sec. 18. Section 455G.10, subsections 1, 3, 5, and 6, Code 1995, are amended to read as follows:

1. The board may create a loan guarantee account to offer loan guarantees ~~to small businesses~~ for the following purposes:

a. All or a portion of the expenses incurred by the applicant ~~small business~~ for its share of corrective action.

b. Tank and monitoring equipment improvements necessary to satisfy federal technical standards to become insurable.

c. Capital improvements made on a tank site.

d. Purchase of a leaking underground storage tank site.

Moneys from the revenues derived from the use tax ~~imposed~~ under ~~chapter 423~~ section 423.24, subsection 1, paragraph "a", subparagraph (1), may be used to fund the loan guarantee account according to the fund budget as approved by the board. Loan guarantees shall be made on terms and conditions determined by the board to be reasonable, except that in no case may a loan guarantee satisfy more than ninety percent of the outstanding balance of a loan.

3. The board shall administer the loan guarantee account. The board may delegate administration of the account, provided that the administrator is subject to the board's direct supervision and direction. The board shall adopt rules regarding the provision of loan guarantees ~~to financially qualified small businesses for the purposes permitted by subsection 1~~. The board may impose such terms and conditions as it deems reasonable and necessary or appropriate. The board shall take appropriate steps to publicize the existence of the loan account.

~~The benefits under this section shall be available to small businesses entering into the petroleum business.~~

5. As a condition of eligibility for financial assistance from the loan guarantee account, ~~a small business~~ an applicant shall demonstrate satisfactory attempts to obtain financing from private lending sources. When applying for loan guarantee account assistance, the ~~small business~~ applicant shall demonstrate good faith attempts to obtain financing from at least two financial institutions. The board may first refer a tank owner or operator to a financial institution eligible to participate in the fund under section 455G.16; however, if no such financial institution is currently willing or able to make the required loan, the ~~small business~~ applicant shall determine if any of the previously contacted financial institutions would make the loan in participation with the loan guarantee account. The loan guarantee account may offer to guarantee a loan, or provide other forms of financial assistance to facilitate a private loan.

6. The maturity for each financial assistance package made by the board pursuant to this chapter shall be the shortest feasible term commensurate with the repayment ability of the ~~small business~~ borrower. However, the maturity date of a loan shall not exceed twenty years and the guarantee is ineffective beyond the agreed term of the guarantee or twenty years from initiation of the guarantee, whichever term is shorter.

Sec. 19. Section 455G.11, subsection 3, paragraph c, Code 1995, is amended to read as follows:

c. The applicant certifies in writing to the board that the tank to be insured will be brought into compliance with either paragraph "a" or "b", on or before ~~January 1, 1995~~ December 22, 1998, provided that prior to the provision of insurance account coverage, the tank site tests release free. An owner or operator who fails to comply as certified to the board on or before ~~January 1, 1995~~ December 22, 1998, shall not insure that tank through

the insurance account unless and until the tank satisfies the requirements of paragraph "a" or "b". An owner or operator who fails to comply with either paragraph "a" or "b" by October 26, 1993, or who fails to enter into a contract on or before October 26, 1993, which, upon completion, will bring the owner or operator into compliance with either paragraph "a" or "b" by ~~January 1, 1995, shall pay~~ December 22, 1998, may be eligible for financial assurance under this section but shall be subject to an additional surcharge of ~~four~~ eight hundred dollars per tank in addition to payment of a premium that is equal to two times the cost of the premium required under subsection 4, paragraph "g", per insured time period.

Sec. 20. Section 455G.11, subsection 4, paragraph g, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Tanks receiving financial assurance pursuant to subsection 3, paragraph "c", shall not be included in the general tank population for purposes of determining actuarially sound premiums under this paragraph.

Sec. 21. Section 455G.11, subsection 5, paragraph a, Code 1995, is amended by striking the paragraph and inserting in lieu thereof the following:

a. The payment of claims filed prior to the effective date of any future repeal, against the insurance account until moneys in the account are exhausted. Upon exhaustion of the moneys in the account, any remaining claims shall be invalid.

Sec. 22. Section 455G.11, subsection 10, paragraph a, Code 1995, is amended to read as follows:

a. ADDITIONAL CLEANUP REQUIREMENTS. An owner, operator, landowner, or financial institution may purchase insurance coverage under the insurance account to cover environmental damage caused by a tank in the event that governmental action requires additional cleanup beyond ~~action level standards in effect~~ that which was required at the time a ~~certificate of clean was issued under section 455B.304, subsection 15,~~ no further action certificate or a monitoring certificate was issued under section 455B.474, subsection 1, paragraph "h".

Sec. 23. Section 455G.11, subsection 10, paragraph b, subparagraphs (1) and (4), Code 1995, are amended to read as follows:

(1) A ~~certificate of clean has been issued for the site under section 455B.304, subsection 15,~~ no further action certificate or a monitoring certificate has been issued for the site under section 455B.474, subsection 1, paragraph "h". Property transfer coverage shall be effective on a monitored site only for the time period for which monitoring is allowed as specified in the monitoring certificate. A site which has not been issued a no further action certificate ~~of clear~~* or a monitoring certificate shall not be eligible for property transfer coverage.

(4) The additional cleanup is ~~required to meet new corrective action level standards~~ mandated by governmental action requiring cleanup beyond that which was required at the time a no further action certificate or a monitoring certificate under section 455B.474, subsection 1, paragraph "h", was issued for a site.

Sec. 24. Section 455G.11, subsection 10, paragraph d, subparagraph (5), Code 1995, is amended by striking the subparagraph.

Sec. 25. Section 455G.11, subsection 10, paragraph h, Code 1995, is amended by striking the paragraph.

***Sec. 26.* *Section 455G.13, subsection 1, Code 1995, is amended to read as follows:*

1. ~~FULL~~ RECOVERY SOUGHT FROM OWNER. The board ~~shall~~ may seek ~~full~~ recovery from the owner, operator, or other potentially responsible party liable for the released petroleum which is the subject of a corrective action, for which the fund expends moneys from

*The word "clean" appears in 1995 Code
**Item veto; see message at end of the Act

*the remedial account for corrective action or third-party liability, and for all other costs, including reasonable and necessary attorney fees and costs of litigation for which moneys are expended by the fund in connection with the release. The liability of the owner, operator or other potentially responsible party is limited to that percentage of the released petroleum which was the subject of the corrective action and which the board by a preponderance of the evidence, demonstrates was released by the owner, operator, or other potentially responsible party. When federal cleanup funds are recovered, the funds are to be deposited to the remedial account of the fund and used solely for the purpose of future cleanup activities.**

Sec. 27. Section 455G.18, Code 1995, is amended to read as follows:

455G.18 GROUNDWATER PROFESSIONALS - ~~REGISTRATION~~ CERTIFICATION.

1. The department of natural resources shall adopt rules pursuant to chapter 17A requiring ~~that~~ the certification of groundwater professionals ~~register with the department of natural resources~~. The rules shall include provisions for suspension or revocation of ~~registration~~ certification for good cause. **The administrator of the fund shall administer the certification program.**

2. A groundwater professional is a person who provides subsurface soil contamination and groundwater consulting services or who contracts to perform remediation or corrective action services and is one or more of the following:

a. A person certified by the American institute of hydrology, the national water well association, the American board of industrial hygiene, or the association of groundwater scientists and engineers.

b. A professional engineer registered in Iowa.

c. A professional geologist certified by a national organization.

d. Any person who has five years of direct and related experience and training as a groundwater professional or in the field of earth sciences as of June 10, 1991.

e. Any other person with a license, certification, or registration to practice hydrogeology or groundwater hydrology issued by any state in the United States or by any national organization, provided that the license, certification, or registration process requires, at a minimum, all of the following:

(1) Possession of a bachelor's degree from an accredited college.

(2) Five years of related professional experience.

3. The department of natural resources may provide for a civil penalty of no more than fifty dollars for ~~the~~ failure to ~~register~~ obtain certification. An interested person may obtain a list of ~~registrants~~ certified groundwater professionals from the department of natural resources. The department of natural resources may impose a fee for the ~~registration~~ certification of persons under this section.

4. The ~~registration~~ certification of groundwater professionals shall not impose liability on the board, the department, or the fund for any claim or cause of action of any nature, based on the action or inaction of groundwater professionals ~~registered~~ certified pursuant to this section.

5. Any person who was not previously registered as a groundwater professional who requests certification under this section, after January 1, 1996, shall be required to attend a course of instruction and pass a certification examination. The administrator of the fund shall hold certification courses and offer examinations. An applicant who successfully passes the examination shall be certified as a groundwater professional.

6. A groundwater professional who was registered prior to January 1, 1996, shall not be required to attend the course of instruction but shall be required to pass the certification examination by January 1, 1997.

7. All groundwater professionals shall be required to complete continuing education requirements as adopted by rule by the department.

8. The board may provide for exemption from the certification requirements of this section for a professional engineer registered pursuant to chapter 542B, if the person is

*Item veto; see message at end of the Act

qualified in the field of geotechnical, hydrological, environmental groundwater, or hydrogeological engineering.

9. Notwithstanding the certification requirements of this section, a site cleanup report or corrective action design report submitted by a registered groundwater professional shall be accepted by the department in accordance with sections 455B.474, subsection 1, paragraph "d", subparagraph (2), subparagraph subdivision (e), and paragraph "f", subparagraph (5).

Sec. 28. NEW SECTION. 455G.21 MARKETABILITY FUND.

1. A marketability fund is created as a separate fund in the state treasury under the control of the board. The board shall administer the marketability fund. Notwithstanding section 8.33, moneys remaining in the marketability fund at the end of each fiscal year shall not revert to the general fund but shall remain in the marketability fund. The marketability fund shall include the following:

a. Moneys allocated to the fund pursuant to section 423.24, subsection 1, paragraph "a", subparagraph (2).

b. Notwithstanding section 12C.7, interest earned by the marketability fund or other income specifically allocated to the marketability fund.

2. The marketability fund shall be used for the following purposes:

a. Five million dollars per year shall be allocated to the innocent landowners fund which shall be established as a separate fund in the state treasury under the control of the board. The innocent landowners fund shall also include any moneys recovered pursuant to cost recovery enforcement under section 455G.13. Notwithstanding section 455G.1, subsection 2, benefits for the costs of corrective action shall be provided to the owner of a petroleum contaminated property, who is not otherwise eligible to receive benefits under section 455G.9. An owner of a petroleum contaminated property shall be eligible for payment of total corrective action costs subject to copayment requirements under section 455G.9, subsection 4, paragraph "a", subparagraphs (1) and (2). The board may adopt rules conditioning receipt of benefits under this paragraph to those petroleum contaminated properties which present a higher degree of risk to the public health and safety or the environment and may adopt rules providing for denial of benefits under this paragraph to a person who did not make a good faith attempt to comply with the provisions of this chapter. This paragraph does not confer a legal right to an owner of petroleum contaminated property for receipt of benefits under this paragraph.

b. The remainder of the moneys shall be used for payment of remedial benefits as provided in section 455G.9.

3. Moneys in the fund shall not be used for purposes of bonding or providing security for bonding under chapter 455G.

Sec. 29. REPEAL.

1. Section 423.24, subsection 1, paragraph "a", subparagraph (2) is repealed on January 1, 2003.

2. Section 455G.19, Code 1995, is repealed.

Sec. 30. DEPARTMENTAL RULES.

1. In adopting the rules to implement the amendments to section 455B.474, contained in this Act, the environmental protection commission shall:

a. Direct the department to work jointly with a technical advisory committee to prepare a draft of these rules and standards for the commission's consideration.

(1) The technical advisory committee members shall consist of the following:

(a) The chairperson of the Iowa environmental council or the chairperson's designee.

(b) The managing director of the petroleum marketers of Iowa or the managing director's designee.

(c) The executive director of the Iowa league of cities or the executive director's designee.

(d) The president of the Iowa groundwater association or the president's designee who is a groundwater professional pursuant to section 455G.18.

(e) The executive director of the Iowa petroleum council or the executive director's designee.

(f) The executive director of the consulting engineers of Iowa or the executive director's designee who is a registered engineer.

(g) The executive director of the Iowa association of business and industry or the executive director's designee.

(h) The administrator of the Iowa comprehensive petroleum underground storage tank fund board.

(2) The technical advisory committee shall:

(a) Draw upon the technical expertise of its members' constituent organizations.

(b) Submit a written report jointly with the department of natural resources to the environmental protection commission concerning rules and standards to implement section 455B.474, as amended by this Act, by October 15, 1995.

(3) The technical advisory committee shall cease to exist when final rules referred to in subparagraph (2) are adopted by the environmental protection commission.

b. File a notice of intended action with the administrative rules review committee by November 15, 1995.

2. In implementing the amendments to section 455B.474 contained in this Act, the department:

a. May allow but shall not require revision, modification, or replacement of any site cleanup report, site assessment, or remedial investigation previously accepted by the department.

b. Shall collect information from historical records, visual inspections, and minimal site assessment data in order to determine whether the release is appropriate for regulatory concern and whether a site cleanup report is required.

c. Shall take steps to assure that department staff is adequately trained to implement and utilize the standards being enacted pursuant to this section by January 1, 1996. In preparing its staff, the department shall utilize, to the fullest extent possible, training and funding programs offered by the United States environmental protection agency, the American society for testing and materials (ASTM), or other appropriate entities.

3. During the period of time from the enactment of this Act until such time as the rules implementing the amendments to section 455B.474, contained in this Act, become effective, the department of natural resources may require an owner or operator to proceed with corrective action only if the action is necessary to protect public health and safety or the environment. An owner or operator may elect to proceed with corrective action pursuant to rules of the department existing on January 1, 1995, until such time as the rules implementing the amendments to section 455B.474, contained in this Act, become effective. However, the board may refuse to pay corrective action costs on a site during the interim period if it is likely that the site would be reclassified as a lower risk site when the rules implementing risk-based corrective action standards become effective.

Sec. 31. STUDY.

1. The Iowa comprehensive petroleum underground storage tank fund board shall study the following issues:

a. Privatization of all or a portion of the insurance program under section 455G.11.

b. Expansion of innocent landowner benefits under section 455G.21.

2. The board shall provide the general assembly with the study's report and recommendations by January 1, 1996.

Sec. 32. APPLICABILITY. The section of this Act that amends section 455G.13, subsection 1, applies to all cases that are tried on or after the effective date of this Act.

Sec. 33. RETROACTIVE APPLICABILITY. Sections 19 and 20 of this Act, which amend section 455G.11, subsections 3 and 4, apply retroactively to January 1, 1995.

Sec. 34. EFFECTIVE DATE. Sections 3 through 10, sections 17 through 25, sections 27, and 28,* section 29, subsection 2, and sections 30, 31, and 33, being deemed of immediate importance, take effect upon enactment. Sections 1 and 2, sections 11 through 14, and section 29, subsection 1, are effective July 1, 1995. Section 28* is effective January 1, 1996. Sections 15 and 26 of this Act, being deemed of immediate importance, take effect upon enactment.

Approved May 24, 1995, except the items which I hereby disapprove and which are designated as that portion of Section 9 which is herein bracketed in ink and initialed by me; Section 26 in its entirety; and that portion of Section 27 which is herein bracketed in ink and initialed by me. My reasons for vetoing these items are delineated in the item veto message pertaining to this Act to the Secretary of State this same date, a copy of which is attached hereto.

TERRY E. BRANSTAD, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 508, an Act relating to underground storage tanks by increasing the environmental protection charge, providing for the use of risk-based corrective action standards, expanding property transfer insurance and loan guarantees, extending the compliance date for upgrade requirements, relating to cost recovery, creating marketability and innocent landowner funds and providing benefits, requiring certification of groundwater professionals and creating a penalty, requiring a study, and providing for repeals, and implementation, effective date, and retroactive applicability provisions.

House File 508 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the designated portion of Section 9, identified as section 455B.474, subsection 1, paragraph f, new subparagraph (6A). This item would require the Department of Natural Resources to use two different sets of rules to determine the corrective action needed to respond to releases at underground storage tank sites. As proposed in the bill, the rules applied at a particular site would depend on the date a release occurred. The corrective action required to clean up a site should be based on the harm caused by the contamination at the site, not by an arbitrary date. Use of the new risk-based corrective action (RBCA) standards will provide a more cost-effective, common sense approach in dealing with contaminated sites and for that reason should be applied to all sites regardless of when they became contaminated.

I am unable to approve the item designated as Section 26, in its entirety. This item would shift the burden of proof in the state's efforts to recover the costs of cleanup from the parties responsible for the contamination caused by leaking underground tanks. The Attorney General who represents the state in such cases advises that a shift in the burden will increase the costs of litigation, reduce the state's ability to recover costs, and allow some responsible parties to avoid liability because of the difficulty involved in proving the percentage of contamination caused by them. Additionally, it is estimated that this change would reduce the amount of funds going to the underground storage tank fund by up to $20 million, all of which would be available to assist innocent landowners.

*The January 1, 1996, effective date probably intended for section 28

I am unable to approve the designated portion of Section 27, identified as the third sentence of section 455G.18, subsection 1. This item would direct the administrator of the Underground Storage Tank Fund Board to administer the groundwater professional certification program. The Department of Natural Resources has the regulatory authority over the program and should be given the administrative responsibilities as well.

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 508 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 216

APPROPRIATIONS - AGRICULTURE AND NATURAL RESOURCES
H.F. 553

AN ACT relating to agriculture and natural resources, by providing for appropriations and revenue, providing related statutory changes, and providing effective dates.

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

DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

Section 1. GENERAL APPROPRIATION. There is appropriated from the general fund of the state to the department of agriculture and land stewardship for the fiscal year beginning July 1, 1995, and ending June 30, 1996, 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:

..... $ 1,815,743
..... FTEs 46.45

(1) Of the funds appropriated in this paragraph "a", $319,550 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", $130,100 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", not more than $5,000 shall be allocated to the Iowa polled hereford junior association in connection with the 1995 national junior hereford show.

(5) Of the amount appropriated in this paragraph "a", $13,000 shall be allocated to support the United States department of agriculture cooperative agreement.

(6) As a condition of the amount appropriated in this paragraph "a", no executive officer II in the department shall be supported from the amount after September 30, 1995.

b. For the operations of the dairy trade practices bureau:

..... $ 66,273

c. For the purpose of performing commercial feed audits:

..... $ 61,932

d. For the purpose of performing fertilizer audits:

..... $ 61,932

2. REGULATORY DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 3,757,998
..... FTEs 122.50

b. For the costs of inspection, sampling, analysis, and other expenses necessary for the administration of chapters 192, 194, and 195:

..... $ 642,122

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:

..... $ 795,528
..... FTEs 76.10

Of the amount appropriated in 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 in this paragraph before moneys other than those appropriated in this paragraph are used to support the program.

b. For the operations of the commercial feed programs:

..... $ 735,631

c. For the operations of the pesticide programs:

..... $ 1,271,464

Of the amount appropriated in this paragraph "c", $200,000 shall be allocated to Iowa state university for purposes of training commercial pesticide applicators.

d. For the operations of the fertilizer programs:

..... $ 626,630

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:

..... $ 5,621,476
..... FTEs 176.30

(1) Of the amount 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.

(2) Of the amount appropriated and the number of full-time equivalent positions allocated in this paragraph "a", $165,000 and 6.50 FTEs shall be used to provide that 13 part-time field office secretary I positions are made full-time positions.

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, 1999, from moneys appropriated in paragraph "b" for the fiscal year beginning July 1, 1995, shall revert to the general fund on August 31, 1999.

Sec. 2. FARMERS' MARKET COUPON PROGRAM. There is appropriated from the general fund of the state to the department of agriculture and land stewardship for the fiscal year beginning July 1, 1995, and ending June 30, 1996, 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:

..... $ 215,335
..... FTEs 1.00

Sec. 3. PSEUDORABIES ERADICATION PROGRAM.

1. There is appropriated from the general fund of the state to the department of agriculture and land stewardship for the fiscal year beginning July 1, 1995, and ending June 30, 1996, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For support of the pseudorabies eradication program:

..... $ 900,200

2. Persons, including organizations interested in swine production in this state and in the promotion of Iowa pork products who contribute support to the program, are encouraged to increase financial support for purposes of ensuring the program's effective continuation.

Sec. 4. HORSE AND DOG RACING. 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, 1995, and ending June 30, 1996, 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:

..... $ 191,106

Sec. 5. 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, 1995, and ending June 30, 1996, 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:

..... $ 80,000

DEPARTMENT OF NATURAL RESOURCES

Sec. 6. GENERAL APPROPRIATION. There is appropriated from the general fund of the state to the department of natural resources for the fiscal year beginning July 1, 1995, and ending June 30, 1996, 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:

..... $ 1,834,654
..... FTEs 113.50

2. PARKS AND PRESERVES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 5,510,462
..... 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:

..... $ 1,479,218
..... 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:

..... $ 1,663,582
..... FTEs 52.00

5. a. ENVIRONMENTAL PROTECTION DIVISION

(1) For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,641,243
..... FTEs 207.00

(2) Of the amount appropriated and the number of full-time equivalent positions allocated in subparagraph (1) at least $98,600 and 2 FTEs shall be used to support the regulation of animal feeding operations.

b. WATER QUALITY PROTECTION FUND

For allocation to the administrative account of the water quality protection fund established pursuant to section 455B.183A, to carry out the purpose of that account:

..... $ 404,000

(1) Of the number of full-time equivalent positions authorized in paragraph "a", 36 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 water supply systems as provided in section 455B.183B. However, the limitation on full-time equivalent positions provided in paragraph "a", 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, 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 water supply systems pursuant to section 455B.183B.

(2) In providing assistance to water supply systems, the department shall provide priority to water supply systems serving a population of seven thousand or less. At least 2 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 340.93

7. WASTE MANAGEMENT ASSISTANCE DIVISION

For not more than the following full-time equivalent positions:

..... FTEs 16.75

Sec. 7. STATE FISH AND GAME PROTECTION FUND - APPROPRIATION TO THE DIVISION OF FISH AND WILDLIFE.

1. There is appropriated from the state fish and game protection fund to the division of fish and wildlife of the department of natural resources for the fiscal year beginning July 1, 1995, and ending June 30, 1996, 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:

..... $ 20,637,657

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 and the chairpersons and ranking members of the joint appropriations subcommittee on agriculture and natural resources concerning the commission's approval.

Sec. 8. MARINE FUEL TAX RECEIPTS - 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, 1995, and ending June 30, 1996, 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, 1996, from moneys appropriated in subsection 1, may be expended during the fiscal year beginning July 1, 1996, and ending June 30, 1997, and shall not revert to the general fund until August 31, 1997.

Sec. 9. SNOWMOBILE FEES - TRANSFER FOR ENFORCEMENT PURPOSES. There is transferred on July 1, 1995, 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, 1995, and ending June 30, 1996, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the purpose of enforcing snowmobile laws as part of the state snowmobile program administered by the department of natural resources:

..... $ 100,000

Sec. 10. VESSEL FEES - TRANSFER FOR ENFORCEMENT PURPOSES. There is transferred on July 1, 1995, 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, 1995, and ending June 30, 1996, 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:

..... $ 1,200,000

RESOURCES ENHANCEMENT AND PROTECTION

Sec. 11. 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, 1995, and ending June 30, 1996, the sum of $8,000,000, of which all moneys shall be allocated as provided in section 455A.19.

ANIMAL INDUSTRY APPROPRIATIONS

Sec. 12. 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, 1995, and ending June 30, 1996, 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:

..... $ 100,000
..... FTEs 1.66

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, 1995.

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, 1999, from moneys appropriated in this section for the fiscal year beginning July 1, 1995, shall revert to the general fund on August 31, 1999.

Sec. 13. ORGANIC NUTRIENT MANAGEMENT.

1. a. 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, 1995, and ending June 30, 1996, 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:

..... $ 450,000

b. Notwithstanding section 161C.5, unencumbered or unobligated moneys remaining on June 30, 1999, from moneys appropriated in paragraph "a" for the fiscal year beginning July 1, 1995, shall revert to the general fund on August 31, 1999.

2. a. Of the amount appropriated in subsection 1, paragraph "a", the division of soil conservation of the department of agriculture and land stewardship shall allocate $50,000 for purposes of supporting pilot projects to determine the impact of plantings, including fast growing trees, surrounding manure storage structures which are connected to or part of animal feeding operations, in reducing or redirecting the dispersal of odor originating from such structures.

b. The moneys allocated in paragraph "a" of this subsection shall be awarded to the owner of an animal feeding operation who applies to the division of soil conservation according to procedures adopted by the division. The division shall provide for an initial application period of 60 days in which not more than one person from each county may be awarded moneys under this subsection. After the completion of the initial application period,

any person may be awarded moneys under this subsection, regardless of whether another person in the same county has received an award. All moneys shall be awarded on a cost-share basis. However, a person shall not receive more than $1,500, regardless of the number of animal feeding operations owned by the person.

c. The division of soil conservation shall submit a report containing findings and recommendations regarding the pilot projects to the general assembly not later than January 10, 1998.

3. Of the amount appropriated in subsection 1, paragraph "a", the division of soil conservation of the department of agriculture and land stewardship shall allocate $50,000 to the department of natural resources for purposes of carrying out a pilot project to study ten animal feeding operations and their structures, and manure management and disposal systems used by such operations, in order to determine the extent to which such operations and their structures and manure management and disposal systems contribute to point and nonpoint contamination of the state's groundwater and surface water, as provided in 1995 Iowa Acts, House File 519.*

RELATED APPROPRIATIONS

Sec. 14. TRANSFERS OF MONEYS REQUIRED TO BE DEPOSITED IN THE WATER PROTECTION FUND. Notwithstanding section 161C.4 and the reversion and allocation provisions in section 455A.19, subsection 1, paragraph "c", of the unencumbered and unobligated moneys remaining on the effective date of this section, which are required to be deposited in the water protection fund created pursuant to section 161C.4, as provided in section 455A.19, subsection 1, paragraph "c", the following amounts shall be transferred first from moneys required to be deposited in the water protection practices account, and if necessary from moneys required to be deposited in the water quality protection projects account, which shall be used for the following purposes:

1. For deposit in the organic nutrient management fund created in section 161C.5 for the purposes of carrying out the organic nutrient management program as provided in section 161C.6:

..... $ 350,000

2. To provide financial incentives for soil conservation practices under chapter 161A, as provided in section 1 of this Act:

..... $ 500,000

Moneys provided in this section shall be transferred first to the organic nutrient management fund as provided in subsection 1 before remaining moneys are transferred to provide financial incentives for soil conservation as provided in subsection 2.

The provisions of section 8.33 shall not apply to the moneys transferred pursuant to this section. On August 31, 1999, unencumbered or unobligated moneys remaining on June 30, 1999, from moneys transferred pursuant to this section shall revert to the soil and water enhancement account of the Iowa resources enhancement and protection fund as provided in section 455A.19, subsection 1, paragraph "c", for allocation to each account in the water protection fund as the moneys would have otherwise been allocated in the manner provided in section 455A.19.

Sec. 15. REVENUE ADMINISTERED BY THE IOWA COMPREHENSIVE UNDERGROUND STORAGE TANK FUND BOARD – TRANSFER. There is appropriated from the unassigned revenue fund administered by the Iowa comprehensive underground storage tank fund board, to the department of natural resources 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 the purpose designated:

For administration expenses of the underground storage tank section of the department of natural resources:

..... $ 75,000

*Chapter 195 herein

Sec. 16. TRANSFER - AIR QUALITY. For the fiscal year beginning July 1, 1995, and ending June 30, 1996, 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.

Sec. 17. WIND EROSION CONTROL FUND. On the effective date of this section, all unencumbered or unobligated moneys appropriated to the wind erosion control fund, and any unencumbered or unobligated 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, shall be transferred to the road use tax fund created in section 312.1.

Sec. 18. TEMPORARY FUND FOR THE PURCHASE OF MOTOR VEHICLE FUEL EQUIPMENT. Notwithstanding section 18.12, the department of general services, upon authorization by the department of agriculture and land stewardship, may conduct a sale of equipment or a device used to test octane in motor vehicle fuel as part of the department of agriculture and land stewardship's regulatory functions. The proceeds of the sale shall be deposited in a special fund established by the department of agriculture and land stewardship. Moneys from the fund shall only be used for purposes of purchasing superior devices or equipment used to test octane in motor vehicle fuel by the department of agriculture and land stewardship. The department shall not enter into a lease-purchase agreement in obtaining the equipment or devices. Unencumbered or unobligated moneys shall remain in the fund until June 30, 1997, at which time remaining moneys shall be deposited into the general fund of the state as a reversion provided in section 8.33, and the fund shall be abolished.

Sec. 19. ALLOCATION OF MONEYS OTHERWISE DEDICATED TO THE LIVING ROADWAY TRUST FUND - 1995 FISCAL YEAR.

1. On the effective date of this section, notwithstanding section 455A.19, subsection 1, paragraph "g", of the unencumbered and unobligated moneys allocated by section 455A.19, subsection 1, paragraph "g", which may otherwise be allocated to the living roadway trust fund created in section 314.21, there is allocated for the fiscal year beginning July 1, 1994, and ending June 30, 1995, the following amounts, to be used as follows:

a. To the soil conservation division of the department of agriculture and land stewardship for purposes of supporting a public service executive I position in the field services section of the division, and for the salary and support of not more than the following full-time equivalent position:

..... $ 55,000
..... FTEs 1.00

b. To the department of agriculture and land stewardship, for purposes of purchasing equipment for grain examiners to comply with requirements of the United States department of labor occupational safety and health administration:

..... $ 34,300

c. To the department of natural resources for deposit in the public water supply system account established pursuant to section 455B.183A for purposes of supporting the program to assist supply systems, as provided in section 455B.183B:

..... $ 100,000

d. To Iowa state university for purposes of supporting multiflora rose eradication research and projects:

..... $ 25,000

e. To Iowa state university for purposes of supporting aerial spray calibration efforts at Iowa state university:

..... $ 25,000

f. (1) To Iowa state university for purposes of supporting the Iowa cooperative extension service in agriculture and home economics in establishing and administering an Iowa grain quality initiative:

..... $ 40,000

(2) Each dollar provided in this paragraph "f" shall be allocated to Iowa state university only after a matching dollar is contributed to Iowa state university for purposes of supporting the establishment and administration of the Iowa grain initiative by one or more organizations representing crop producer members in this state.

g. To local sponsors of the Lewis and Clark rural water system as required, in order to provide safe and adequate municipal and rural water supplies for residential, agriculture, and industrial use, and to preserve wetlands and mitigate water conservation efforts:

..... $ 40,000

2. The moneys allocated pursuant to this section shall not revert pursuant to section 8.33, but shall remain available for the fiscal year beginning July 1, 1995, and ending June 30, 1996, for the purposes designated in this section. Unencumbered or unobligated moneys remaining on June 30, 1996, shall revert to the Iowa resources enhancement and protection fund created pursuant to section 455A.18 for allocation to the living roadway trust fund for the purpose provided in section 455A.19, subsection 1, paragraph "g", in the manner provided in section 455A.19.

MISCELLANEOUS

Sec. 20. 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. 21. HUNGRY CANYONS CONFERENCE.

1. The division of soil conservation of the department of agriculture and land stewardship in cooperation with the Loess Hills development and conservation authority, shall sponsor a conference not later than September 1, 1995, regarding the erosion and degradation of stream channels in counties in the deep loess region of western Iowa, and specifically the area referred to as hungry canyons. The conference shall discuss the impacts of the erosion and degradation of stream channels in the area and its adverse effect upon rural infrastructure, including public roads and bridges, agricultural production, stream water quality, and riparian habitat. The conference shall consider impacts of policies of the United States army corps of engineers upon the area.

2. Conferees shall include representatives of the division of soil conservation of the department of agriculture and land stewardship, the Loess Hills development and conservation authority, the department of natural resources, and the state department of transportation. Each soil and water conservation district in the area may elect one commissioner to serve as a conferee. Each county board of supervisors in a county in the area may elect one supervisor to serve as a conferee. The division of soil conservation shall invite other interested persons to serve as conferees, including members of Iowa's congressional delegation; the chairperson and ranking member of the standing committee on natural resources, environment and energy of the senate; the chairperson and ranking member of the standing committees on natural resources and environmental protection of the house of representatives; the chairpersons and ranking members of the joint appropriations subcommittee on agriculture and natural resources; members of the Iowa general assembly

who represent affected legislative districts; and representatives of the United States army corps of engineers; the United States environmental protection agency; the United States department of interior; and the natural resources conservation service of the United States department of agriculture.

3. The division of soil conservation of the department of agriculture and land stewardship shall report to the general assembly not later than January 15, 1996, regarding findings and recommendations of the conferees.

Sec. 22. TRANSFER OF MONEYS OR POSITIONS; CHANGES IN TABLES OF ORGANIZATION – NOTIFICATION. Each fiscal quarter of the fiscal year beginning July 1, 1995, the department of agriculture and land stewardship and the department of natural resources shall notify the chairpersons, vice chairpersons, and ranking members of the joint appropriations subcommittee on agriculture and natural resources for the previous fiscal quarter of any transfer of moneys or full-time equivalent positions made by either department which is not authorized in this Act, or any permanent position added to or deleted from either department's table of organization.

Sec. 23. TRUST FUND INFORMATION. For the fiscal year beginning July 1, 1995, and ending June 30, 1996, the department of revenue and finance in cooperation with each appropriate agency shall track receipts to the general fund of the state 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 previously 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. 24. DEPARTMENTAL INFORMATION REQUIRED.

1. For the fiscal year beginning July 1, 1995, and ending June 30, 1996, 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. For the fiscal year beginning July 1, 1995, and ending June 30, 1996, 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. For the fiscal year beginning July 1, 1995, and ending June 30, 1996, 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. 25. DIRECTION TO CODE EDITOR – UPDATE REFERENCES TO UNITS REORGANIZED UNDER THE UNITED STATES DEPARTMENT OF AGRICULTURE. The Code editor is directed, to every extent possible, to update references in the Code relating

to units of government under the authority of the United States department of agriculture to conform with the current names of those units. The Code editor may postpone updating the references until the publication of the 1997 Code, if the Code editor determines that the process of updating will create unreasonable costs or delays.

Sec. 26. PREFERENCE PROVIDED - PERSONS MEETING ELIGIBILITY REQUIREMENTS OF THE GREEN THUMB PROGRAM. In its employment of persons in temporary positions in conservation and outdoor recreation for the fiscal year beginning July 1, 1995, and ending June 30, 1996, 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. 27. GYPSY MOTH LITIGATION. The department of agriculture and land stewardship and the office of the attorney general shall cooperate in bringing legal action against parties liable for damages caused by the shipment from the state of Michigan of trees or other plants infested with gypsy moths.

Sec. 28. SOIL CONSERVATION DIVISION - USE OF UNOBLIGATED MONEYS FOR THE PURCHASE OF EQUIPMENT. Notwithstanding section 8.33, or 1994 Iowa Acts, chapter 1199, section 8, subsection 17, and section 88, the moneys appropriated to the soil conservation division of the department of agriculture and land stewardship pursuant to chapter 1199, section 8, subsection 17, and section 88, which are not obligated or encumbered on June 30, 1995, for purposes of supporting soil conservation technicians, shall not revert to the general fund of the state but shall be used by the division of soil conservation for the fiscal year beginning July 1, 1995, and ending June 30, 1996, for purposes of purchasing equipment for soil conservation field offices.

Sec. 29. AIR QUALITY PROGRAM - NONGENERAL FUND SUPPORT. The department of natural resources for the fiscal year beginning July 1, 1995, and ending June 30, 1996, 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 beginning July 1, 1995, and ending June 30, 1996, 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. 30. RULES RELATING TO PESTICIDE AND FERTILIZER CONTAMINATED SITES - ENVIRONMENTAL PROTECTION COMMISSION. The environmental protection commission shall adopt all rules required to establish criteria for the classification and prioritization of sites upon which pesticide or fertilizer contamination has been discovered, as provided in section 455B.601 not later than October 1, 1995.

STATUTORY CHANGES

Sec. 31. 1993 Iowa Acts, chapter 176, section 25, subsection 2, as amended by 1994 Iowa Acts, chapter 1198, section 31, is amended to read as follows:

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 period beginning July 1, 1993, and ending June 30, ~~1995~~ 1996, and shall not revert to the general fund until August 31, ~~1995~~ 1996.

Sec. 32. 1994 Iowa Acts, chapter 1119, section 32, subsection 2, unnumbered paragraph 1, is amended to read as follows:

Notwithstanding section 423.24, as amended in this Act, for each fiscal year of the period beginning on July 1, 1993, and ending ~~July 1, 1994~~ June 30, 1996, 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.

Sec. 33. 1994 Iowa Acts, chapter 1119, section 32, subsection 2, paragraph b, is amended to read as follows:

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~~ reports to the general assembly. ~~The~~ An initial report shall be due on October 1, 1994~~. The final~~, an interim report shall be due on March 1, 1995, and a final report shall be due on October 1, 1996.

Sec. 34. 1994 Iowa Acts, chapter 1119, section 32, subsection 2, paragraph d, is amended to read as follows:

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~~ 1996, shall be credited to the value-added agricultural products and processes financial assistance fund as created in section 15E.112.

Sec. 35. Section 455E.11, subsection 2, paragraph a, subparagraph (2), subparagraph subdivision (f), as enacted by 1995 Iowa Acts, House File 289,* section 3, is amended to read as follows:

(f) Eight and one-half percent to the department to provide additional toxic cleanup days and for the natural resource geographic information system required under section 455E.8, subsection 6. Departmental rules adopted for implementation of toxic cleanup days shall provide sufficient flexibility to respond to the household hazardous material collection needs of both small and large communities.

Sec. 36. Section 161C.4, unnumbered paragraph 1, Code 1995, is amended to read as follows:

A water protection fund is created within the division. The fund is composed of money appropriated by the general assembly for that purpose, and moneys available to and obtained or accepted by the state soil conservation committee from the United States or private sources for placement in the fund. The fund shall be divided into two accounts, the water quality protection projects account and the water protection practices account. The first account shall be used to carry out water quality protection projects to protect the state's surface and groundwater from point and nonpoint sources of contamination. The second account shall be used to establish water protection practices with individual landowners including but not limited to woodland establishment and protection, establishment of native grasses and forbs, sinkhole management, agricultural drainage well

*Chapter 80 herein

management, streambank stabilization, grass waterway establishment, stream buffer strip establishment, and erosion control structure construction. Twenty-five percent of funds appropriated to the water protection practices account shall be used for woodland establishment and protection, and establishment of native grasses and forbs. Soil and water conservation district commissioners shall give priority to applications for practices that implement their soil and water resource conservation plan. The fund shall be a revolving fund from which moneys may be used for loans, grants, administrative costs, and cost-sharing.

Sec. 37. Section 331.427, subsection 2, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. m. Closure and postclosure care of a sanitary disposal project under section 455B.302.

Sec. 38. NEW SECTION. 455A.17A REVIEW OF ALLOCATION OF REAP MONEYS - CONGRESS ON RESOURCES ENHANCEMENT AND PROTECTION.

1. During the 1996 congress on resources enhancement and protection, the congress shall review the Iowa resources enhancement and protection fund allocations and uses of moneys provided under the separate accounts of the fund, pursuant to section 455A.19, and recommend changes regarding the allocations or uses of those moneys, but only if the congress determines that changes should be made. The congress shall review the allocations and uses of the moneys based upon the purposes of the fund as provided in sections 455A.15 and 455A.16. The congress shall review the percentage of allocation of moneys to each account and determine whether the moneys expended from the account meet current needs, and whether the state is in a position to maintain resources already under state control.

2. As part of the review, the congress shall review the open spaces account as provided in section 455A.19, and specifically how moneys in the account are used, including issues relating to all of the following:

a. The acquisition of land, including the process of determining what land should be eligible for acquisition, the amount of land acquired, the purpose of land acquisition, land acquisition prices, the crop suitability rating of acquired land, lost property taxes, maintenance performed on acquired land, and proposed uses and maintenance of the land.

b. The expenditure of moneys for purposes of supporting open spaces projects, including the purpose of the projects, project costs, proposed or needed projects, the purposes of proposed or needed projects; and the estimated costs of completing proposed or needed projects.

3. If the congress determines that the allocations of the moneys to specific accounts or the uses of moneys in those accounts under section 455A.19 should be changed, the congress shall include that finding and provide recommendations to the governor, the general assembly, and the natural resource commission as part of a report which shall be included with any other recommendations made by the congress pursuant to section 455A.17. If the congress determines that no changes are necessary, the congress shall include that finding as part of the recommendations made by the congress pursuant to section 455A.17.

Sec. 39. Section 455B.183A, subsection 2, paragraph b, Code 1995, is amended to read as follows:

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 which shall be based on the total number of persons served by public water supply systems in this state. However, a public water supply system shall be assessed a fee of at least twenty-five dollars. A public water supply system not owned or operated by a community and serving a transient population shall be assessed a fee of twenty-five dollars. 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~~ three hundred fifty thousand dollars for ~~the~~ each fiscal year, commencing with 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.

Sec. 40. EFFECTIVE DATES.

1. Sections 14, 17, 18, 19, 21, 25, 27, 28, and 30 of this Act, being deemed of immediate importance, take effect upon enactment.

2. The amendments in this Act to 1993 Iowa Acts, chapter 176, section 25, subsection 2, as amended by 1994 Iowa Acts, chapter 1198, section 31, being deemed of immediate importance, take effect upon enactment.

3. The amendments in this Act to 1994 Iowa Acts, chapter 1119, section 32, being deemed of immediate importance, take effect upon enactment.

4. Sections 455A.17A and 455B.183A, as enacted or amended by this Act, take effect upon enactment.

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

Sec. 41. REPEAL. Section 455A.17A is repealed on July 1, 1997.

Approved May 31, 1995

CHAPTER 217

IOWA COMMUNICATIONS NETWORK APPROPRIATIONS – ADDITIONAL CONNECTIONS AND SUPPORT SERVICES

H.F. 578

AN ACT relating to the Iowa communications network by providing for the connection and support of certain Part III users, directing the commission to develop a request for proposals for additional connections, making appropriations, and making related statutory changes.

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

Section 1. APPROPRIATIONS.

1. PART III AUTHORIZED USERS.

a. There is appropriated from the rebuild Iowa infrastructure account of the state created in section 8.57, subsection 5, to the Iowa telecommunications network fund under the control of the Iowa telecommunications and technology commission 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 the purpose designated:

For the connection of a minimum of 100 Part III authorized users as determined by the commission and communicated to the general assembly:

..... $ 18,540,000

It is the intent of the general assembly that the contracts for the connection of such authorized user sites be awarded based on the low site-by-site, defined geographical area, or merged area bids as determined by the commission and communicated to the general assembly. It is also the intent of the general assembly that all area education agencies which are not connected to the network be connected to the network during the fiscal year which begins on July 1, 1995. It is also the intent of the general assembly that the contracts awarded for the connections funded pursuant to this subsection include a lease period of seven years with the option for an extension of three additional years.

b. It is the intent of the general assembly that the appropriation provided for in this section and the connections to be made with that appropriation represent the first phase of a plan the total cost of which is anticipated to be approximately $94,690,000. It is intended that the first four years of the plan include the connection of a minimum of 474 Part III authorized users. It is anticipated that the total cost of connections to be completed in the first four years of the plan which are to be funded by the general assembly through general fund appropriations is to be approximately $80,880,000 with additional lease costs to be incurred in years five through eight of approximately $13,810,000. The costs identified in this paragraph include all maintenance costs associated with state-owned hardware, and a three percent increase for inflation in fiscal year 1997-1998 and a six percent increase for inflation in fiscal year 1998-1999.

2. SUPPORT SERVICES. There is appropriated from the general fund of the state to the Iowa telecommunications network fund under the control of the Iowa telecommunications and technology commission 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 the purposes designated:

For purposes designated in paragraphs "a" through "c":

..... $ 1,700,000

a. As a condition of the appropriation in this subsection, $250,000 of the amount appropriated shall be expended by the public broadcasting division of the department of education to provide support for functions related to the network, including but not limited to the following functions: scheduling for video classrooms; design, preparation, and support of interactive classrooms; development of a central information source on Internet relating to the network; and coordinating the work of the education telecommunications council. The division is authorized an additional 5 FTEs for the purpose of providing such support.

b. As a further condition of the appropriation in this subsection, $1,200,000 of the amount appropriated shall be allocated by the public broadcasting division of the department of education to the regional telecommunications councils established in section 8D.5. The regional telecommunications councils, with assistance from the department of education, shall use the funds to provide direct staff development for educators, staff development for educational uses of Internet and other on-line services, technical assistance for network classrooms, and other related activities.

c. As a further condition of the appropriation in this subsection, $250,000 of the amount appropriated shall be expended by the university of northern Iowa to coordinate staff development for educators using educational technology in this state.

3. BRAILLE AND DEAF SCHOOLS. There is appropriated from the rebuild Iowa infrastructure account of the state created in section 8.57, subsection 5, to the Iowa telecommunications network fund under the control of the Iowa telecommunications and technology commission 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 the purpose designated:

For the connection of the Iowa braille and sight saving school established under chapter 269 and the school for the deaf established under chapter 270:

..... $ 250,000

4. STARC ARMORY. There is appropriated from the general fund of the state to the department of public defense 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 the purpose designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions, for providing technical assistance in the operation of the Iowa communications network interactive classroom located at the STARC armory national guard facility:

..... $ 100,000
..... FTEs 2.0

Sec. 2. ADDITIONAL CONNECTIONS. Notwithstanding section 8D.13, subsection 5, the state may own and the commission shall provide for the construction and connection to the network of all of the following:

1. The heartland area education agency.
2. Fort Madison high school.
3. Seventeen sites identified by the commission which are Part III authorized users and which are located within one and one-half miles from a national guard fiber optic cable route used or to be used for connecting a facility, identified by the commission and communicated to the general assembly.
4. Two sites identified by the commission which are Part III authorized users and which are associated with the Rock Island-Iowa national guard fiber project.

Sec. 3. METRO CONNECTIONS. Notwithstanding the provisions of chapter 8D, the commission shall provide for the connection and normalization to the network of the following:

1. The Dubuque, Iowa, metronet, which includes three Part III schools on a leased network.
2. The Des Moines, Iowa, metronet, which includes 12 Part III schools on a leased network.

Approved May 31, 1995

CHAPTER 218

APPROPRIATIONS – EDUCATION

S.F. 266

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, 1995, and ending June 30, 1996, 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:

..... $ 5,134,445
..... FTEs 93.95

One of the full-time equivalent positions provided for under this subsection shall be filled by an individual hired by the department of education to direct and administer the management information system. The individual hired shall possess a background in education and administrative experience at the community college level.

The department of education shall conduct a study of the possible uses for the remaining portion of the interest earned on the permanent school fund after transfers are made pursuant to section 257B.1A, subsections 2 and 3. The department shall submit a report of its findings and recommendations to the general assembly and the legislative fiscal bureau by January 1, 1996.

The department of education shall conduct a study of chapter 299, the compulsory education law of this state, in cooperation with interested individuals from throughout the state. The department shall submit a report of the findings and recommendations to the general assembly by January 1, 1996.

2. VOCATIONAL EDUCATION ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 644,510
..... FTEs 18.60

3. VOCATIONAL REHABILITATION DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 3,732,836
..... FTEs 285.75

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, 1996, 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:

..... $ 37,445
..... 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:

..... $ 187,739
..... 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. STATE LIBRARY

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,609,820

..... FTEs 34.50

8. REGIONAL LIBRARY

For state aid:

..... $ 1,507,000

9. CENTER FOR ASSESSMENT

For the purpose of developing academic standards in the areas of math, history, science, English, language arts, and geography:

..... $ 300,000

10. 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:

..... $ 69,400

11. CAREER PATHWAYS PROGRAM

For purposes of developing and implementing a career pathways program to expand opportunities for youth and adults to become prepared for and succeed in high-wage, high-skill employment:

..... $ 650,000

Of the funds appropriated in this subsection, for the fiscal year beginning July 1, 1995, and ending June 30, 1996, $50,000 shall be expended for purposes of employing an individual to administer and direct the career opportunities program. The individual employed shall possess a background in business and secondary and postsecondary education.

12. FAMILY RESOURCE CENTERS

For support of the family resource center demonstration program established under chapter 256C:

..... $ 120,000

13. CAREER OPPORTUNITY PROGRAM

For purposes of providing assistance to minority persons who major in fields or subject areas where minorities are currently underrepresented or underutilized pursuant to section 260C.29, as enacted by this Act:

..... $ 135,000

14. PUBLIC BROADCASTING DIVISION

For salaries, support, maintenance, capital expenditures, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 6,380,889

..... FTEs 97.00

Of the full-time equivalent positions provided for under this subsection for the fiscal year beginning July 1, 1995, and ending June 30, 1996, it is the intent of the general assembly that 4.0 full-time equivalent positions be provided for purposes formerly provided for under the Star Schools program.

The public broadcasting division shall conduct a study, in collaboration with all entities receiving services via the Iowa communications network, of the efficiencies of the network and shall make recommendations relating to the elimination of duplicative efforts. The study shall include an investigation of the duties and functions of employees of the division, other state agencies, area education agencies, and public schools, if those duties

and functions involve the Iowa communications network. The division shall submit a report of its findings and recommendations to the general assembly and the legislative fiscal bureau by January 1, 1996.

15. NATIONAL ASSESSMENT OF EDUCATION PROGRESS (NAEP)

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

16. LOCAL ARTS COMPREHENSIVE EDUCATIONAL STRATEGIES (LACES)

For contracting with the Iowa alliance for arts education to execute the local arts comprehensive educational strategies program (LACES):

..... $ 25,000

The department of education and the Iowa alliance for arts education shall jointly develop grant applications and select grant recipients for the local arts comprehensive educational strategies program. At least 50 percent of the funds appropriated by the general assembly for the fiscal year beginning July 1, 1995, and ending June 30, 1996, for purposes of the local arts comprehensive educational strategies program, shall be allocated to schools which are new participants in the program.

17. ADVANCED PLACEMENT

For purposes of awarding matching grants to schools to be used for instructional staff development so that additional advanced placement courses may be offered at K-12 public schools:

..... $ 75,000

Schools that receive grants under this subsection shall provide a local match or other matching financial support and shall coordinate instructional staff development with a public postsecondary institution.

18. VOCATIONAL EDUCATION TO SECONDARY SCHOOLS

For reimbursement for vocational education expenditures made by secondary schools:

..... $ 3,308,850

Funds appropriated in this subsection shall be used for expenditures made by school districts to meet the standards set in sections 256.11, 258.4, and 260C.14 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.

19. 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:

..... $ 120,871,270

The funds appropriated in this subsection shall be allocated as follows:

a. Merged Area I..... $ 5,772,758
b. Merged Area II..... $ 6,806,992
c. Merged Area III..... $ 6,427,597
d. Merged Area IV..... $ 3,131,482
e. Merged Area V..... $ 6,550,035
f. Merged Area VI..... $ 6,069,919
g. Merged Area VII..... $ 8,658,583
h. Merged Area IX..... $ 10,616,358
i. Merged Area X..... $ 16,478,159
j. Merged Area XI..... $ 17,604,404

k. Merged Area XII ..... $ 6,992,399
l. Merged Area XIII ..... $ 7,151,752
m. Merged Area XIV ..... $ 3,172,128
n. Merged Area XV ..... $ 9,894,442
o. Merged Area XVI ..... $ 5,544,262

Sec. 2. Notwithstanding 1994 Iowa Acts, chapter 1193, section 2, subsection 2, funds appropriated and allocated to the merged areas pursuant to 1994 Iowa Acts, chapter 1193, section 2, for the fiscal year beginning July 1, 1994, and ending June 30, 1995, pursuant to section 8.53, unnumbered paragraph 1, shall be paid to the merged areas by June 30, 1995.

Sec. 3. The department of education shall, in consultation with the Iowa association of community college presidents and the Iowa association of community college trustees, conduct a study of funding for community colleges, and shall make specific recommendations on the elimination of chapter 260D and for alternatives to present community college funding including, but not limited to, a plan for distribution of funds to community colleges. The department shall submit a report of its findings and recommendations to the governor and the general assembly by December 1, 1995.

COLLEGE STUDENT AID COMMISSION

Sec. 4. There is appropriated from the general fund of the state to the college student aid commission for the fiscal year beginning July 1, 1995, and ending June 30, 1996, 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:

..... $ 321,256
..... FTEs 7.05

From the moneys appropriated in this subsection, $15,000 for the fiscal year beginning July 1, 1995, and ending June 30, 1996, shall be expended to provide 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. 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.

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

The moneys appropriated in this lettered paragraph shall be used as follows:

(1) To reduce student loan debt for primary care physicians in an amount not to exceed $30,000 per student for a four-year period of medical service in medically underserved areas of the state.

(2) For tuition scholarships for students attending the university of osteopathic medicine and health sciences who agree to practice primary care medicine in medically underserved areas of the state. The student shall practice in the state two years for every year of tuition. A person receiving funds under this subparagraph shall not be eligible for funds under subparagraph (1).

*Item veto; see message at end of the Act

(3) For general administration costs of the university for the primary care initiative, the university shall expend an amount not to exceed $50,000.

The university of osteopathic medicine and health sciences shall report quarterly to the legislative fiscal bureau concerning the expenditure of funds used pursuant to subparagraphs (1), (2), and (3) of this lettered paragraph. The university shall also submit the annual audit of the university to the legislative fiscal bureau within six months following the year being audited. The college student aid commission shall not provide moneys for subparagraphs (1) and (2) of this lettered paragraph until the university has signed and submitted contracts for the use of these moneys for reduction of student loan debt and tuition scholarships. Funds for subparagraph (3) of this lettered paragraph shall be provided quarterly to the university. Notwithstanding section 8.33, the funds for this lettered paragraph shall not revert to the general fund but be available for expenditure the following fiscal year for purposes of subparagraphs (1) and (2).

3. STUDENT AID PROGRAMS

For payments to students for the Iowa grant program:

..... $ 1,469,790

From the moneys appropriated in this subsection, $1,397,790 for the fiscal year beginning July 1, 1995, and ending June 30, 1996, shall be expended for an Iowa grant program, with funds to be allocated to institutions pursuant to section 261.93A. The remainder shall be allocated for the graduate student financial assistance program.

Sec. 5. There is appropriated from the loan reserve account to the college student aid commission 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 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:

..... $ 4,714,570
..... FTEs 31.95

STATE BOARD OF REGENTS

Sec. 6. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 1995, and ending June 30, 1996, 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:

..... $ 1,097,601
..... 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.

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:

..... $ 27,400,000

The state board of regents, the department of management, and the legislative fiscal bureau shall cooperate to determine and agree upon, by November 15, 1995, the amount that needs to be appropriated for tuition replacement for the fiscal year beginning July 1, 1996.

c. For funds to be allocated to the southwest Iowa graduate studies center:
..... $ 71,662

d. For funds to be allocated to the siouxland interstate metropolitan planning council for the tristate graduate center under section 262.9, subsection 21:
..... $ 72,535

e. For funds to be allocated to the quad-cities graduate studies center:
..... $ 150,374

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:
..... $ 192,122,000
..... FTEs 4,020.97

b. For the primary health care initiative in the college of medicine:
..... $ 770,000

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.

It is the intent of the general assembly that the university place additional emphasis on the locum tenus program.

c. University hospitals

For salaries, general 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:
..... $ 28,821,254
..... FTEs 5,780.87

The university of Iowa hospitals and clinics shall submit quarterly a report regarding the portion of the appropriation in this lettered paragraph expended on general support in a format jointly developed by the university of Iowa hospitals and clinics, the legislative fiscal bureau, and the department of management which delineates the expenditures and purposes of the funds.

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, 1995, shall not be lower than the total quota allocated to the counties for the fiscal year commencing July 1, 1994. 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:

..... $ 7,018,877
..... FTEs 312.09

e. Hospital-school

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 5,705,918
..... FTEs 174.01

f. Oakdale campus

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,845,783
..... FTEs 63.58

g. State hygienic laboratory

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 3,155,100
..... FTEs 101.38

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:

..... $ 1,990,327
..... FTEs 180.74

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 the Iowa high-risk infant follow-up program, including salaries and support, and for not more than the following full-time equivalent positions:

..... $ 440,054
..... FTEs 10.93

j. Agricultural health and safety programs

For agricultural health and safety programs, and for not more than the following full-time equivalent positions:

..... $ 247,117
..... FTEs 3.48

k. Statewide cancer registry

For the statewide cancer registry, and for not more than the following full-time equivalent positions:

..... $ 188,734
..... 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:

..... $ 62,004
..... FTEs 1.15

m. Center for biocatalysis

For the center for biocatalysis, and for not more than the following full-time equivalent positions:

..... $ 1,284,395
..... 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:

..... $ 599,726

..... FTEs 5.00

(1) Of the moneys appropriated in this lettered paragraph, for the fiscal year beginning July 1, 1995, and ending June 30, 1996, the appropriation of the sum of $326,347 is contingent upon the announcement by the United States department of transportation of the selection of the contractor for the national advanced driving simulator system development.

(2) If the contingency in subparagraph (1) is met it is the intent of the general assembly that of the moneys appropriated in this lettered paragraph, the state university of Iowa shall expend $350,000, for the fiscal year beginning July 1, 1995, and ending June 30, 1996, for planning and architectural services related to the construction of the facility to house the national advanced driving simulator to be located at the Oakdale research park. It is further the intent of the general assembly to provide funding in fiscal years beginning July 1, 1996, and July 1, 1997, in the total amount of $5.35 million for the construction of the facility to house the national advanced driving simulator to match federal funds provided for the project. Funds provided for the construction of the facility to house the national advanced driving simulator in fiscal years beginning July 1, 1996, and July 1, 1997, shall only be expended upon receiving notification from the national highway traffic safety administration that the United States congress has authorized the construction of the national advanced driving simulator, that federal funds have been appropriated to begin construction, and that delivery of the motion base, graphics system, and integrating software will take place in substantial compliance with the United States department of transportation's acquisition schedule as set forth in the cooperative agreement between the state university of Iowa and the national highway traffic safety administration.

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:

..... $ 153,108,000

..... FTEs 3,569.28

Of the funds appropriated in this lettered paragraph, for the fiscal year beginning July 1, 1995, and ending June 30, 1996, $1,000,000 shall be expended for purposes of the healthy livestock program.

Of the funds appropriated in this lettered paragraph, for the fiscal year beginning July 1, 1995, and ending June 30, 1996, $75,000 shall be expended to hold a North American free trade agreement export and trade summit, in conjunction with the Iowa general assembly, the cooperative extension service, the department of economic development, the department of agriculture and land stewardship, and the department of transportation. The university shall cooperate with a committee of legislators in the planning, implementation, and activities of the summit. The committee shall consist of two members appointed by the majority leader of the senate, two members appointed by the minority leader of the senate, two members appointed by the speaker of the house of representatives, and two members appointed by the minority leader of the house of representatives. The summit shall examine strategies regarding the expansion of export and trade opportunities with Canada and Mexico for agricultural, commercial, and telecommunications, durable goods and other manufactured products and services, due to the ratification of the North American free trade agreement, especially strategies to increase exports of agricultural products and businesses in rural communities, for assisting small and medium-sized businesses which do not currently export or trade with Canada or Mexico to initiate such trade, and for developing intermodal transportation systems to establish a Laredo to Duluth North American free trade agreement trade corridor. The summit shall also examine the activities of other states regarding efforts to promote trade with Canada or Mexico and the potential

for cooperative efforts with other states, and strategies to mitigate any potential negative effects on any Iowa economic sector as a result of growth in export and trade with Canada and Mexico. The university shall seek the widest possible summit participation by public or private entities, businesses, labor organizations, other groups, or individual citizens.

b. Agricultural experiment station

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $	30,717,738
..... FTEs	515.94

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:

..... $	18,268,621
..... FTEs	428.25

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:

..... $	560,593
..... FTEs	11.50

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:

..... $	276,022
..... 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:

..... $	68,762,000
..... FTEs	1,436.18

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:

..... $	6,478,924
..... 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:

..... $	3,606,189
..... FTEs	83.41

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. 7. Reallocations of sums received under section 6, 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. 8. For the fiscal year beginning July 1, 1995, and ending June 30, 1996, 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. 9. MEDICAL ASSISTANCE - SUPPLEMENTAL AMOUNTS. For the fiscal year beginning July 1, 1995, and ending June 30, 1996, 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, 1995, and ending September 30, 1996, 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. 10. There is appropriated from the general fund of the state to the department of cultural affairs 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. 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:

..... $ 1,050,292
..... FTEs 10.00

2. HISTORICAL DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,459,877
..... FTEs 58.00

It is the intent of the general assembly that capitol security reallocate personnel to properly protect the state historical building.

3. HISTORIC SITES

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 228,799
..... FTEs 3.00

4. ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 213,920
..... 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:

..... $ 703,234
..... FTEs 0.70

Sec. 11. Notwithstanding section 8.33, funds appropriated in 1993 Iowa Acts, chapter 180, section 64, remaining unencumbered or unobligated on June 30, 1995, shall not revert to the general fund of the state but are appropriated to and shall be available for expenditure by the department of education for the fiscal year beginning July 1, 1995, and ending June 30, 1996, and of those funds remaining, $250,000 shall be expended for purposes of the career pathways program in addition to any other funds provided for the career pathways program under this Act.

Sec. 12. Notwithstanding section 8.33, funds appropriated in 1994 Iowa Acts, chapter 1193, section 14, remaining unencumbered or unobligated on June 30, 1995, shall not

*Item veto; see message at end of the Act

revert to the general fund of the state but shall be available for purposes of the Iowa grant program, in addition to funds appropriated in section 4, subsection 3, of this Act, with funds to be distributed pursuant to section 261.93A.

Sec. 13. Notwithstanding section 257B.1A, subsection 4, and 1994 Iowa Acts, chapter 1193, section 15, for the fiscal year beginning July 1, 1994, and ending June 30, 1995, the remaining portion of the interest earned on the permanent school fund shall, after transfers are made pursuant to section 257B.1A, subsections 2 and 3, be deposited in the interest for Iowa schools fund established under this Act.

Sec. 14. There is appropriated from the scholarship and tuition grant reserve fund to the college student aid commission for the fiscal year beginning July 1, 1995, and ending June 30, 1996, the amount of $160,000 for purposes of the work-study program, in addition to funds appropriated in section 261.85.

Sec. 15. Funds appropriated for state scholarships pursuant to section 261.25, subsection 2, for the fiscal year beginning July 1, 1995, and ending June 30, 1996, 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. 16. Section 257B.1, subsection 5, Code 1995, is amended by striking the subsection.

Sec. 17. Section 257B.1A, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

257B.1A TRANSFER OF INTEREST.

1. The interest for Iowa schools fund is established in the office of treasurer of state. The department of revenue and finance shall deposit interest earned on the permanent school fund in the interest for Iowa schools fund. Moneys in the interest for Iowa schools fund shall be transferred or allocated only for school purposes as provided in this section.

2. For a transfer of moneys from the interest for Iowa schools fund to the first in the nation in education foundation, prior to July 1, October 1, January 1, and March 1 of each year, the governing board of the first in the nation in education foundation established in section 257A.2 shall certify to the treasurer of state the cumulative total value of contributions received under section 257A.7 for deposit in the first in the nation in education fund and for the use of the foundation. The cumulative total value of contributions received includes the value of the amount deposited in the national center endowment fund established in section 263.8A in excess of eight hundred seventy-five thousand dollars. The value of in-kind contributions shall be based upon the fair market value of the contribution determined for income tax purposes.

The portion of the interest in Iowa schools fund that is equal to the cumulative total value of contributions, less the portion of the interest in Iowa schools fund dedicated to the national center for gifted and talented education, is dedicated to the first in the nation in education foundation for that year. The interest earned on this dedicated amount shall be transferred by the treasurer of state to the credit of the first in the nation in education foundation.

3. For a transfer of moneys from the interest in Iowa schools fund to the national center endowment fund established in section 263.8A, prior to July 1, October 1, January 1, and March 1 of each year, the state university of Iowa shall certify to the treasurer of state the cumulative total value of contributions received and deposited in the national center endowment fund. Within fifteen days following certification by the state university of Iowa, the treasurer of state shall transfer from the interest in Iowa schools fund to the national center an amount equal to one-half the cumulative total value of the contributions deposited in the national center endowment fund, not to exceed eight hundred seventy-five thousand dollars.

Sec. 18. NEW SECTION. 260C.24 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 monthly installments due on or about the fifteenth of each month of a 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.

Sec. 19. NEW SECTION. 260C.29 CAREER OPPORTUNITY PROGRAM - MISSION.

1. The mission of the career opportunity program established in this section is to encourage collaborative efforts by a community college, the institutions under the control of the state board of regents, and business and industry to enhance the educational opportunities and provide for job creation and career advancement for Iowa's minority persons by providing assistance to minority persons who major in fields or subject areas where minorities are currently underrepresented or underutilized.

2. A career opportunity program is established to be administered by the community college located in a county with a population in excess of three hundred thousand. The community college shall provide office space for the efficient operation of the program. The community college shall employ a director for the program. The director of the program shall employ necessary support staff. The director and staff shall be employees of the community college.

3. The director of the program shall do the following:

a. Direct the coordination of the program between the community college and the institutions of higher education under the control of the state board of regents.

b. Propose rules to the state board of education as necessary to implement the program.

c. Recruit minority persons into the program.

d. Enlist the assistance and cooperation of leaders from business and industry to provide job placement services for students who are successfully completing the program.

e. Prepare and submit an annual report to the governor and the general assembly by January 15.

4. To be eligible for the program, a minority person shall be a resident of Iowa who is accepted for admission at or attends a community college or an institution of higher education under the control of the state board of regents. In addition, the person shall major in or achieve credit toward an associate degree, a bachelor's degree, or a master's degree in a field or subject area where minorities are underrepresented or underutilized.

5. The amount of assistance provided to a student under this section shall not exceed the cost of tuition, fees, and books required for the program in which the student is enrolled and attends. As used in this section, "books" may include book substitutes, including reusable workbooks, loose-leaf or bound manuals, and computer software materials used as book substitutes. A student who meets the qualifications of this section shall receive assistance under this section for not more than the equivalent of two full years of study.

6. For purposes of this section, "minority person" means a person who is Black, Hispanic, Asian, or a Pacific Islander, American Indian, or an Alaskan native American.

Sec. 20. Section 260D.14A, unnumbered paragraphs 1 and 5, Code 1995, are amended to read as follows:

The department of education shall provide for the establishment of a community college excellence 2000 account in the office of the treasurer of state for deposit of moneys appropriated to the account for purposes of funding quality instructional centers and program and administrative sharing agreements under sections 260C.45 and 260C.46. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, ~~1995~~ 1997, an amount equal to two and five-tenths percent of the total state general aid generated for all community colleges during the budget year under this chapter for deposit in the community college excellence 2000 account. In the next

succeeding two fiscal years, the percent multiplier shall be increased in equal increments until the multiplier reaches seven and one-half percent of the total state general aid generated for all community colleges during the budget year.

It is the intent of the general assembly that the general assembly enact legislation by July 1, ~~1995~~ 1997, that will increase the maximum percent multiplier established in this section from seven and five-tenths percent to ten percent.

Sec. 21. Section 261.12, subsection 1, paragraph b, Code 1995, is amended to read as follows:

b. For the fiscal year beginning July 1, ~~1989~~ 1995, and for each following fiscal year, two thousand ~~six~~ nine hundred ~~fifty~~ dollars.

Sec. 22. Section 261.25, subsection 1, Code 1995, 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-two~~ thirty-five million ~~four~~ six hundred ~~twenty-two~~ sixty-four thousand ~~three~~ seven hundred ~~sixty-two~~ fifty dollars for tuition grants.

Sec. 23. NEW SECTION. 261.51 CHIROPRACTIC GRADUATE STUDENT FORGIVABLE LOANS.

1. A chiropractic graduate student forgivable loan program is established, to be administered by the college student aid commission for resident graduate students who are enrolled at Iowa chiropractic colleges and universities. A resident graduate student attending an Iowa chiropractic college or university is eligible for loan forgiveness under the program if the student meets all of the following conditions:

a. The student graduates from an Iowa chiropractic college or university that meets the requirements for approval under section 151.4.

b. The student has completed a chiropractic residency program.

c. The student practices in the state of Iowa.

d. The student has made application for, using the procedures specified in section 261.16, and received moneys through the college student aid commission from the funds allocated for loans under this section.

2. Of the moneys loaned to an eligible student, for each year of up to and including four years of practice in Iowa, the amount of one thousand one hundred dollars shall be forgiven. If a student fails to complete a year of practice in the state, the loan amount for that year shall not be forgiven. Forgivable loans made to eligible students shall not become due, for repayment purposes, until after the student has completed the student's residency.

3. For purposes of this section "graduate student" means a student who has completed at least ninety semester hours, or the trimester or quarter equivalent, of postsecondary course work at a public higher education institution or at an accredited private institution, as defined under section 261.9. The college student aid commission shall adopt rules, consistent with rules used for students enrolled in higher education institutions under the control of the state board of regents, for purposes of determining Iowa residency status of graduate students under this section. The commission shall also adopt rules which provide standards, guidelines, and procedures for the receipt, processing, and administration of student applications and loans under this section.

Sec. 24. Section 261.85, unnumbered paragraph 1, Code 1995, is amended to read as follows:

There is appropriated from the general fund of the state to the commission for each fiscal year the sum of two million ~~eight~~ nine hundred ~~ninety-eight~~ fifty thousand ~~eight hundred forty~~ dollars for the work-study program.

*Sec. 25. *Section 262.2, Code 1995, is amended to read as follows:*

262.2 APPOINTMENT - TERM OF OFFICE.

1. The members shall be appointed by the governor subject to confirmation by the senate. The term of each member of the board shall be for six years. The terms of three members of the board shall begin and expire in each odd-numbered year as provided in section 69.19.

*Item veto; see message at end of the Act

*2. The recognized student government organization at each of the three institutions of higher learning under the control of the board shall submit, at least biennially, to the executive director who shall transfer to the governor a list of at least three names of students eligible to represent the institution on the board. The governor may appoint the ninth member of the board from the lists of names submitted by the recognized student organizations.**

Sec. 26. Section 275.55A, Code 1995, is amended to read as follows:

275.55A ATTENDANCE IN OTHER DISTRICT.

A ~~pupil~~ student enrolled in ninth, tenth, or eleventh grade during the school year preceding the effective date of a dissolution proposal, who was a resident of the school district that dissolved, may enroll in ~~any~~ a school district to which territory of the school district that dissolved was attached until ~~that pupil's~~ the student's graduation from high school, unless the student was expelled or suspended from school and the conditions of expulsion or suspension have not been met. The student under expulsion or suspension shall not be enrolled until the board of directors of the school district to which territory of the dissolved school district was attached approves, by majority vote, the enrollment of the student. Notwithstanding section 282.24, the district of residence of the ~~pupil~~ student, determined in the dissolution proposal, shall pay tuition to the school district selected by the ~~pupil~~ student in an amount not to exceed the district cost per pupil of the district of residence and the school district selected by the ~~pupil~~ student shall accept that tuition payment and enroll the ~~pupil~~ student.

Sec. 27. Section 282.4, Code 1995, is amended to read as follows:

282.4 SUSPENSION - EXPULSION ~~DISMISSAL~~.

1. The board may, by a majority vote, expel any ~~pupil~~ student from school for a violation of the regulations or rules established by the board, or when the presence of the ~~pupil~~ student is detrimental to the best interests of the school. The board may confer upon any teacher, principal, or superintendent the power temporarily to ~~dismiss~~ suspend a ~~pupil~~ student, notice of ~~such dismissal~~ the suspension being at once given in writing to the president of the board.

2. A ~~pupil~~ student 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 hold a disciplinary hearing to determine whether or not to order further sanctions against the ~~pupil~~ student, which may include expelling the ~~pupil~~ student. 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~~ students from the ~~pupil~~ student committing the assault.

A ~~pupil~~ student shall not be suspended or expelled pursuant to this section if the suspension or expulsion would violate the federal Individuals with Disabilities Education Act.

3. Notwithstanding section 282.6, if a student has been expelled or suspended from school and has not met the conditions of the expulsion or suspension and if the student, or the parent or guardian of the student, changes district of residence, the student shall not be enrolled in the new district of residence until the board of directors of the new district of residence approves, by a majority vote, the enrollment of the student.

Sec. 28. Section 282.5, Code 1995, is amended to read as follows:

282.5 READMISSION OF STUDENT.

When a student is ~~dismissed~~ suspended by a teacher, principal, or superintendent, pursuant to section 282.4, the student may be readmitted by the teacher, principal, or superintendent, but when expelled by the board the student may be readmitted only by the board or in the manner prescribed by the board.

*Item veto; see message at end of the Act

Sec. 29. Section 294A.25, subsection 8, Code 1995, is amended to read as follows:

8. For the fiscal year beginning July 1, ~~1994~~ 1995, to the department of education from phase III moneys the amount of one million two 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. Of the amount provided in this subsection, one hundred fifty thousand dollars shall be used for the school and community planning initiative.

**Sec. 30. Section 303.3, subsection 3, Code 1995, is amended to read as follows:*

*3. Notwithstanding section 8.33, moneys committed to grantees under contract that remain unexpended on June 30 of any fiscal year shall not revert but shall be available for expenditure for purposes of the ~~contract~~ program until June 30 of the succeeding fiscal year.**

Sec. 31. FUNDS TRANSFERRED.

1. For the fiscal year beginning July 1, 1995, and ending June 30, 1996, the amount of $150,000 is to be paid to the department of education from additional funds transferred from phase I to phase III for development of a K-12 and community college management information system. 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. The department shall submit a report to the legislative fiscal bureau by January 1, 1996, describing the specific expenditure of funds appropriated by the general assembly for purposes of the management information system; the estimated time of completion of the system; the department's accomplishments under the system; and any recommendations for future system funding needs.

2. For the fiscal year beginning July 1, 1995, and ending June 30, 1996, up to $50,000 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. 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. 32. 1994 Iowa Acts, chapter 1193, section 15, is repealed.

Sec. 33. Sections 2, 11 through 13, 16, 17, 26 through 28, 30, and this section of this Act, being deemed of immediate importance, take effect upon enactment.

Approved May 31, 1995, except the items which I hereby disapprove and which are designated as Section 4, subsection 1, unnumbered and unlettered paragraph 2 in its entirety; Section 10, subsection 2, unnumbered and unlettered paragraph 2 in its entirety; Section 25 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 Secretary of State this same date, a copy of which is attached hereto.

TERRY E. BRANSTAD, *Governor*

*Item veto; see message at end of the Act

Dear Mr. Secretary:

I hereby transmit Senate File 266, 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.

Senate File 266 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, unnumbered and unlettered paragraph 2, in its entirety. This item specifies how the Iowa Student College Aid Commission is to allocate funds from the vocational-technical tuition grant program. The commission should retain the flexibility to direct these funds as needed.

I am unable to approve the item designated as Section 10, subsection 2, unnumbered and unlettered paragraph 2, in its entirety. This item specifies how the Department of Public Safety should allocate personnel providing security for the Capitol complex. The department is in the best position to make decisions regarding Capitol security, including the assignment of staff to areas of greatest need.

I am unable to approve the item designated as Section 25, in its entirety. This item would require the student organizations at the state universities to submit at least biennially the names of students eligible for appointment to the Board of Regents. The Board of Regents is a unified governing board for the three state universities, the Iowa School for the Deaf, and the Iowa Braille and Sightsaving School. It is important that this board represent the people of Iowa and it is inappropriate for the student member of the board to be nominated by any organization. The student member, as well as all of the other members of the board, should view their responsibility as representing all the people of the state of Iowa and not a particular organization or interest group.

I am unable to approve the item designated as Section 30, in its entirety. This item would allow cultural grant funds which are unspent and unobligated in the fiscal year appropriated to be carried forward and expended in the following fiscal year. Currently all unspent but obligated funds are exempt from automatic reversion allowing grantees to complete programs with the funds awarded to them. Consistent with good fiscal practices, grant funds which are not spent and not obligated at the end of the fiscal year have reverted and should continue to revert to the general fund. I have asked the Department of Management to work with the Department of Cultural Affairs to review their grant process to assure that to the extent possible funds made available in one fiscal year are committed prior to the end of that fiscal year.

For the above reasons, I hereby respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in Senate File 266 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 219

APPROPRIATIONS - ADMINISTRATION AND REGULATION

S.F. 484

AN ACT relating to and making appropriations to certain state departments, agencies, funds, and certain other entities, providing for regulatory authority and other properly related matters, and providing an effective date.

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

Section 1. AUDITOR OF STATE. There is appropriated from the general fund of the state to the office of the auditor of state for the fiscal year beginning July 1, 1995, and ending June 30, 1996, 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:

..... $ 1,310,549

..... 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.

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, 1995, and ending June 30, 1996, 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:

..... $ 375,786

..... FTEs 8.00

Sec. 3. 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, 1995, and ending June 30, 1996, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. PROFESSIONAL LICENSING AND REGULATION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 897,802

..... FTEs 14.00

2. ADMINISTRATIVE SERVICES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 211,586

..... 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.

The division of administrative services shall assess each division within the department of commerce and the office of consumer advocate within the department of justice a pro

rata share of the operating expenses of the division of administrative services. The pro rata share shall be determined pursuant to a cost allocation plan established by the division of administrative services and agreed to by the administrators of the divisions and the consumer advocate. To the extent practicable, the cost allocation plan shall be based on the proportion of the administrative expenses incurred on behalf of each division and the office of consumer advocate. Each division and the office of consumer advocate shall include in its charges assessed or revenues generated, an amount sufficient to cover the amount stated in its appropriation, any state assessed indirect costs determined by the department of revenue and finance, and the cost of services provided by the division of administrative services.

3. ALCOHOLIC BEVERAGES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,861,105
..... FTEs 33.50

4. BANKING DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 5,375,058
..... FTEs 84.00

5. CREDIT UNION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,047,066
..... FTEs 20.00

6. INSURANCE DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,924,482
..... FTEs 91.50

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 shall monitor public utilization of the coverages identified in chapter 514C under managed care plans in this state.

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 the 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 the expenditures.

b. Files with each of the entities named in paragraph "a" the legislative and regulatory justification for the expenditures, along with an estimate of the expenditures.

c. (1) Of the amounts appropriated to the insurance division in this subsection not more than $100,000 shall be used for continuing the division's senior health insurance information program *and not more than $100,000 shall be used for the purpose of establishing a pilot consumer health education and assistance program.*

*(2) *The purpose of the consumer health education and assistance program is to educate and assist health care consumers to make more informed health insurance and care choices in the marketplace. Both oral and written educational assistance relating to health care insurance, delivery systems, provider services and coverage, billing procedures, and sources of information shall be provided by the division. The division of insurance may request, and other state agencies shall provide, assistance in implementing and administering the health care education and assistance program.*

*Item veto; see message at end of the Act

(3) The commissioner of insurance shall appoint an advisory committee consisting of knowledgeable and interested citizens and state and local public officials to provide advice and review the program. A majority of the members of the advisory committee shall be bona fide representatives of consumers.

*(4) The commissioner of insurance shall prepare a progress report relating to the activities of the program, the report to be submitted to the governor and the members of the general assembly not later than March 1, 1996. The governor and the legislative council may request progress reports from the commissioner of insurance as deemed appropriate.**

7. UTILITIES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 4,911,871
..... 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. 4. There is appropriated from the general fund of the state to the following named agencies 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. COMMISSION ON UNIFORM STATE LAWS

For support of the commission and expenses of the members:

..... $ 20,803

2. NATIONAL CONFERENCE OF STATE LEGISLATURES

For support of the membership assessment:

..... $ 87,719

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, 1995, and ending June 30, 1996, 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:

..... $ 1,169,975
..... FTEs 31.35

2. INFORMATION SERVICES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 5,497,002
..... FTEs 141.60

3. PROPERTY MANAGEMENT DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 3,935,381
..... FTEs 113.00

*Item veto; see message at end of the Act

The department of general services shall not change the appropriations for the purposes designated in subsections 1 through 3 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, 1996, on the projects undertaken to the chairpersons and the ranking members of the joint appropriations subcommittee on administration and regulation 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.

4. CAPITOL PLANNING COMMISSION

For expenses of the members in carrying out their duties under chapter 18A:

..... $ 2,000

5. RENTAL SPACE

For payment of lease or rental costs of buildings and office space at the seat of government as provided in section 18.12, subsection 9, notwithstanding section 18.16:

..... $ 607,955

6. UTILITY COSTS

For payment of utility costs and for not more than the following full-time equivalent positions:

..... $ 2,059,178

..... 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, 1996, 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, 1996, 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 regulation 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.

7. 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:

..... $ 164,637

..... 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, 1995, and ending June 30, 1996, 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:

..... $ 912,217

..... 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, 1995, and ending June 30, 1996, 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:

..... $ 734,140
..... 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, 1995, and ending June 30, 1996, 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:

..... $ 625,075
..... 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, 1995, and ending June 30, 1996, which are legally payable from this fund.

The vehicle dispatcher shall report, not later than February 15, 1996, to the chairpersons and the ranking members of the joint appropriations subcommittee on administration and regulation 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 regulation and the legislative fiscal bureau not later than February 15, 1996, 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 AND LIEUTENANT 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, 1995, and ending June 30, 1996, 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:

..... $ 1,088,936
..... 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:

..... $ 64,648
..... FTEs 2.00

4. For the payment of expenses of ad hoc committees, councils, and task forces appointed by the governor to research and analyze a particular subject area relevant to the problems and responsibilities of state and local government, including the employment of professional, technical, and administrative staff and the payment of per diem and actual expenses of committee, council, or task force members as specified pursuant to section 7E.6:

..... $ 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:

..... $ 108,336
..... FTEs 2.00

6. For payment of Iowa's membership in the national governors' conference:

..... $ 74,435

Sec. 8. 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, 1995, and ending June 30, 1996, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. FINANCE AND SERVICES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 467,275
..... FTEs 21.00

2. AUDITS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 352,092
..... FTEs 11.00

3. APPEALS AND FAIR HEARINGS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 223,048
..... FTEs 24.00

If Senate File 358* is enacted by the Seventy-sixth General Assembly, 1995 Regular Session, there is appropriated from the general fund of the state to the appeals and fair hearings division for the fiscal period beginning July 1, 1995, and ending December 31, 1995, an additional sum of $45,000, or so much thereof as is necessary, and 1.50 FTEs to carry out the responsibilities of the division as specified in Senate File 358.

4. INVESTIGATIONS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 729,111
..... FTEs 35.00

5. HEALTH FACILITIES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,663,070
..... FTEs 101.00

6. INSPECTIONS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

*Chapter 143 herein

..... $ 577,869
..... FTEs 13.00

7. EMPLOYMENT APPEAL BOARD

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 33,067
..... FTEs 15.00

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, additional amounts as are directly billable to the labor services division under this subsection and to retain the 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:

..... $ 527,041
..... 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. 9. RACETRACK 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, 1995, and ending June 30, 1996, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, for the regulation of parimutuel racetracks, and for not more than the following full-time equivalent positions:

..... $ 1,760,378
..... FTEs 23.85

Sec. 10. 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, 1995, and ending June 30, 1996, 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:

..... $ 860,651
..... FTEs 17.11

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 six riverboats are operating during the fiscal year beginning July 1, 1995, and ending June 30, 1996, the commission may expend no more than $84,917 for no more than 2.00 FTEs for each additional riverboat in excess of six. The additional expense associated with the positions shall be paid from fees assessed by the commission as provided in chapter 99F.

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. 11. DEPARTMENT OF INSPECTIONS AND APPEALS - SERVICE CHARGES. 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. USE TAX APPROPRIATION. 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 appeals and fair hearings division of the department of inspections and appeals for the fiscal year beginning July 1, 1995, and ending June 30, 1996, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 924,090

Sec. 13. 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, 1995, and ending June 30, 1996, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. GENERAL OFFICE

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,032,287
..... FTEs 30.00

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

3. COUNCIL OF STATE GOVERNMENTS

For support of the membership assessment:

..... $ 75,500

The department of management shall conduct a study of the positions of deputy director throughout the executive branch of state government. The study shall include the responsibilities of each deputy director, the salaries of the deputy directors, the number of deputy director positions, and the variation of responsibilities among the deputy director positions. The department shall report its findings to the chairpersons and ranking members of the joint subcommittees on oversight, audit and government reform, and to the legislative fiscal bureau by January 1, 1996.

Sec. 14. There is appropriated from the road use tax fund to the department of management 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 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 regulation, 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 the fiscal year beginning July 1, 1995, which will be due by September 1, 1996.

When addressing staffing targets for state agencies, the department of management shall state the number of staff authorized for a state agency in terms of full-time equivalent positions.

Sec. 15. There is appropriated from the general fund of the state to the department of personnel 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 including the filing of quarterly reports as required in this section:

1. OPERATIONS

For salaries, support, maintenance, and miscellaneous purposes for the director's staff, information services, data processing, and financial services, and for not more than the following full-time equivalent positions:

..... $ 1,041,716
..... FTEs 18.58

2. PROGRAM DELIVERY

For salaries for personnel services, employment law and labor relations and training for not more than the following full-time equivalent positions:

..... $ 1,213,964
..... FTEs 33.20

3. PROGRAM ADMINISTRATION AND DEVELOPMENT

For salaries for employment, compensation, and benefits and workers' compensation and for not more than the following full-time equivalent positions:

..... $ 1,386,933
..... FTEs 32.80

Any funds received by the department for workers' compensation purposes other than the funds appropriated in subsection 3 shall be used only for the payment of workers' compensation claims.

The funds for support, maintenance, and miscellaneous purposes for personnel assigned to program delivery under subsection 2 and program administration and development 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 and regulation 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. 16. IPERS. There is appropriated from the Iowa public employees' retirement system fund to the department of personnel 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 the purposes designated:

1. For salaries, support, maintenance, and other operational purposes to pay the costs of the Iowa public employees' retirement system:

..... $ 3,749,983

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 submit, annually, a report to the chairpersons and ranking members of the joint appropriations subcommittee on administration and regulation 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.

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*Item veto; see message at end of the Act

Sec. 17. There is appropriated from the primary road fund to the department of personnel 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 the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes to provide personnel services for the state department of transportation:

..... $ 331,694

Sec. 18. There is appropriated from the road use tax fund to the department of personnel 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 the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes to provide personnel services for the state department of transportation:

..... $ 53,996

Sec. 19. There is appropriated from the general fund of the state to the department of revenue and finance for the fiscal year beginning July 1, 1995, and ending June 30, 1996, 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 3:

..... FTEs 577.43

1. AUDIT AND COMPLIANCE

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 10,563,293

2. STATE FINANCIAL MANAGEMENT

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 9,376,548

3. INTERNAL RESOURCES MANAGEMENT

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 5,910,111

4. COLLECTION COSTS AND FEES

For payment of collection costs and fees pursuant to section 422.26:

..... $ 45,000

5. a. The department of revenue and finance shall not change the appropriations for the purposes designated in subsections 1 through 3 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 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.

c. The director of revenue and finance shall report annually to the chairpersons and ranking members of the joint appropriations subcommittee on administration and regulation 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.

d. 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.

Sec. 20. There is appropriated from the lottery fund to the department of revenue and finance 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 the purposes designated:

For salaries, support, maintenance, miscellaneous purposes for the administration and operation of lottery games, and for not more than the following full-time equivalent positions:

.....	$	7,408,016
.....	FTEs	120.00

Sec. 21. 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, 1995, and ending June 30, 1996, 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:

.....	$	1,008,025

Sec. 22. 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, 1995, and ending June 30, 1996, 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:

.....	$	520,514
.....	FTEs	9.00

2. BUSINESS SERVICES

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	1,565,021
.....	FTEs	28.00

3. For costs incurred in the printing of the official register:

.....	$	60,000

Sec. 23. 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, 1995, and ending June 30, 1996, 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:

.....	$	235,521
.....	FTEs	3.00

Sec. 24. 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, 1995, and ending June 30, 1996, 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:

.....	$	855,694
.....	FTEs	27.80

The office of treasurer of state shall supply clerical and secretarial support for the executive council.

Sec. 25. 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, 1995, and ending June 30, 1996, shall not exceed $170,000.

Sec. 26. 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, 1995, and ending June 30, 1996, 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. 27. Notwithstanding section 509A.5, there is appropriated from the employer share of the health insurance premium reserve fund the following amount for the purpose designated:

For the health data commission:

..... $ 100,000

Sec. 28. RURAL FIRE PROTECTION.

1. There is appropriated from the general fund of the state to the fire marshal 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 the purpose designated:

For supporting a rural fire protection demonstration project:

..... $ 6,000

2. The department shall award moneys to one or more resource conservation and development councils which apply for such moneys for the installation of permanent dry fire hydrants. Moneys awarded under this section shall not be used to pay for salaries or support administration. The purpose of a project shall be to demonstrate how dry hydrants may be used to preserve life and protect property from dangers associated with fire, and to support rural infrastructure in order to encourage investment in rural communities.

3. A resource conservation and development council which receives an award under this section shall appoint a dry hydrant project coordinator who shall be responsible for administering the award as provided in this section. In applying for and administering an award, a council shall cooperate with relevant county boards of supervisors, county engineers, soil and water conservation districts, local fire departments, township trustees, rural water associations, and landowners. The council shall also seek cooperation from the natural resources and conservation service of the United States department of agriculture, and, if appropriate, the United States army corps of engineers.

4. Applications shall be judged based on criteria established by the department. The fire service institute advisory committee established pursuant to section 266.46 may assist the department in establishing criteria and judging applications. Applicants shall submit a plan that demonstrates the practical advantages of using a dry hydrant, which relies upon natural roadside water impoundments and man-made impoundments fed by rural water mains, to provide viable and economical sources of water required to extinguish fires in rural areas. The plan shall provide for instructing fire departments regarding the installation and operation of dry hydrants, including methods to utilize labor and equipment. In implementing the plan, the dry hydrant project coordinator shall cooperate with the Iowa

fire service institute at Iowa state university as provided in section 266.41, the fire service institute advisory committee, and any association which provides for the training of fire fighters, including the Iowa firemen's association and the Iowa society of fire service instructors.

5. The fire marshal shall prepare a report which shall include findings submitted by each dry hydrant project coordinator who administers an award and recommendations submitted by the fire service institute advisory committee. The committee may provide a plan or model for the installation of dry hydrants throughout the state. The report shall be delivered to the general assembly by January 10, 1996.

Sec. 29. CENTRALIZED PURCHASING REVOLVING FUND TRANSFER. Notwithstanding section 18.9, there is transferred from the centralized purchasing revolving fund created under section 18.9 to the general fund of the state on June 30, 1995, the sum of $200,000.

*Sec. 30. *SECRETARY OF STATE OPTICAL IMAGING ACCOUNT TRANSFER. The secretary of state shall pay to the general fund of the state on June 30, 1995, the sum of $75,000, or so much thereof as remains of funds appropriated for an optical imaging project. If insufficient unencumbered or unobligated funds remain in the optical imaging account as of June 30, 1995, to pay $75,000 to the general fund of the state, the deficiency shall be paid from other moneys appropriated to the office of secretary of state pursuant to this Act.**

Sec. 31. 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. 32. 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. 33. 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 auditor of state, the department of commerce, the department of inspections and appeals, the Iowa ethics and campaign disclosure board, the department of general services, the department of management, the department of revenue and finance, and 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. 34. REPORT OF ADDITIONAL INCOME AND EXPENDITURES. The state departments, agencies, and offices receiving appropriations under this Act shall report all expenses in excess of the funds appropriated from any statutory revolving funds during the fiscal year beginning July 1, 1994, and ending June 30, 1995. The report shall also include the beginning and ending balances of the revolving funds.

The report required pursuant to this section shall be submitted not later than September 30, 1995, for expenditures made during the fiscal year beginning July 1, 1994, and ending June 30, 1995, to the chairpersons and ranking members of the joint appropriations subcommittee on administration and regulations and the legislative fiscal bureau.

Sec. 35. 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.

*Item veto; see message at end of the Act

Sec. 36. Section 12.21, Code 1995, is amended to read as follows:

12.21 ACCEPTING CREDIT CARD PAYMENTS.

The treasurer of state may enter into an agreement with a financial institution to provide credit card receipt processing for state departments which are authorized by the treasurer of state to accept payment by credit card. A department which accepts credit card payments ~~shall~~ may adjust its fees to reflect the cost of processing as determined by the treasurer of state. A fee may be charged by a department for using the credit card payment method notwithstanding any other provision of the Code setting specific fees. The treasurer of state shall adopt rules to implement this section.

Sec. 37. Section 25.2, Code 1995, is amended to read as follows:

25.2 EXAMINATION OF REPORT – APPROVAL OR REJECTION – PAYMENT.

The state appeal board with the recommendation of the special assistant attorney general for claims may approve or reject claims against the state of less than ten years covering the following: Outdated warrants; outdated sales and use tax refunds; license refunds; additional agricultural land tax credits; outdated invoices; fuel and gas tax refunds; outdated homestead and veterans' exemptions; outdated funeral service claims; tractor fees; registration permits; outdated bills for merchandise; services furnished to the state; claims by any county or county official relating to the personal property tax credit; and refunds of fees collected by the state. Payments authorized by the state appeal board shall be paid from the appropriation or fund of original certification of the claim. However, if that appropriation or fund has since reverted under section 8.33 then such payment authorized by the state appeal board shall be out of any money in the state treasury not otherwise appropriated. Notwithstanding the provisions of this section, the director of revenue and finance may reissue outdated warrants. On or before November 1 of each year, the director of revenue and finance shall provide the treasurer of state with a report of all unpaid warrants which have been outdated for two years or more. The treasurer shall include information regarding outdated warrants in the notice published pursuant to section 556.12. The provisions of section 556.11 regarding agreements to pay compensation for recovery or assistance in recovery of unclaimed property are applicable to agreements to pay compensation to recover or assist in the recovery of outdated warrants.

*Sec. 38. *Section 411.36, subsection 1, unnumbered paragraph 1, Code 1995, as amended by 1995 Iowa Acts, Senate File 45, section 5, is amended to read as follows:*

*A board of trustees for the statewide fire and police retirement system is created. The board shall consist of ~~thirteen~~ fourteen members, including nine voting members and ~~four~~ five nonvoting members. Section 69.16A applies to the appointment of the voting members of the board. The voting members of the board shall be as follows:**

*Sec. 39. *Section 411.36, subsection 1, unnumbered paragraph 2, Code 1995, as amended by 1995 Iowa Acts, Senate File 45, section 5, is amended to read as follows:*

*The treasurer of state, or the treasurer's designee, shall serve as an ex officio, nonvoting member. The other nonvoting members of the board shall be two state representatives, one appointed by the speaker of the house of representatives and one by the minority leader of the house, and two state senators, one appointed by the majority leader of the senate and one by the minority leader of the senate.**

*Sec. 40. *Section 411.36, subsection 2, Code 1995, is amended to read as follows:*

*2. ~~Except as otherwise provided for the initial appointments, the~~ The voting members shall be appointed for four-year terms, and the nonvoting members who are members of the senate and the house of representatives shall be appointed for two-year terms. Terms begin on May 1 in the year of appointment and expire on April 30 in the year of expiration.**

*Sec. 41. *Section 411.36, subsection 5, paragraph a, Code 1995, is amended to read as follows:*

*Item veto; see message at end of the Act

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

Sec. 42. Section 462A.78, subsection 5, Code 1995, is amended to read as follows:

5. The funds collected under subsection 1, paragraph "a", shall be placed in the general fund of the county and used for the expenses of the county conservation board if one exists in that county. Of each surcharge collected as required under subsection 1, paragraph "b", the county recorder shall remit five dollars to the ~~office of treasurer of state~~ department of revenue and finance for deposit in the general fund of the state.

Sec. 43. Section 554.9401, subsection 6, Code 1995, is amended to read as follows:

6. Of each fee collected by the county recorder under sections 570A.4, 554.9403, 554.9405, and 554.9406, the county recorder shall remit five dollars, if filed on a standard form or six dollars otherwise, to the ~~office of the treasurer of state~~ department of revenue and finance for deposit in the general fund of the state.

**Sec. 44. Section 99D.5, subsection 1, Code 1995, is amended to read as follows:*

*1. A state racing and gaming commission is created within the department of inspections and appeals consisting of five members who shall be appointed by the governor subject to confirmation by the senate, and who shall serve not to exceed a three-year term at the pleasure of the governor. The term of each member shall begin and end as provided in section 69.19. Before a person is appointed to the commission, the division of criminal investigation of the department of public safety shall conduct a thorough background investigation of the proposed appointee. The proposed appointee shall provide information on a form as required by the division of criminal investigation. The background investigation shall be the same as conducted for an applicant for a license to conduct pari-mutuel wagering. The information shall be made available to the members of the senate standing committee assigned to investigate and recommend confirmation of an appointee.**

**Sec. 45. Section 515A.15, Code 1995, as amended by 1995 Iowa Acts, House File 247, section 24, is amended to read as follows:*

515A.15 ASSIGNED RISKS.

Agreements shall be made among insurers with respect to the equitable apportionment among them of insurance which may be afforded applicants who are in good faith entitled to but who are unable to procure such insurance through ordinary methods and such insurers may agree among themselves on the use of reasonable rate modifications for such insurance, the agreements and rate modifications to be subject to the approval of the commissioner.

*For purposes of this section, "insurer" includes, in addition to insurers defined pursuant to section 515A.2, an entity which has submitted a plan of self-insurance for approval pursuant to section 87.4 on or before May 1, 1995, and a self-insurance association formed on or after July 1, 1995, pursuant to section 87.4 except for an association comprised of cities or counties, or both, or an association comprised of community colleges as defined in section 260C.2, which have entered into an agreement pursuant to chapter 28E for the purpose of establishing a self-insured program for the payment of workers' compensation benefits.**

Sec. 46. REPEAL. Sections 12.9, 12.12, and 12.13, Code 1995, are repealed.

Sec. 47. EFFECTIVE DATE. This section and sections 38, 39, 40, and 41, being deemed of immediate importance, take effect upon enactment. Sections 29 and 30 of this Act take effect on June 30, 1995. The remainder of this Act takes effect on July 1, 1995.

Approved May 31, 1995, except the items which I hereby disapprove and which are designated as that portion of Section 3, subsection 6, paragraph c(1) which is herein

*Item veto; see message at end of the Act

bracketed in ink and initialed by me; Section 3, subsection 6, paragraphs c(2), c(3), and c(4) in their entirety; Section 14, unnumbered and unlettered paragraph 3 in its entirety; Section 30 in its entirety; Sections 38, 39, 40, and 41 in their entirety; and Sections 44 and 45 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 Mr. Secretary:

I hereby transmit Senate File 484, an Act relating to and making appropriations to certain state departments, agencies, funds, and certain other entities, providing for regulatory authority and other properly related matters, providing an effective date.

Senate File 484 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, subsection 6, paragraph c, subparagraph (1), and Section 3, subsection 6, paragraph c, subparagraphs (2), (3) and (4), in their entirety. These items would create a new program within the Division of Insurance, however, no funding for the program is provided in the bill.

I am unable to approve the item designated as Section 14, unnumbered and unlettered paragraph 3, in its entirety. This item would require the Department of Management to set staffing targets for agencies in terms of full-time equivalents rather than in terms of head counts. The executive branch should maintain flexibility to use reporting formats that best meet its management needs.

I am unable to approve the item designated as Section 30, in its entirety. This item would require the Secretary of State to pay the general fund $75,000 from the optical imaging account. The Secretary of State's office has already spent $22,000 of this amount, and the remaining funds are needed to complete the imaging system.

I am unable to approve the items designated as Section 38, Section 39, Section 40 and Section 41, in their entirety. These items would add the Treasurer of State to the board of trustees for the statewide fire and police retirement system. This retirement system is a local government responsibility. Any interest the state may have in the board is already adequately represented by its four legislative members.

I am unable to approve the item designated as Section 44, in its entirety. This item would require the Division of Criminal Investigation to conduct background investigations of appointees to the Racing and Gaming Commission and to make the information available to a legislative committee. It would be inappropriate to require that legislators routinely receive information otherwise considered confidential.

I am unable to approve the item designated as Section 45, in its entirety. This section is technically incorrect and therefore does not fulfill the purpose for which it was intended.

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 484 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 220

APPROPRIATIONS - TRANSPORTATION, INFRASTRUCTURE, AND CAPITAL PROJECTS

S.F. 481

AN ACT relating to and making appropriations to the state department of transportation including allocation and use of moneys from the general fund, road use tax fund, and primary road fund, and making appropriations to various state agencies for capital projects, to the primary road fund, to county fairs and to the Iowa state fair from the rebuild Iowa infrastructure account and the general fund, relating to the living roadway trust fund and the state roadside specialist, the primary road and state highway system, and other transportation-related statutory changes, requiring transportation-related studies, making technical changes, and providing an effective date.

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

DIVISION I
STATE DEPARTMENT OF TRANSPORTATION

Section 1. There is appropriated from the general fund of the state to the state department of transportation 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. 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 **and for up to $100,000 for the renovation of historical electric rail cars and the payment of renovation expenses incurred by the Mason City - Clear Lake electric trolley railroad historical society conditioned upon local matching funds:**

..... $ 1,497,000

b. For airport engineering studies and improvement projects as provided in chapter 328:

..... $ 2,262,000

2. For planning and programming, for salaries, support, maintenance, and miscellaneous purposes:

..... $ 241,000

Sec. 2. There is appropriated from the road use tax fund to the state department of transportation for the fiscal year beginning July 1, 1995, and ending June 30, 1996, 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:

..... $ 1,070,000

2. For salaries, support, maintenance, and miscellaneous purposes:

a. Operations and finance:

..... $ 4,211,321

b. Administrative services:

..... $ 820,552

c. Planning and programming:

..... $ 400,595

d. Motor vehicles:

..... $ 21,960,473

Of the moneys appropriated in this paragraph, a sufficient amount shall be allocated to provide effective and necessary oversight of the county treasurer's issuance of motor vehicle licenses in accordance with this Act.

*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 state department of transportation, as required by chapter 19A:

..... $ 35,000

4. Unemployment compensation:

..... $ 17,000

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. For paving, grading, and replacement of scale facilities at Salix, Storm Lake, and Early:

..... $ 570,000

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. 3. There is appropriated from the primary road fund to the state department of transportation 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. For salaries, support, maintenance, miscellaneous purposes and the following full-time equivalent positions:

a. Operations and finance:

..... $ 25,869,545
..... FTEs 282.0

b. Administrative services:

..... $ 5,040,535
..... FTEs 94.0

c. Planning and programming:

..... $ 7,636,322
..... FTEs 174.0

It is the intent of the general assembly that the state department of transportation conduct an intermodal transportation study to analyze the feasibility and need for additional intermodal transportation facilities in Iowa. The study shall include an analysis of the potential economic benefit to affected communities. The study shall be conducted for areas of the state located more than seventy-five miles from existing intermodal transportation facilities. The department shall give preference to communities who wish to be included in the study. For purposes of this study, "intermodal transportation facility" means a facility that acts as an exchange center for goods which are transferred from one modality to another.

d. Project development:

..... $ 52,862,681
..... FTEs 1185.0

e. Maintenance:

..... $ 98,780,764
..... FTEs 1646.0

f. Motor vehicles:
..... $ 840,800
..... FTEs 549.0
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 equipment:
..... $ 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:
..... $ 328,000
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 improvements to upgrade the handling of wastewater at various field facilities throughout the state:
..... $ 750,000
b. For construction of large salt storage facilities at various locations throughout the state:
..... $ 600,000
c. For payment of a court-ordered drainage assessment to Polk county:
..... $ 213,213
d. For replacement of roofs at various field facility locations throughout the state:
..... $ 510,000
e. For replacement of brick exterior on the Atlantic office building:
..... $ 150,000
f. For replacement of the roof on the administration building at the Ames complex:
..... $ 200,000
g. For tuck pointing and repairs to the brick exteriors of the northeast and northwest office buildings at the Ames central office complex:
..... $ 150,000
h. For replacement and updating the exhaust system at the Ames laboratory building:
..... $ 150,000
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.

DIVISION II
CAPITAL PROJECTS
BOARD OF REGENTS

Sec. 4. There is appropriated from the rebuild Iowa infrastructure account of the state to the state board of regents 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. For fire and environmental safety and for replacement of the boiler and the telephone system at the Iowa braille and sight saving school:

..... $ 341,000

Of the appropriation in this subsection, $45,000 shall be used for replacement of the telephone system. It is the intent of the general assembly that an additional $35,000 shall be appropriated in fiscal year 1997 for funding additional costs for replacement of the telephone system at the Iowa braille and sight saving school.

2. For compliance with the federal Americans with Disabilities Act or for fire and environmental safety at the state school for the deaf:

..... $ 50,000

3. For fire and environmental safety, renovation, or for deferred maintenance at Iowa state university of science and technology:

..... $ 2,000,000

4. For fire and environmental safety, renovation, or for deferred maintenance at the state university of Iowa:

..... $ 2,000,000

5. For the performing arts center and for fire and environmental safety, renovation, or for deferred maintenance at the university of northern Iowa:

..... $ 3,000,000

Of the funds appropriated in this subsection, $1,000,000 shall be directed towards critical deferred maintenance, renovation and building costs and the remainder shall be used for the performing arts center.

Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30, 1996, from the funds appropriated in subsections 1 through 4, shall revert to the rebuild Iowa infrastructure account of the state on August 31, 1996, and unencumbered or unobligated funds remaining on June 30, 1999, from the funds appropriated in subsection 5, shall revert to the rebuild Iowa infrastructure account of the state on August 31, 1999.

The state board of regents shall report to the legislative fiscal bureau and to the education and transportation, infrastructure and capitals joint appropriations subcommittees by August 31, 1995, regarding actual and proposed project expenditures of moneys appropriated for fire and environmental safety, renovation, or for deferred maintenance under subsections 3 through 5.

DEPARTMENT OF CORRECTIONS

Sec. 5. There is appropriated from the rebuild Iowa infrastructure account of the state to the department of corrections 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. For connection of the Fort Madison correctional facility with the Iowa communications network:

..... $ 161,000

2. For remodeling of the visitation area at Mitchellville:

..... $ 100,000

DEPARTMENT OF CULTURAL AFFAIRS

*Sec. 6. *There is appropriated from the rebuild Iowa infrastructure account of the state to the department of cultural affairs 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 the purpose designated:*

To correct water seepage problems and complete design specifications for rehabilitation work on the centennial building in Iowa City:

..... $ *180,000*

*Item veto; see message at end of the Act

*Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30, 1997, from the funds appropriated in this section, shall revert to the rebuild Iowa infrastructure account of the state on August 31, 1997.**

DEPARTMENT OF ECONOMIC DEVELOPMENT

Sec. 7. There is appropriated from the rebuild Iowa infrastructure account of the state to the department of economic development 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. For completion of the construction of the Northwood welcome center:
..... $ 250,000

2. For the construction of the western historic trails welcome center:
..... $ 275,000

*3. *For construction of a welcome center in Bremer county:*
..... $ *100,000**

4. For construction of a welcome center at Winterset:
..... $ 75,000

Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30, 1997, from the funds appropriated in this section, shall revert to the rebuild Iowa infrastructure account of the state on August 30, 1997.

DEPARTMENT OF EDUCATION

Sec. 8. There is appropriated from the rebuild Iowa infrastructure account of the state to the department of education for the fiscal year beginning July 1, 1995, and ending June 30, 1996, $2,500,000, to be used for compliance with the federal Americans with Disabilities Act, for fire and environmental safety, for implementation of energy conservation measures, for reduction of technological obsolescence in instructional equipment and facilities for community colleges and for other stated purposes to be allocated to the merged areas in the following amounts:

1. Merged Area I

For the construction of a building to house the national center for agricultural rescue and emergencies:
..... $ 1,000,000

*2. *Merged Area II*..... $ *90,534*
3. *Merged Area III*..... $ *103,952*
4. *Merged Area IV*..... $ *38,156*
5. *Merged Area V*..... $ *142,389*
6. *Merged Area VI*..... $ *101,409*
7. *Merged Area VII*..... $ *95,339*
8. *Merged Area IX*..... $ *128,062*
9. *Merged Area X*..... $ *205,158*
10. *Merged Area XI*..... $ *192,269*
11. *Merged Area XII*..... $ *83,645*
12. *Merged Area XIII*..... $ *103,540*
13. *Merged Area XIV*..... $ *40,819*
14. *Merged Area XV*..... $ *104,318*
15. *Merged Area XVI*..... $ *70,410**

Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30, 1997, from the funds appropriated in this section, shall revert to the rebuild Iowa infrastructure account of the state on August 31, 1997.

*Item veto; see message at end of the Act

Sec. 9. The appropriation to Merged Area I in section 8 of this Act is contingent upon the receipt of federal funds or private matching moneys. *If the anticipated federal funding or private matching moneys are not received, the appropriation in section 8 shall be allocated by the department of education as follows:*

1. Merged Area I	$	*118,722*
2. Merged Area II	$	*143,725*
3. Merged Area III	$	*165,027*
4. Merged Area IV	$	*60,573*
5. Merged Area V	$	*226,046*
6. Merged Area VI	$	*160,989*
7. Merged Area VII	$	*151,352*
8. Merged Area IX	$	*203,300*
9. Merged Area X	$	*325,692*
10. Merged Area XI	$	*305,230*
11. Merged Area XII	$	*132,789*
12. Merged Area XIII	$	*164,371*
13. Merged Area XIV	$	*64,801*
14. Merged Area XV	$	*165,606*
15. Merged Area XVI	$	*111,777**

DEPARTMENT OF GENERAL SERVICES

Sec. 10. There is appropriated from the rebuild Iowa infrastructure account of the state to the department of general services 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. For exterior state capitol building restoration:
..... $ 7,165,000

2. For interior state capitol building restoration:
..... $ 2,100,000

3. For health, fire safety, and interior maintenance needs of the state capitol building:
..... $ 1,600,000

4. For major maintenance needs including health, life and fire safety and for compliance with the federal Americans with Disabilities Act for state-owned buildings and facilities:
..... $ 4,000,000

*5. *For improvements at the state capitol complex as follows:*

a. For construction of a tunnel under Grand avenue north from the state capitol building:
..... $ *1,500,000*

b. For renovation of the old historical building:
..... $ *6,200,000*

c. For site preparation for the proposed parking ramp north of Des Moines street:
..... $ *2,300,000**

Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30, 2000, from the funds appropriated in this section, shall revert to the rebuild Iowa infrastructure account of the state on August 31, 2000.

DEPARTMENT OF HUMAN SERVICES

Sec. 11. There is appropriated from the rebuild Iowa infrastructure account of the state to the department of human services 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 the purpose designated:

*Item veto; see message at end of the Act

For costs associated with the development of the X-pert computer system:
..... $ 1,076,000
Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30, 1997, from the funds appropriated in this section, shall revert to the rebuild Iowa infrastructure account of the state on August 31, 1997.

DEPARTMENT OF MANAGEMENT

Sec. 12. There is appropriated from the rebuild Iowa infrastructure account of the state to the department of management 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 the purpose designated:
For the innovations fund, if enacted by the Seventy-sixth General Assembly, 1995 Session:*
..... $ 1,000,000

DEPARTMENT OF NATURAL RESOURCES

Sec. 13. 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, 1995, and ending June 30, 1996, the following amount, or so much thereof as is necessary, to be used for the purpose designated:
For the purpose of funding capital projects traditionally funded from marine fuel tax receipts for the purposes specified in section 452A.79:
..... $ 1,600,000
Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30, 1997, from the funds appropriated in this section, shall revert to the general fund of the state on August 31, 1997.

DEPARTMENT OF PUBLIC DEFENSE

Sec. 14. There is appropriated from the rebuild Iowa infrastructure account of the state to the department of public defense 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. For maintenance and repair of national guard armories and facilities:
..... $ 382,000
2. To match federal funds for completion of the addition and renovation of the armory in Fairfield:
..... $ 250,000
3. To match federal funds for construction of a motor vehicle storage building at the Camp Dodge maintenance armory:
..... $ 420,000
Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30, 1996, from the funds appropriated in this section, shall revert to the rebuild Iowa infrastructure account of the state on August 31, 1996.

DIVISION III
LOTTERY TRANSFER

Sec. 15. 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

*See Chapter 214, §18 herein

1, 1995, and ending June 30, 1996, after deductions as provided in section 99E.10, subsection 1, and as appropriated under any Act of the Seventy-sixth General Assembly, 1995 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. 16. Notwithstanding 1994 Iowa Acts, chapter 1199, section 12, of the lottery revenues remaining after $34,400,000 is transferred and credited to the general fund of the state during the fiscal year beginning July 1, 1994, the following amounts shall be transferred in descending priority order as follows:

1. 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.

2. To the treasurer of state for purposes of allocating moneys to assist each of the 103 county fairs which are members of the association of Iowa fairs, for purposes of supporting annual county fairs and improvements to the county fairgrounds:

..... $ 1,000,000

The treasurer of state shall allocate an equal amount to each member fair. However, moneys shall only 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.

3. To the Iowa state fair foundation for capital projects and major maintenance improvements at the Iowa state fairgrounds:

..... $ 3,000,000

4. To the Loess Hills development and conservation authority, for deposit in the Loess Hills development and conservation fund created in section 161D.2 for the purposes specified in section 161D.1:

..... $ 400,000

5. To the department of agriculture and land stewardship to use in cooperation with the department of corrections for a project of repairs and improvements at the national heritage orientation center and public market. It is the intent of the general assembly that the project serve as a pilot community services program using prison labor for regional economic development initiatives supporting Iowa agriculture and food products:

..... $ 300,000

6. To the department of economic development for a grant to the Wallace foundation for rural research and development located in Atlantic, Iowa, for costs to develop an educational and outreach center:

..... $ 725,000

*7. *To the department of cultural affairs for maintenance and improvement at the gothic house visitors center:*

..... $ *225,000**

8. To the department of natural resources for purposes of continuing natural lake preservation efforts:

..... $ 100,000

The department shall award the amount transferred in this subsection to a city as defined in section 362.2. The department shall award the amount on a matching basis with the department contributing one dollar for each one dollar dedicated by the city, or the

*Item veto; see message at end of the Act

city acting in conjunction with a county, regardless of the source from which the city or county obtains the money, for the continuation of natural lake preservation efforts, if the city or county has previously received state funding for such purposes. However, the city, or the city and county, must have dedicated at least $100,000 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.

9. To the department of natural resources for capital improvements at Backbone lake, other improvements of that state park, and preparation work and other costs associated with the park's 75th anniversary:

..... $ 500,000

Of the appropriation in this subsection, up to $100,000 shall be used for bicycle trail improvements.

*10. *To the department of natural resources, to be combined with local match funding, for a study of dredging at Crystal lake in Winnebago county:*

..... $ *25,000**

11. To the department of natural resources for purposes of creating, improving, or enhancing recreational opportunities directly related to the restoration and development of lake Ahquabi and related facilities, which shall include any necessary dredging operations, and which may also include swimming, boating, and fishing facilities:

..... $ 184,000

The department shall return any amount of the transfer expended by the department under this subsection to the general fund of the state to the extent that the department receives moneys from the clean lakes program, administered by the United States environmental protection agency, for purposes described in this subsection.

*12. *To the department of economic development for operation and support of the Dows welcome center:*

..... $ *20,000*

13. To the department of natural resources, to be combined with local match funding of two dollars for every one state dollar, for repair and replacement costs associated with the spillway at Hickory Grove lake:

..... $ *250,000*

14. To the department of agriculture and land stewardship for providing assistance in reconstructing and repairing flood-damaged dikes and levees on pasture and other agricultural land which is not used for crops:

..... $ *75,000**

15. To the department of education for a grant to Southeast Polk community school district to implement an interagency coalition strategy combining education, health, and social services in addressing the problems of children and families through school-linked services:

..... $ 60,000

*16. *To the Iowa department of public health for a grant to establish a rural medical care center in Tama:*

..... $ *50,000*

17. To the department of natural resources for a grant for costs associated with the Sauk rail trail and park improvements in Carroll:

..... $ *30,000*

18. To the department of natural resources for a grant for costs associated with renovation of the Boone walking trail:

..... $ *5,000*

19. To Iowa state university of science and technology for allocation to the Iowa institute for public leadership for operations costs:

..... $ *25,000*

*Item veto; see message at end of the Act

20. To the printing division of the department of general services for publication of the under the golden dome publication as specified by the authoring agency:
..... *$ 45,000*

21. To the department of corrections for a grant to the amer-i-can program for training of inmates and correctional staff:
..... *$ 25,000*

22. To the department of education for contracting with the Iowa alliance for arts education to execute the local arts comprehensive educational strategies program:
..... *$ 125,000*

23. To the department of education for a grant to a community college to assist in a public-private partnership between the community college, a city, and a county in developing a center or program to provide child day care for nontraditional students:
..... *$ 75,000*

24. To the department of general services for planning, design, site acquisition and preparation, and other expenditures necessary to establish a fee-based child day care program available to public employees officed at or near the capitol complex:
..... *$ 500,000*

a. The general assembly considers child day care to be an important service for employers, employees, and their children. Employer-supported child care can have a positive impact upon employee morale and retention and can positively affect the children who are receiving child care services. High quality child care is of significant value to employers. It is believed that a quality, on-site child care program available to the children of state employees will provide a model for other employers in this state to emulate.

b. (1) The legislative council is requested to appoint a capitol complex child day care program steering committee to provide direction to the department of general services in developing facility plans, establishing the facilities, developing operation policies, contracting with a vendor to operate the program, and other decisions involving establishment and operation of the program. The steering committee shall utilize the March 1990 consultant report to the capitol complex ad hoc committee on child care, particularly the intermediate quality recommendations, in its decision making.

(2) The steering committee membership shall include members of the general assembly; representatives of the departments of general services, personnel, human services, and education; employees officed at the capitol complex who purchase child day care services; a representative of the state board of regents center for early childhood education; a representative of the Iowa state university of science and technology early childhood education programs; and other persons knowledgeable concerning child day care programs.

c. In consultation with the steering committee, the director of the department of general services shall retain a consultant to oversee the process of developing the program and shall contract with a vendor to manage the program.

*d. The program shall be designed to operate with a capacity of 150 children and to regularly serve infants, toddlers, preschool, school age, and mildly ill children.**

25. To the commission of veterans affairs, for donation to the women in military service for America memorial foundation for the purpose of constructing the women in military service memorial to be built at the gateway to Arlington national cemetery in Arlington, Virginia:
..... $ 47,000

The executive director of the commission of veterans affairs shall forward this donation to the women in military service for America memorial foundation upon certification by the foundation that sufficient funding has been pledged to complete the construction of the memorial.

**26. To the Iowa peace institute:*
..... *$ 100,000*

27. To the division of highway safety, uniformed force, and radio communications of the department of public safety for purchase and activation charges for cellular phones for force members:
..... *$ 50,000*

*Item veto; see message at end of the Act

28. To the department of economic development for expansion of the microbusiness rural enterprise demonstration project created pursuant to 1994 Iowa Acts, chapter 1119, section 34, to 30 additional counties in the fiscal year beginning July 1, 1995:

..... *$ 50,000*

29. To the Iowa department of public health for a conference to develop a plan for provision of health insurance coverage to children of low-income families who are ineligible for medical assistance and have no health care coverage:

..... *$ 20,000*

30. To the Iowa department of public health for a domestic violence conference:

..... *$ 20,000*

31. To the department of corrections for a study of the development and use of a telecommunications network for worker training, inmate rehabilitation, and other related purposes in the sixth judicial district:

..... *$ 25,000*

32. To Iowa state university of science and technology for a study of alternative project delivery systems for publicly funded infrastructure projects, provided the study is publicly distributed upon completion:

..... *$ 39,000**

33. To the department of economic development for the Iowa members' cost share for the Lewis and Clark rural water system:

..... $ 25,000

**34. To the department of elder affairs for the 1995 older Iowans legislature:*

..... *$ 20,000*

35. To the judicial department for development and implementation of a long-range and strategic plan for the judicial branch of Iowa government:

..... *$ 50,000*

36. To the department of education for allocation to the community college that experienced the highest percentage of increase in full-time fall enrollment for the period beginning July 1, 1989, and ending June 30, 1995, for purposes of renovating a building for use as an urban center with classrooms to prepare students for the workplace or to pursue postsecondary education:

..... *$ 150,000*

37. To the department of human services for application by the department for grants to establish pilot projects for placements of geriatric patients who have a mental illness:

..... *$ 25,000*

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.

38. To the college student aid commission for the Iowa hope loan program:

..... *$ 100,000*

39. To the state department of transportation for the city of Durant to construct a curb on highway 927:

..... *$ 100,000**

40. The remaining revenues to the Iowa state fair foundation for capital projects and major maintenance improvements at the Iowa state fairgrounds. If the remaining lottery revenues do not equal $5,500,000, then the remaining amount necessary to equal $5,500,000 is appropriated from the rebuild Iowa infrastructure fund to the Iowa state fair foundation for the fiscal year beginning July 1, 1995, and ending June 30, 1996.

Notwithstanding section 8.33, moneys transferred and appropriated in accordance with this section shall not revert to the general fund of the state at the close of the fiscal year but shall remain available for expenditure for the purposes designated. Unless otherwise provided in this section, moneys transferred in this section which remain unobligated or unexpended for the purpose designated shall revert to the general fund of the state on August 31, 1997.

*Item veto; see message at end of the Act

Sec. 17. BLOOD RUN NATIONAL HISTORIC LANDMARK. The department of cultural affairs may use moneys appropriated to the department in 1994 Iowa Acts, chapter 1199, section 35, as necessary, to contract with the midwest region of the national park service to complete a study of blood run national historic landmark for the purpose of determining the feasibility of incorporating the landmark into the national park system. Notwithstanding section 8.33, moneys from the appropriation which remain unobligated or unexpended on June 30, 1995, shall not revert to the general fund of the state but shall remain available for use as provided in this section in the succeeding fiscal year.

Sec. 18. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION IV
HIGHWAY PATROL

Sec. 19. There is appropriated from the highway safety patrol 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, 1995, and ending June 30, 1996, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For salaries, support, maintenance, workers' compensation costs, 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:

.....	$	33,210,467
.....	FTEs	553.50

Sec. 20. HIGHWAY SAFETY PATROL FUND. There is appropriated from the general fund of the state to the highway safety patrol fund created in section 80.41, the following amounts for the fiscal years indicated:

1. For the fiscal year beginning July 1, 1996, and ending June 30, 1997, $9,000,000.
2. For the fiscal year beginning July 1, 1997, and ending June 30, 1998, $18,000,000.
3. For the fiscal year beginning July 1, 1998, and ending June 30, 1999, $27,000,000.
4. For the fiscal year beginning July 1, 1999, and ending June 30, 2000, $36,000,000, or such increased amounts as are necessary to fully fund those expenses for which an appropriation is made pursuant to section 80.41.

Sec. 21. The division of highway safety, uniformed force, and radio communications may expend an amount proportional to the costs that are reimbursable from the highway safety patrol fund created in section 80.41, as enacted by this Act. Spending for these costs may occur from any unappropriated funds in the state treasury upon a finding by the department of management that all of the amounts requested and approved are reimbursable from the highway safety patrol fund. Upon payment to the highway safety patrol fund, the division of highway safety, uniformed force, and radio communications shall credit the payments necessary to reimburse the state treasury.

Sec. 22. There is appropriated from the general fund of the state to the department of public safety 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:

For payment to the department of personnel for expenses incurred in administering the merit system on behalf of the division of highway safety, uniformed force, and radio communications:

.....	$	88,390

Sec. 23. NEW SECTION. 80.41 HIGHWAY SAFETY PATROL FUND.

1. A highway safety patrol fund is created as a separate fund in the state treasury under

the control of the department of revenue and finance. Interest and other moneys earned by the fund shall be deposited in the fund. The fund shall include moneys credited from the use tax as allocated under section 423.24, subsection 2.

2. Moneys credited to the fund shall be expended, pursuant to appropriations made from the fund by the general assembly, by the division of highway safety, uniformed force, and radio communications of the department of public safety for salaries, including salary adjustment moneys, support, maintenance, and miscellaneous purposes, including workers' compensation expenses and the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A.

3. Notwithstanding section 8.33, moneys credited to the fund which remain unobligated or unexpended at the close of a fiscal year shall not revert to the general fund of the state but shall be credited to the fund from which they were appropriated.

4. This section is repealed July 1, 2000.

Sec. 24. Section 423.24, subsection 2, Code 1995, is amended to read as follows:

2. Twenty percent of all revenue derived from the use tax on motor vehicles, trailers, and motor vehicle accessories and equipment as collected pursuant to section 423.7 shall be deposited ~~in the GAAP deficit reduction account established in the department of management pursuant to section 8.57, subsection 2, and shall be used~~ and credited one-half to the road use tax fund and one-half to the primary road fund to be used for the commercial and industrial highway network, except to the extent that the department directs that moneys are deposited in the highway safety patrol fund created in section 80.41 to fund the appropriations made from the highway safety patrol fund in accordance with the provisions of ~~that~~ section 80.41. The department shall determine the amount of moneys to be credited under this subsection to the highway safety patrol fund and shall deposit that amount into the highway safety patrol fund.

DIVISION V

*Sec. 25. *Section 313.8, Code 1995, is amended to read as follows:*

313.8 IMPROVEMENT OF PRIMARY SYSTEM.

*The department shall proceed to the improvement of the primary road system as rapidly as funds become available ~~therefor~~ until the entire mileage of the primary road system is built to established grade, bridged, and surfaced with pavement or other surface suited to the traffic on such road. Improvements shall be made and carried out in such manner as to equalize the condition of the primary roads and accessibility for commercial and industrial economic development purposes, as nearly as possible, in all sections of the state. For purposes of this section, improvements also include equalization of different levels of roads and streets classified under section 306.1, as nearly as possible, in all sections of the state.**

Sec. 26. Section 314.21, subsection 3, paragraph b, subparagraph (1), Code 1995, is amended to read as follows:

(1) For the fiscal ~~period~~ year beginning July 1, ~~1989~~ 1995, and ending June 30, ~~1995, fifty~~ 1996, and each subsequent fiscal year, seventy-five thousand dollars ~~in each fiscal year~~ to the university of northern Iowa to maintain the position of the state roadside specialist and to continue its integrated roadside vegetation management ~~pilot~~ program providing research, education, training, and technical assistance.

Sec. 27. DRIVER'S LICENSE PILOT PROJECT.

1. The legislative council is requested to establish an interim study committee to evaluate expansion of the driver's license pilot program to include additional counties. The committee shall evaluate the benefits to the public from the issuance of driver's licenses by the counties and the cost effectiveness of doing so. The committee shall hear testimony from federal transportation officials regarding issuance of commercial driver's licenses and compliance with federal regulations. The committee shall provide recommendations regarding such expansion to the general assembly no later than December 15, 1995.

*Item veto; see message at end of the Act

2. Notwithstanding any other provisions to the contrary, the county treasurers of Adams, Cass, Fremont, Mills, Montgomery, and Page counties may retain for deposit in the county general fund, up to five dollars for each motor vehicle license transaction, including, but not limited to, issuance or renewal of motor vehicle licenses, nonoperator's identification cards, or handicapped identification devices.

3. As a condition for retention of moneys under this subsection, a county treasurer shall document the actual quarterly expenditures associated with driver's license issuance including the amount of time spent during that quarter on driver's license-related activities, the proportionate share of salaries and benefits for county employees performing driver's license-related activities, the total numbers of transactions conducted, and other costs related to the administration of driver's license-related activities. Each county treasurer shall provide the documentation of expenditures to the state department of transportation and legislative fiscal bureau. If the county treasurer's total expenses are less than the moneys retained under this subsection, the county treasurer shall submit the difference to the treasurer of state on a quarterly basis. The treasurer of state shall deposit that amount in the road use tax fund.

Sec. 28. NEW SECTION. 321.179 COUNTY TREASURERS - ISSUANCE OF MOTOR VEHICLE LICENSES.

1. Notwithstanding the provisions of this chapter or chapter 321L which grant sole authority to the department for the issuance of motor vehicle licenses, nonoperator's identification cards, and handicapped identification devices, the counties of Adams, Cass, Fremont, Mills, Montgomery, and Page shall be authorized to issue motor vehicle licenses, nonoperator's identification cards, and handicapped identification devices on a permanent basis. However, a county shall only be authorized to issue commercial driver's licenses if certified to do so by the department. If a county fails to meet the standards for certification under this section, the department itself shall provide for the issuance of commercial driver's licenses in that county. The department shall certify the county treasurers in the permanent counties to issue commercial driver's licenses if all of the following conditions are met:

a. The driving skills test is the same as that which would otherwise be administered by the state.

b. The county examiner contractually agrees to comply with the requirements of 49 C.F.R. § 383.75, adopted as of a specific date by rule by the department.

c. The department provides supervision over the issuance of commercial driver's licenses and the administration of written tests by the county treasurers.

2. The department shall retain all supervisory authority over the county treasurers who shall be subject to the supervision of the department and shall be considered agents of the department when performing motor vehicle licensing functions.

Sec. 29. Section 455A.19, subsection 1, paragraph g, Code 1995, is amended by striking the paragraph and inserting in lieu thereof the following:

g. Three percent shall be allocated to the living roadway account for distribution to the living roadway trust fund created under section 314.21 for the development and implementation of integrated roadside vegetation plans.

Sec. 30. Section 455A.19, subsection 2, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. However, any moneys in excess of $500,000, remaining in the living roadway account under subsection 1, paragraph "g", on June 30 shall revert to the resource enhancement and protection fund under this section for distribution pursuant to the formula under this section except for subsection 1, paragraph "g". That proportion of moneys that would have been reallocated to subsection 1, paragraph "g", shall be distributed to the open spaces account under subsection 1, paragraph "a".

Sec. 31. 1994 Iowa Acts, chapter 1199, section 10, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The provisions of section 8.33 do not apply to the funds appropriated in this section. Unencumbered or unobligated funds remaining on June 30, 1995, from funds appropriated for the fiscal year beginning July 1, 1994, shall not revert but shall remain available for expenditure during the fiscal year beginning July 1, 1995, for the purposes for which they were appropriated.

Sec. 32. The legislative fiscal bureau shall evaluate the living roadway trust program and provide a written report to the joint appropriations subcommittee on transportation, infrastructure and capitals by January 15, 1996.

Sec. 33. The state department of transportation shall consider as a priority for inclusion in the state five-year transportation plan the preparation of planning studies for development of highway bypass projects that promote the safe flow of traffic and economic development in the project areas.

Sec. 34. INFRASTRUCTURE APPROPRIATIONS. If section 8.57, subsection 5, Code 1995, is amended by the Seventy-sixth General Assembly, 1995 Session,* to change the name of the rebuild Iowa infrastructure account to the rebuild Iowa infrastructure fund, the appropriations in this or any other Act from the rebuild Iowa infrastructure account shall be deemed to be made from the rebuild Iowa infrastructure fund.

****Sec. 35. *Section 321.179, as enacted in this Act, is repealed July 1, 1997.*****

Sec. 36. Section 31 of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved June 1, 1995, except the items which I hereby disapprove and which are designated as that portion of Section 1, subsection 1, paragraph a which is herein bracketed in ink and initialed by me; Section 6 in its entirety; Section 7, subsection 3 in its entirety; Section 8, subsections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15 in their entirety; that portion of Section 9 which is herein bracketed in ink and initialed by me; Section 10, subsections 5a, 5b, and 5c in their entirety; Section 16, subsection 7 in its entirety; Section 16, subsection 10 in its entirety; Section 16, subsections 12, 13, and 14 in their entirety; Section 16, subsections 16, 17, 18, 19, 20, 21, 22, 23, and 24 in their entirety; Section 16, subsections 26, 27, 28, 29, 30, 31, and 32 in their entirety; Section 16, subsections 34, 35, 36, 37, 38, and 39 in their entirety; Section 25 in its entirety; and Section 35 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 Mr. Secretary:

I hereby transmit Senate File 481, an Act relating to and making appropriations to the State Department of Transportation including allocation and use of moneys from the general fund, road use tax fund, and primary road fund, and making appropriations to various state agencies for capital projects, to the primary road fund, to county fairs and to the Iowa State Fair from the rebuild Iowa infrastructure account and the general fund, relating to the living roadway trust fund and the state roadside specialist, the primary road and state highway system, and other transportation-related statutory changes, requiring transportation-related studies, making technical changes, and providing an effective date.

*See Chapter 214, §16 herein
**Item veto; see message at end of the Act

Senate File 481 contains several significant milestones in state finances. For the first time in many years, substantial resources are directed to the repair and rebuilding of the state's infrastructure. I am especially pleased that the State Capitol building restoration work will proceed on an aggressive schedule, enabling completion to occur by the turn of the millennium on a pay-as-you-go basis.

The bill also changes the funding for the Iowa State Patrol so that it will no longer be funded from the road use tax fund. This will immediately make available an additional $33.5 million for the road funding formula. Finally, the 20 percent of the sales tax on vehicles that had been directed to the GAAP deficit reduction account is redirected back into the road use tax and primary road funds over the next four years where it will likewise be dedicated to transportation purposes.

These changes, coupled with action already taken to make state budget practices consistent with generally accepted accounting principles and to immediately fill the cash reserve fund to five percent, will close the chapter on many long-standing issues in state finances and will allow Iowa to attain the goal of being one of the best managed states in the country.

Despite its many accomplishments, I am disappointed that the total level of capital spending in the bill exceeded my capital budget recommendations by more than $27 million. Therefore, I have carefully reviewed each item in this bill, and through today's action am exercising my item veto authority on nearly $14 million worth of spending. I have used specific criteria, consistently applied in making these decisions. These criteria include whether the appropriation is truly a capital spending item and not an ongoing operational expense, whether the item is consistent with purposes that are traditionally a state responsibility and does not create a precedent for a new area of state responsibility, and whether the necessary planning for the item has been completed so that it is ready to proceed.

Senate File 481 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the designated portion of Section 1, subsection 1, paragraph a. This item allocates $100,000 of the rail assistance appropriation for renovation of historical electric rail cars. This would be an inappropriate use of funds intended for rail projects that are essential to the state's economic well-being.

I am unable to approve the item designated as Section 6, in its entirety. This item provides funds to correct water seepage problems and to complete design specifications for the centennial building in Iowa City. The $4 million appropriated in Section 10, subsection 4, of this bill to the Department of General Services for major maintenance may be used for correcting the water seepage problem.

I am unable to approve the designated portion of Section 7, subsection 3, in its entirety. This item provides funding for a welcome center that is not a part of the state's long-term welcome center plan. I am unaware of any compelling special circumstances that would warrant a change from the plan.

I am unable to approve the items designated as Section 8, subsections 2 through 15, in their entirety. These items would result in the allocation of $1.5 million to community colleges for capital projects and equipment. This would create a precedent for state funding in an area that has traditionally been a local responsibility. As a result of these item vetoes, $1.5 million of the $2.5 million appropriated in this section will remain in the rebuild Iowa infrastructure account.

I am unable to approve the designated portion of Section 9, beginning with the second sentence of the first unnumbered and unlettered paragraph and continuing through the item designated as subsection 15. These items would result in the allocation of $2.5 million to the community colleges for capital projects and equipment in the event that matching funds are not secured for the first item in Section 8. In the event this section becomes effective as a result of the matching funds not being secured as required in Section 8, these item vetoes will result in $2.5 million remaining in the rebuild Iowa infrastructure account.

I am unable to approve the items designated as Section 10, subsections 5a, 5b and 5c, in their entirety. These items provide a total of $10 million for renovation of the old historical building, construction of a tunnel under Grand Avenue and site preparation for a new parking ramp near the old historical building. I support the concept of renovating the old historical building. However, the state is not ready to proceed with this project because the necessary planning and analysis of options has not been completed. I am willing to facilitate a process to reach written agreement among the executive elected officials, the court and the legislative branch concerning which offices should be located in the old historical building.

I am unable to approve the item designated as Section 16, subsection 7, in its entirety. This item would provide $225,000 for maintenance and improvements at the Gothic House visitors center. A project of this magnitude needs greater scrutiny as a part of the overall historic preservation planning process. As a result of this action, this $225,000 will remain in the lottery fund to be transferred and credited to the general fund in accordance with 1994 Iowa Acts, Chapter 1199, Section 12.

I am unable to approve the item designated as Section 16, subsection 10, in its entirety. This item would provide funds to study dredging at Crystal Lake. The Department of Natural Resources has the capability and expertise necessary to determine if dredging is appropriate at Crystal Lake. It is not necessary to spend $25,000 to have a consultant make this determination. As a result of this action, this $25,000 will remain in the lottery fund to be transferred and credited to the general fund in accordance with 1994 Iowa Acts, Chapter 1199, Section 12.

I am unable to approve the item designated as Section 16, subsection 12, in its entirety. This item would provide $20,000 for the operation of the Dows Welcome Center. The state should not be involved in funding the operating costs of welcome centers. As a result of this action, this $20,000 will remain in the lottery fund to be transferred and credited to the general fund in accordance with 1994 Iowa Acts, Chapter 1199, Section 12.

I am unable to approve the item designated as Section 16, subsection 13, in its entirety. This item would provide $250,000 for repairs and replacement at Hickory Grove Lake, a county-owned lake. This would create a precedent for state funding in an area that has traditionally been a local responsibility. As a result of this action, this $250,000 will remain in the lottery fund to be transferred and credited to the general fund in accordance with 1994 Iowa Acts, Chapter 1199, Section 12.

I am unable to approve the item designated as Section 16, subsection 14, in its entirety. This item would provide $75,000 for reconstructing and repairing dikes and levees. Last year I approved $550,000 for dike and levee repair, of which nearly one-half remains unobligated. The need for additional funds has not been demonstrated. As a result of this action, this $75,000 will remain in the lottery fund to be transferred and credited to the general fund in accordance with 1994 Iowa Acts, Chapter 1199, Section 12.

I am unable to approve the item designated as Section 16, subsection 16, in its entirety. This item would provide a $50,000 grant to establish a rural medical care center. The Department of Public Health has a program providing funds for this type of project. As a result of this action, this $50,000 will remain in the lottery fund to be transferred and credited to the general fund in accordance with 1994 Iowa Acts, Chapter 1199, Section 12.

I am unable to approve the item designated as Section 16, subsection 17, in its entirety. This item would provide a $30,000 grant for a trail and park improvements. Funds for trail development and improvement are available through the Departments of Transportation and Natural Resources. As a result of this action, this $30,000 will remain in the lottery fund to be transferred and credited to the general fund in accordance with 1994 Iowa Acts, Chapter 1199, Section 12.

I am unable to approve the item designated as Section 16, subsection 18, in its entirety. This item would provide a $5,000 grant for a walking trail. Funds for trail development and improvement are available through the Departments of Transportation and Natural Resources. As a result of this action, this $5,000 will remain in the lottery fund to be transferred and credited to the general fund in accordance with 1994 Iowa Acts, Chapter 1199, Section 12.

I am unable to approve the item designated as Section 16, subsection 19, in its entirety. This item would provide $25,000 to Iowa State University for a public leadership institute. I support the development of the institute, however it is inappropriate to finance ongoing operating costs with a one-time source of revenue. As a result of this action, this $25,000 will remain in the lottery fund to be transferred and credited to the general fund in accordance with 1994 Iowa Acts, Chapter 1199, Section 12.

I am unable to approve the item designated as Section 16, subsection 20, in its entirety. This item would provide $45,000 for printing an under the golden dome publication. This is an informative publication about our State Capitol building. However, it would make more sense to delay its publication so that information about the completion of restoration work can be included. As a result of this action, this $45,000 will remain in the lottery fund to be transferred and credited to the general fund in accordance with 1994 Iowa Acts, Chapter 1199, Section 12.

I am unable to approve the item designated as Section 16, subsection 21, in its entirety. This item would provide $25,000 to the Department of Corrections for a grant to the amer-i-can program for training. The department's budget contains funds for training, and the department should review and prioritize its own training needs. Moreover, it is inappropriate to fund ongoing expenses from a one-time source of revenue. As a result of this action, this $25,000 will remain in the lottery fund to be transferred and credited to the general fund in accordance with 1994 Iowa Acts, Chapter 1199, Section 12.

I am unable to approve the item designated as Section 16, subsection 22, in its entirety. This item would provide $125,000 for the Local Arts Comprehensive Educational Strategies (LACES) program. This is not a capital expense, and is inappropriately funded from a one-time source of revenue. I have approved a $25,000 general fund appropriation for this program in another bill. As a result of this action, this $125,000 will remain in the lottery fund to be transferred and credited to the general fund in accordance with 1994 Iowa Acts, Chapter 1199, Section 12.

I am unable to approve the item designated as Section 16, subsection 23, in its entirety. This item would provide a $75,000 grant for developing a child care program for non-traditional students at a community college. This would create a precedent for state funding in an area that has traditionally been a local responsibility. As a result of this action,

this $75,000 will remain in the lottery fund to be transferred and credited to the general fund in accordance with 1994 Iowa Acts, Chapter 1199, Section 12.

I am unable to approve the item designated as Section 16, subsection 24, in its entirety. This item would provide $500,000 for the establishment of a child day care center for public employees at or near the Capitol Complex. Public employees already have access to a child day care center directly adjacent to the Capitol Complex. As a result of this action, this $500,000 will remain in the lottery fund to be transferred and credited to the general fund in accordance with 1994 Iowa Acts, Chapter 1199, Section 12.

I am unable to approve the item designated as Section 16, subsection 26, in its entirety. This item would provide $100,000 for the operation of the Peace Institute. It is inappropriate to fund ongoing expenses from a one-time source of revenue. As a result of this action, this $100,000 will remain in the lottery fund to be transferred and credited to the general fund in accordance with 1994 Iowa Acts, Chapter 1199, Section 12.

I am unable to approve the item designated as Section 16, subsection 27, in its entirety. This item would provide $50,000 for the purchase of cellular phones for force members in the Department of Public Safety. This is a significant ongoing expense and should not be funded from a one-time source of revenue. As a result of this action, this $50,000 will remain in the lottery fund to be transferred and credited to the general fund in accordance with 1994 Iowa Acts, Chapter 1199, Section 12.

I am unable to approve the item designated as Section 16, subsection 28, in its entirety. This item would provide $50,000 for expansion of the microbusiness rural enterprise demonstration project. It is inappropriate to fund ongoing programs from a one-time funding source. As a result of this action, this $50,000 will remain in the lottery fund to be transferred and credited to the general fund in accordance with 1994 Iowa Acts, Chapter 1199, Section 12.

I am unable to approve the item designated as Section 16, subsection 29, in its entirety. This item would provide $20,000 to the Department of Public Health for a conference. The state should not fund a conference as a capitals appropriation. As a result of this action, this $20,000 will remain in the lottery fund to be transferred and credited to the general fund in accordance with 1994 Iowa Acts, Chapter 1199, Section 12.

I am unable to approve the item designated as Section 16, subsection 30, in its entirety. This item would provide $20,000 to the Department of Public Health for another conference. The state should not fund a conference as a capitals appropriation. As a result of this action, this $20,000 will remain in the lottery fund to be transferred and credited to the general fund in accordance with 1994 Iowa Acts, Chapter 1199, Section 12.

I am unable to approve the item designated as Section 16, subsection 31, in its entirety. This item would provide $25,000 to the Department of Corrections for a study of the use of the telecommunications network for worker training. The department can conduct a study without a specific appropriation. As a result of this action, this $25,000 will remain in the lottery fund to be transferred and credited to the general fund in accordance with 1994 Iowa Acts, Chapter 1199, Section 12.

I am unable to approve the item designated as Section 16, subsection 32, in its entirety. This item would provide $39,000 to Iowa State University for a study of alternative project delivery systems for publicly funded infrastructure projects. The university can conduct the study without a specific appropriation. As a result of this action, this $39,000 will remain in the lottery fund to be transferred and credited to the general fund in accordance with 1994 Iowa Acts, Chapter 1199, Section 12.

I am unable to approve the item designated as Section 16, subsection 34, in its entirety. This item would provide $20,000 for the Older Iowans Legislature. This is a valuable program that has operated for many years without an appropriation, and should continue to do so. As a result of this action, this $20,000 will remain in the lottery fund to be transferred and credited to the general fund in accordance with 1994 Iowa Acts, Chapter 1199, Section 12.

I am unable to approve the item designated as Section 16, subsection 35, in its entirety. This item would provide $50,000 to the Judicial Department for strategic planning. I support the development of a strategic plan, however it should not be funded as a capitals appropriation. As a result of this action, this $50,000 will remain in the lottery fund to be transferred and credited to the general fund in accordance with 1994 Iowa Acts, Chapter 1199, Section 12.

I am unable to approve the item designated as Section 16, subsection 36, in its entirety. This item would provide $150,000 to a community college to renovate a building. This would create a precedent for or state funding in an area that has traditionally been a local responsibility. As a result of this action, this $150,000 will remain in the lottery fund to be transferred and credited to the general fund in accordance with 1994 Iowa Acts, Chapter 1199, Section 12.

I am unable to approve the item designated as Section 16, subsection 37, in its entirety. This item would provide $25,000 for pilot projects for the placement of geriatric patients with mental illness. This is an important issue for the state, and the department is in the process of studying the needs of these patients. However, it is not a capital expense and is not appropriately funded from a one-time revenue source. As a result of this action, this $25,000 will remain in the lottery fund to be transferred and credited to the general fund in accordance with 1994 Iowa Acts, Chapter 1199, Section 12.

I am unable to approve the item designated as Section 16, subsection 38, in its entirety. This item would provide $100,000 for the Iowa hope loan program. It is inappropriate to fund ongoing programs from a one-time funding source. As a result of this action, this $100,000 will remain in the lottery fund to be transferred and credited to the general fund in accordance with 1994 Iowa Acts, Chapter 1199, Section 12.

I am unable to approve the item designated as Section 16, subsection 39, in its entirety. This item would provide $100,000 to construct a curb on a municipal street. This would create a precedent of state involvement in an area that has traditionally been a local responsibility. As a result of this action, this $100,000 will remain in the lottery fund to be transferred and credited to the general fund in accordance with 1994 Iowa Acts, Chapter 1199, Section 12.

I am unable to approve the item designated as Section 25, in its entirety. This item would require the Department of Transportation to improve the primary highway system in a way that, as nearly as possible, equalizes the service levels in all sections of the state. For example, each section of the state would be required to have the same number of freeway-expressway miles. While I strongly support the addition of more miles of four-lane highway in northwest Iowa, this should not jeopardize the construction of other highway projects elsewhere in the state. This language could adversely affect critical upgrades that are programmed, including projects for which federal funding has been secured.

I am unable to approve the item designated as Section 35, in its entirety. This item would repeal, on July 1, 1997, the authority of the county treasurers in the six pilot counties to

issue driver licenses on a permanent basis. This action presupposes the conclusion of an evaluation to be undertaken by a legislative interim committee. I have heard from many people in southwest Iowa who feel strongly that the issuance of driver licenses by county treasurers has been a great convenience and would like to see it continue on a permanent basis.

As I complete action on this bill, I feel compelled to express my strong disapproval of what appears to be an attempt to coerce the Governor into approving items of spending which would not otherwise be approved. It has been suggested that by disapproving a number of the appropriations provided in Section 16 that those funds would then be available to expend for the purposes specified in subsection 40 of Section 16. Such a result would not only violate the principles of the separation of powers provided in Iowa's Constitution but also the separate and severable doctrine relating to items which are vetoable in appropriation bills. The people of Iowa granted the Governor item veto power to serve as a check on the legislative practice of logrolling. The numerous inappropriate items of expenditure in this bill are a classic example of why the item veto is necessary to protect taxpayers against unnecessary and excessive spending.

It has been clearly established by constitutional amendment and court decisions that the Governor cannot be denied the authority to veto separate and distinct items in an appropriation bill. To accept that the legislature could devise a way to evade the Governor's veto of individual items by reappropriating disapproved items and making them part of an expenditure of funds for another purpose in the same bill would ignore this basic principle of item veto law. Further, the legislature's attempt to construct such a device results in an unconstitutional invasion of the Governor's line-item veto authority.

I have always recognized and will continue to respect the awesome but not unlimited power of the legislature over the "purse strings" of state government. At the same time, as Governor I am obligated to protect the right of the chief executive to exercise the item veto authority on behalf of the citizens of Iowa to control excessive spending. Applying the principles of item veto law which I have enunciated above, the $2,224,000 disapproved in Section 16 will remain in the lottery fund and will be transferred and credited to the general fund at the end of the current fiscal year pursuant to 1994 Iowa Acts, Chapter 1199, Section 12.

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 481 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 221

PROPOSED CONSTITUTIONAL AMENDMENT - USE OF FUNDS FOR FISH AND WILDLIFE PROTECTION

Second Time Passed S.J.R. 6

A JOINT RESOLUTION proposing an amendment to the Constitution of the State of Iowa to restrict the expenditure of state license fees received from hunting, fishing, and trapping, and other public or private funds appropriated, allocated, or received by the state for fish and wildlife protection purposes.

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

Section 1. The following amendment to the Constitution of the State of Iowa is proposed:

Article VII of the Constitution of the State of Iowa is amended by adding the following new section:

FISH AND WILDLIFE PROTECTION FUNDS. Sec. 9. All revenue derived from state license fees for hunting, fishing, and trapping, and all state funds appropriated for, and federal or private funds received by the state for, the regulation or advancement of hunting, fishing, or trapping, or the protection, propagation, restoration, management, or harvest of fish or wildlife, shall be used exclusively for the performance and administration of activities related to those purposes.

Sec. 2. The foregoing proposed amendment, having been adopted and agreed to by the Seventy-fifth General Assembly, 1993 Session, thereafter duly published, and now adopted and agreed to by the Seventy-sixth General Assembly in this joint resolution, shall be submitted to the people of the State of Iowa at the general election in November of the year nineteen hundred ninety-six in the manner required by the Constitution of the State of Iowa and the laws of the State of Iowa.

CHAPTER 222

PROPOSED CONSTITUTIONAL AMENDMENT - EQUAL RIGHTS

First Time Passed H.J.R. 13

A JOINT RESOLUTION proposing an amendment to the Constitution of the State of Iowa relating to the equality of rights of men and women under the law.

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

Section 1. The following amendment to the Constitution of the State of Iowa is proposed.

Section 1 of Article I of the Constitution of the State of Iowa, is amended to read as follows:

RIGHTS OF PERSONS. Section 1. All men and women are, by nature, free and equal, and have certain inalienable rights - among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining safety and happiness.

Sec. 2. The foregoing amendment to the Constitution of the State of Iowa is referred to the General Assembly to be chosen at the next general election for members of the General Assembly and the Secretary of State is directed to cause the same to be published for three consecutive months previous to the date of that election as provided by law.

CHAPTER 223

CAPITOL RESTORATION EVENTS INVOLVING THE ROTARY CLUB
S.J.R. 12

A JOINT RESOLUTION authorizing the temporary use and consumption of alcoholic beverages in the State Capitol in conjunction with a buffet dinner sponsored by the Des Moines Rotary Club and featuring the State Capitol restoration and providing an effective date.

WHEREAS, the State Capitol is undergoing a multiyear project of interior and exterior restoration which is receiving additional public exposure and support; and

WHEREAS, the Des Moines Rotary Club plans to invite the members of Rotary International of Iowa to the State Capitol to become better acquainted with the State Capitol and its restoration; and

WHEREAS, the Des Moines Rotary Club plans to host a buffet dinner in the rotunda of the State Capitol in conjunction with slide presentations of various restoration projects and tours of restored committee rooms and offices; 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 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 on Thursday, March 23, 1995, hosted and organized in whole or in part by the Des Moines Rotary Club and the Friends of Capitol Hill, Inc., 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.

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

Approved March 17, 1995

CHAPTER 224

FILING BRIEFS AND MEMORANDA - MOTIONS FOR SUMMARY JUDGMENT

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF A CHANGE)
IN THE IOWA RULES OF)
CIVIL PROCEDURE)

REPORT OF THE
SUPREME COURT

TO: MS. DIANE BOLENDER, SECRETARY OF THE LEGISLATIVE COUNCIL OF THE STATE OF IOWA.

Pursuant to Iowa Code sections 602.4201 and 602.4202, the Supreme Court of Iowa has prescribed and hereby reports on this date to the Secretary of the Legislative Council concerning amendments to Iowa Rule of Civil Procedure 82(d) as shown in the attached Exhibit "A."

Pursuant to Iowa Code section 602.4202(2), the changes to Rule 82(d) are to take effect August 1, 1994.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ Arthur A. McGiverin
ARTHUR A. McGIVERIN, Chief Justice

Des Moines, Iowa
June 1, 1994

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council, hereby acknowledge delivery to me on the second day of June, 1994, 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"

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, except in support of or resistance to a motion for summary judgment, 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.

CHAPTER 225

EFFECTIVENESS OF JUDGMENTS, ORDERS, AND DECREES

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 RANDAL J. GIANNETTO, CHAIR OF THE SENATE JUDICIARY COMMITTEE OF THE 1995 REGULAR SESSION OF THE SEVENTY-SIXTH GENERAL ASSEMBLY OF THE STATE OF IOWA.

Pursuant to Iowa Code sections 602.4201 and 602.4202, the Supreme Court of Iowa has prescribed and hereby reports on this date to the Chair of the Senate Judiciary Committee concerning amendments to Iowa Rule of Civil Procedure 120 as shown in the attached Exhibit "A."

Pursuant to Iowa Code section 602.4202(2), the changes to Rule 120 are to take effect March 1, 1995.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ Arthur A. McGiverin
ARTHUR A. McGIVERIN, Chief Justice

Des Moines, Iowa
December 22, 1994

ACKNOWLEDGMENT

I, the undersigned, Chair of the Senate Judiciary Committee, hereby acknowledge delivery to me on the twenty-fourth day of December, 1994, the Report of the Supreme Court pertaining to the Iowa Rules of Civil Procedure.

/s/ Randal J. Giannetto
Chair of the Senate Judiciary Committee

EXHIBIT "A"

IOWA RULE OF CIVIL PROCEDURE 120

120. When and how entered. A judge may enter judgments, orders or decrees at any time after the matter has been submitted, effective when filed with the clerk or as provided by R.C.P. 82(e), ~~regardless of where signed~~. The clerk shall promptly mail or deliver notice of such entry, or copy thereof, to each party appearing, or to one of his attorneys.

CHAPTER 226

ANSWERS TO INTERROGATORIES

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF A CHANGE IN THE IOWA RULES OF CIVIL PROCEDURE	)))	REPORT OF THE SUPREME COURT

TO: THE HONORABLE AL STURGEON, CHAIR OF THE SENATE JUDICIARY COMMITTEE OF THE 1994 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 amendments to Iowa Rule of Civil Procedure 126(a) as shown in the attached Exhibit "A."

Pursuant to Iowa Code section 602.4202(2), the changes to Rule 126(a) are to take effect January 3, 1995.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ Arthur A. McGiverin
ARTHUR A. McGIVERIN, Chief Justice

Des Moines, Iowa
September 23, 1994

ACKNOWLEDGMENT

I, the undersigned, Chair of the Senate Judiciary Committee, hereby acknowledge delivery to me on the twenty-eighth day of September, 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"

IOWA RULE OF CIVIL PROCEDURE 126(a)

126. Interrogatories to parties.

a. Availability-procedures for use. Except in small claims, any party may serve written interrogatories to be answered by another party or, if the other party is a public or private corporation or a partnership or association or governmental agency, by any officer or agent, who shall furnish such information as is available to the party. Copies of interrogatories and answers shall be served on each adverse party. Interrogatories may, without leave of court, be directed to the plaintiff after commencement of the action and upon any other party with or after service of the original notice upon that party.

Each interrogatory shall be followed by a reasonable space for insertion of the answer. An interrogatory which does not comply with this requirement shall be subject to objection.

Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer.

A party answering interrogatories must answer in the space provided or must set out each interrogatory immediately preceding the answer to it. A failure to comply with this rule shall be deemed a failure to answer and shall be subject to sanctions as provided in R.C.P. 134. ~~The a~~Answers are to be signed by the person making them. ~~The party to whom the interrogatories are directed~~ Answers shall not be filed; however, they shall be served upon all adverse parties within thirty days after the interrogatories are served. ~~the answers, and o~~Objections, if any, shall be filed within thirty days after ~~they~~ interrogatories are served~~,~~. ~~except that a d~~Defendants, however, may file their ~~answers or~~ objections or serve their answers within sixty days after they have been ser~~viced~~ ~~of the~~ original notice ~~upon that defendant~~. The court may allow a shorter or longer time. The party submitting the interrogatories may move for an order under R.C.P. 134~~"~~(a~~"~~) with respect to any objection to or other failure to answer an interrogatory. Copies of answers shall be delivered as provided in R.C.P. 82.

A party shall not serve more than thirty interrogatories on any other party except upon agreement of the parties or leave of court granted upon a showing of good cause. A motion for leave of court to serve more than thirty interrogatories must be in writing and shall set forth the proposed interrogatories and the reasons establishing good cause for their use.

CHAPTER 227

REPORT OF REFEREE – AFFIDAVIT OF MAILING
REQUIRED NOTICE

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF A CHANGE IN THE IOWA RULES OF PROBATE PROCEDURE	)))	REPORT OF THE SUPREME COURT

TO: THE HONORABLE AL STURGEON, CHAIR OF THE SENATE JUDICIARY COMMITTEE OF THE 1994 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 hereby reports on this date to the Chair of the Senate Judiciary Committee an amendment has been prescribed to Iowa Rule of Probate Procedure 4, report of referee, as shown in the attached Exhibit "A."

Pursuant to Iowa Code section 602.4202(2), this amendment is to take effect January 3, 1995.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ Arthur A. McGiverin
ARTHUR A. McGIVERIN, Chief Justice

Des Moines, Iowa
September 23, 1994

ACKNOWLEDGMENT

I, the undersigned, Chair of the Senate Judiciary Committee, hereby acknowledge delivery to me on the twenty-eighth day of September, 1994, the Report of the Supreme Court pertaining to the Iowa Rules of Probate Procedure.

/s/ Al Sturgeon
Chair of the Senate Judiciary Committee

EXHIBIT "A"

Rule 4. Report of referee. A report of a referee in probate shall be in substantially the following form:

IN THE IOWA DISTRICT COURT FOR _____ COUNTY

IN THE MATTER OF THE	)	
	)	REPORT OF REFEREE
ESTATE OF	)	
_____,	)	Probate No. _____
Deceased.	)	

* * * * * * * * *

COMES NOW the duly appointed Referee and reports to the Court as follows:

The _____ Report has been filed in this Estate. The Referee has examined said Report and reports to the Court as follows: (All questions must be answered. If "yes" or "no" is not appropriate, check "N/A".)

1. Notice of Appointment published: YES___ NO___ N/A___

2. Affidavit of mailing notice required by Iowa Code sections 633.230 and 633.304: YES___ NO___ N/A___

~~2~~3. Fiduciaries fees ordered or waived and affidavit of compensation filed: YES___ NO___ N/A___

~~3~~4. Attorney fees ordered and affidavit of compensation filed: YES___ NO___ N/A___

(A) Itemization was requested and provided: YES___ NO___ N/A___

(B) If not, statement required by Iowa Code section 633.477(11) was made: YES___ NO___ N/A___

~~4~~5. Income tax acquittance filed: YES___ NO___ N/A___

~~5~~6. Inheritance tax clearance filed: YES___ NO___ N/A___

~~6~~7. A list of distributees is shown: YES___ NO___ N/A___

~~7~~8. A description of real estate is shown: YES___ NO___ N/A___

~~8~~9. Certificates of change of title to real estate, as required, to be issued by the Clerk of Court: YES___ NO___ N/A___

~~9~~10. All claims filed have been paid or released: YES___ NO___ N/A___

~~10~~11. Notice of hearing on this Report waived: YES___ NO___ N/A___

(A) If not waived, proper proof of service of notice is on file: YES___ NO___ N/A___

~~11~~12. Accounting is waived: YES___ NO___ N/A___

~~12~~13. Court costs have been paid: YES___ NO___ N/A___

~~13~~14. If estate is testate and spouse is not personal representative, spouse has filed an election to take under or against the Will: YES___ NO___ N/A___
WHICH_____

~~14~~15. Receipts for all specific bequests: YES___ NO___ N/A___

~~15~~16. Federal estate tax closing letter and proof of payment is on file (not required for closing): YES___ NO___ N/A___

~~16~~17. Remarks:_____
_____
_____

Dated this _____day of _____, 19___.

_____
Referee in Probate

CHAPTER 228

TRANSMISSION OF LIST OF ATTORNEYS WITH DELINQUENT INVENTORIES OR REPORTS

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF A CHANGE IN THE IOWA RULES OF PROBATE PROCEDURE	)))	REPORT OF THE SUPREME COURT

TO: MS. DIANE BOLENDER, SECRETARY OF THE LEGISLATIVE COUNCIL OF THE STATE OF IOWA.

Pursuant to Iowa Code sections 602.4201 and 602.4202, the Supreme Court of Iowa has prescribed and hereby reports on this date to the Secretary of the Legislative Council concerning amendments to Iowa Rule of Probate Procedure 5(c) as shown in the attached Exhibit "A."

Pursuant to Iowa Code section 602.4202(2), the changes to Rule 5(c) are to take effect April 3, 1995.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ Arthur A. McGiverin
ARTHUR A. McGIVERIN, Chief Justice

Des Moines, Iowa
January 17, 1995

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council, hereby acknowledge delivery to me on the seventeenth day of January, 1995, the Report of the Supreme Court pertaining to the Iowa Rules of Probate Procedure.

/s/ Diane E. Bolender
Secretary of the Legislative Council

EXHIBIT "A"

RULES OF PROBATE PROCEDURE

Rule 5. Reports of delinquent inventories or reports.

c. The court administrator of the judicial department shall utilize the reports in the discharge of the duties prescribed in Iowa Code section 602.1209, and, in addition, shall prepare a list of the attorneys for fiduciaries who have received and ignored a notice of delinquency. The court administrator shall transmit the list of attorneys, together with other relevant information, to the ~~committee on~~ Iowa Supreme Court Board of ~~p~~Professional ~~e~~Ethics and ~~c~~Conduct ~~of the Iowa State Bar Association~~ and to the client security and attorney disciplinary commission.

ANALYSIS OF TABLES

1995 REGULAR SESSION

CONVERSION TABLES OF SENATE AND HOUSE FILES AND JOINT RESOLUTIONS TO CHAPTERS OF THE ACTS OF THE GENERAL ASSEMBLY

1995 REGULAR SESSION

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197	100
201	152
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205	111
206	70
207	101
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215	97
223	151
225	103
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234	46
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290	118
292	98
293	126
298	56
311	95
315	120
320	148
333	47
341	113
346	72
347	73
351	114
352	53
358	143
366	168
367	180
371	86
373	127
375	34
377	106
385	74
386	75
390	173
394	160
398	128
400	188
402	60
403	169
406	96
407	99
409	91
422	124
423	139
427	145
428	88
431	115
432	144
433	116
436	93
437	102
438	92
439	89
440	63
443	90
446	48
457	129
458	57
459	207
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