State of Iowa

1997

ACTS AND JOINT RESOLUTIONS
(Session Laws)

Enacted at the

1997 REGULAR SESSION

of the

Seventy-Seventh General Assembly

of the

State of Iowa

HELD AT DES MOINES, THE CAPITAL OF THE STATE
IN THE ONE HUNDRED FIFTY-FIRST YEAR OF THE STATE

REGULAR SESSION BEGUN ON THE THIRTEENTH DAY OF JANUARY
AND ENDED ON THE TWENTY-NINTH DAY OF APRIL, A.D. 1997

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 1997 Regular Session of the Seventy-seventh 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 1997 IOWA CODE SUPPLEMENT IS PUBLISHED. Changes will be shown in the Tables of Disposition of Acts in the 1997 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, 1997, 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.

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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	Marion
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
Tami Kusian, Acting Deputy, Performance Audit Division	Polk
Andrew E. Nielsen, Deputy, Financial Audit Division	Polk

TREASURER OF STATE

MICHAEL L. FITZGERALD	Polk
Steven F. Miller, Deputy Treasurer	Polk
Stefanie G. Devin, Assistant Deputy Treasurer	Polk
Bret Mills, Assistant Deputy Treasurer	Polk
Karl Koch, Chief Finance Officer	Polk

SECRETARY OF AGRICULTURE

DALE M. COCHRAN	Webster
Shirley Danskin-White, Administrative Assistant	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
Steve Ferguson, Agricultural Development Authority Director	Polk

ATTORNEY GENERAL

THOMAS J. MILLER	Polk
Charles J. Krogmeier, Deputy Attorney General	Story
Gordon Allen, Deputy Attorney General	Polk
Julie Pottorff, Deputy Attorney General	Polk
Douglas Marek, Deputy Attorney General	Story
Elizabeth Osenbaugh, Solicitor General	Polk

GENERAL ASSEMBLY

"X" means First Extraordinary Session; "XX" means Second Extraordinary Session
Italicized county in District column denotes home county

SENATORS

Name and Residence	Occupation	Senatorial District	Former Legislative Service
Angelo, Jeff ..... Creston	Broadcaster	44th—Adams, Decatur, ... Page, Ringgold, Taylor, *Union*	None
Bartz, Merlin E. ..... Grafton	Farmer/Laborer	10th—Cerro Gordo, ... Mitchell, *Worth*	74, 74X, 74XX, 75, 76
Behn, Jerry ..... Boone	Farmer	40th—*Boone*, Carroll, ... Greene	None
Black, Dennis H. ..... Grinnell	Conservationist	29th—*Jasper*, Mahaska, ... Marshall, Poweshiek	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76
Black, James E. ..... Algona	Farmer/Business	8th—Hancock, Humboldt, *Kossuth*, Winnebago, Wright	None
Boettger, Nancy ..... Harlan	Director of Education ..... and Resource Development, Myrtue Memorial Hospital/Farmer	41st—Audubon, Harrison, Pottawattamie, *Shelby*	76
Borlaug, Allen ..... Protivin	Farm Owner/ ..... Licensed Insurance Agent	15th—*Chickasaw*, ... Floyd, Howard, Mitchell, Winneshiek	74, 74X, 74XX, 75, 76
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, 76
Dearden, Dick L. ..... Des Moines	Job Developer, 5th ..... Judicial District	35th—*Polk*	76
Deluhery, Patrick J. ..... Davenport	College Teacher	22nd—*Scott*	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76
Douglas, JoAnn ..... Adair	Farmer/Former ..... Teacher	39th—*Adair*, Dallas, ... Guthrie, Madison	76
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, 76
Dvorsky, Robert E. ..... Coralville	Job Developer, 6th ..... Judicial District, Department of Correctional Services	25th—*Johnson*, Linn	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76
Fink, William (Bill) ..... Carlisle	Teacher	45th—Marion, *Warren*	75, 76
Flynn, Tom ..... Epworth	Business Owner	17th—Delaware, ... *Dubuque*, Jackson	76
Fraise, Eugene (Gene) ..... Fort Madison	Farming	50th—Des Moines, *Lee*	71(2nd), 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76

Name and Residence	Occupation	Senatorial District	Former Legislative Service
Freeman, Mary Lou ..... Storm Lake	.....	5th—*Buena Vista*, ... Cherokee, Clay, O'Brien, Plymouth, Pocahontas	75(2nd), 76
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, 76
Gronstal, Michael E. ..... Council Bluffs	.....	42nd—*Pottawattamie*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76
Halvorson, Rod ..... Fort Dodge	Property Management	7th—Boone, Calhoun, ... Hamilton, *Webster*	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76
Hammond, Johnie ..... Ames	Legislator	31st—*Story*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76
Hansen, Steven D. ..... Sioux City	Consultant	1st—*Woodbury*	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76
*Harper, Patricia M. ..... Waterloo	Retired Educator	13th—*Black Hawk*	72, 72X, 72XX, 73, 75, 76
Hedge, H. Kay ..... Fremont	Grain and Livestock ..... Farmer	48th—Keokuk, ... *Mahaska*, Marion, Wapello, Washington	73, 74, 74X, 74XX, 75, 76
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, 76
Iverson, Stewart E., Jr. ..... Dows	Farmer	9th—Franklin, Hamilton, ... Hardin, *Wright*	73(2nd), 74, 74X, 74XX, 75, 76
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, 76
Judge, Patty ..... Albia	Farmer/Mediator	46th—Appanoose, Clarke, .. Davis, Lucas, *Monroe*, Van Buren, Wayne	75, 76
Kibbie, John P. ..... Emmetsburg	Farmer	4th—Clay, Dickinson, ... Emmet, Kossuth, *Palo Alto*	59, 60, 60X, 61, 62, 73, 74, 74X, 74XX, 75, 76
King, Steve ..... Kiron	Earthmoving Contractor	6th—Crawford, Ida, ... Monona, *Sac*, Woodbury	None
Kramer, Mary E. ..... West Des Moines	Insurance Executive	37th—*Polk*	74, 74X, 74XX, 75, 76
**Lind, Jim ..... Waterloo	Service Station ..... Owner/Operator	13th—*Black Hawk*	71(2nd), 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76
Lundby, Mary A. ..... Marion	.....	26th—*Linn*	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76
Maddox, O. Gene ..... Clive	Lawyer	38th—Dallas, *Polk*	75, 76
McCoy, Matt ..... Des Moines	Driver Development ..... Manager	34th—*Polk*	75, 76

* Elected in Special Election April 8, 1997
** Resigned March 21, 1997

Name and Residence	Occupation	Senatorial District	Former Legislative Service
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, 76
McKibben, Larry ..... Marshalltown	Lawyer	32nd—*Marshall*, Story	None
McLaren, Derryl ..... Farragut	Farmer	43rd—Cass, *Fremont*, ... Mills, Montgomery, Pottawattamie	74, 74X, 74XX, 75, 76
Neuhauser, Mary ..... Iowa City	Attorney (Currently ..... not practicing)	23rd—*Johnson*	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76
Palmer, William D. ..... Ankeny	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, 76
Redfern, Donald B. ..... Cedar Falls	Attorney	12th—*Black Hawk*	75(2nd), 76
Redwine, John ..... Sioux City	Physician	2nd—*Plymouth*, ... Woodbury	None
Rehberg, Kitty ..... Rowley	Farmer	14th—Black Hawk, ... *Buchanan*, Delaware, Fayette	None
Rensink, Wilmer ..... Sioux Center	Farmer	3rd—Lyon, O'Brien, ... Osceola, *Sioux*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76
Rife, Jack ..... Durant	Farmer	20th—*Cedar*, Clinton, ... Jones, Scott	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76
Rittmer, Sheldon ..... De Witt	Farmer	19th—*Clinton*, Scott	74, 74X, 74XX, 75, 76
Schuerer, Neal ..... Amana	Restaurateur	30th—Benton, ... Black Hawk, *Iowa*, Tama	None
Szymoniak, Elaine ..... Des Moines	Retired	36th—*Polk*	73, 74, 74X, 74XX, 75, 76
Tinsman, Maggie ..... Davenport	Agribusiness/ ..... Social Worker	21st—*Scott*	73, 74, 74X, 74XX, 75, 76
Vilsack, Tom ..... Mount Pleasant	Lawyer	49th—Des Moines, *Henry*, Lee, Washington	75, 76
Zieman, Lyle E. ..... Postville	Retired Farmer/ ..... Businessman	16th—*Allamakee*, Clayton, Fayette, Winneshiek	75, 76

REPRESENTATIVES

Name and Residence	Occupation	Representative District	Former Legislative Service
Arnold, Richard ..... Russell	Farmer	91st—Appanoose, Clarke, .. *Lucas*, Wayne	76
Barry, Donna M. ..... Dunlap	Farmer/Property ..... Manager	82nd—*Harrison*	76
Bell, Paul A. ..... Newton	Police Lieutenant	57th—*Jasper*	75, 76
Bernau, Wm. (Bill) ..... Ames	Legislator/Consultant	62nd—*Story*	74, 74X, 74XX, 75, 76
Blodgett, Gary ..... Clear Lake	Retired Orthodontist	19th—*Cerro Gordo*	75, 76
Boddicker, Dan ..... Tipton	Electronics Engineer	39th—*Cedar*, Clinton, ... Jones	75, 76
Boggess, Effie Lee ..... Villisca	.....	87th—Adams, Page, *Taylor*	76
Bradley, Clyde ..... Camanche	Retired U.S. Navy, ... Department of Defense	37th—*Clinton*, Scott	76
Brand, William J. ..... Chelsea	Human Services ..... Professional	60th—Benton, Black Hawk, *Tama*	73, 74, 74X, 74XX, 75, 76
Brauns, Barry D. ..... Conesville	Fair Manager	47th—Johnson, Louisa, ... *Muscatine*	75, 76
Brunkhorst, Bob ..... Waverly	Programmer Analyst	22nd—Black Hawk, ... *Bremer*	75, 76
Bukta, Polly ..... Clinton	Teacher	38th—*Clinton*	None
Burnett, Cecelia ..... Ames	Environmental ..... Education Coordinator	61st—*Story*	76
Carroll, Danny C. ..... Grinnell	Realtor/Farmer	58th—Jasper, Mahaska, ... Marshall, *Poweshiek*	76
Cataldo, Michael J. ..... Des Moines	Vice President, Iowa ..... EPS Products	68th—*Polk*	75, 76
Chapman, Kathleen H. .... Cedar Rapids	Lawyer	53rd—*Linn*	70, 71, 72, 72X, 72XX, 73, 74
Chiodo, Frank J. ..... Des Moines	Small Business Manager	67th—*Polk*	None
Churchill, Steven W. ..... Johnston	Fund Raising ..... Consultant	76th—Dallas, *Polk*	75, 76
Cohoon, Dennis M. ..... Burlington	Teacher	100th—*Des Moines*	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76
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, 76
Corbett, Ron J. ..... Cedar Rapids	Special Project Manager	52nd—*Linn*	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76
Cormack, Michael ..... Fort Dodge	Substitute Teacher	13th—*Webster*	76

Name and Residence	Occupation	Representative District	Former Legislative Service
Dinkla, Dwight ..... Guthrie Center	Attorney	78th—Adair, *Guthrie*, ... Madison	75, 76
Dix, Bill ..... Shell Rock	Farmer	21st—*Butler*, Grundy	None
Doderer, Minnette ..... Iowa City	Legislator	45th—*Johnson*	60X, 61, 62, 63, 64, 65, 66, 67, 67X, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76
Dolecheck, Cecil ..... Kellerton	Farmer	88th—Decatur, *Ringgold*, ... Taylor, Union	None
Dotzler, William A., Jr.... Waterloo	Machine Operator/ ..... Labor Representative	26th—*Black Hawk*	None
Drake, Jack ..... Lewis	Farmer	81st—Audubon, ... *Pottawattamie*, Shelby	75, 76
Drees, James ..... Manning	Retired	80th—*Carroll*, Greene	76
Eddie, Russell J. ..... Storm Lake	Retired Farmer	10th—*Buena Vista*, Clay, ... Pocahontas	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76
Falck, Steven L. ..... Stanley	Real Estate Appraiser	28th—Buchanan, *Fayette*...	None
Fallon, Ed ..... Des Moines	Legislator	70th—*Polk*	75, 76
Foege, Romaine H. ..... Mount Vernon	Social Worker	50th—Johnson, *Linn*	None
Ford, Wayne W. ..... Des Moines	Executive Director ..... Human Services	71st—*Polk*	None
Frevert, Marcella R. ..... Emmetsburg	Educator	8th—Clay, Kossuth, ... *Palo Alto*	None
Garman, Teresa ..... Ames	Farmer/Licensed Realtor	63rd—Marshall, *Story*	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76
Gipp, Chuck ..... Decorah	Dairy Farmer	31st—Allamakee, ... *Winneshiek*	74, 74X, 74XX, 75, 76
Greig, John M. ..... Estherville	Farmer	7th—Dickinson, *Emmet*, ... Palo Alto	75, 76
Greiner, Sandra H. ..... Keota	Farmer	96th—Keokuk, Mahaska, ... Wapello, *Washington*	75, 76
Gries, Don ..... Charter Oak	Retired School ..... Administrator	12th—*Crawford*, Monona, Woodbury	75, 76
Grundberg, Betty ..... Des Moines	Renovation and Property .... Management	73rd—*Polk*	75, 76
Hahn, James F. ..... Muscatine	Real Estate/Property ..... Management	48th—*Muscatine*, Scott	74, 74X, 74XX, 75, 76
Hansen, Brad ..... Council Bluffs	Health Administrator	83rd—*Pottawattamie*	None
Heaton, David E. ..... Mount Pleasant	Restaurant Owner	97th—Des Moines, *Henry*, Washington	76
Holmes, Danny J. ..... Walcott	Accountant	40th—*Scott*	None

Name and Residence	Occupation	Representative District	Former Legislative Service
Holveck, Jack K., Jr. ..... Des Moines	Attorney	72nd—*Polk*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76
Houser, Hubert M. ..... Carson	Farmer	85th—Fremont, Mills, ... *Pottawattamie*	75, 76
Huseman, Daniel A. ..... Aurelia	Farmer	9th—Buena Vista, ... *Cherokee*, O'Brien, Plymouth	76
Huser, Geri ..... Altoona	Social Worker	66th—*Polk*	None
Jacobs, Elizabeth ..... West Des Moines	Assistant Director, ... Corporate Relations, Principal Financial Group	74th—*Polk*	76
Jenkins, G. Willard ..... Waterloo	Engineer	24th—*Black Hawk*	None
Jochum, Pam ..... Dubuque	Loras College	35th—*Dubuque*	75, 76
Kinzer, Ron ..... Davenport	Retired Journeyman ..... Iron Worker	44th—*Scott*	None
Klemme, Ralph ..... Le Mars	Farmer	4th—*Plymouth*, Woodbury ..	75, 76
Koenigs, Deo A. ..... St. Ansgar	Farmer	29th—Floyd, *Mitchell*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76
Kreiman, Keith A. ..... Bloomfield	Attorney	92nd—Appanoose, *Davis*, ... Monroe, Van Buren	75, 76
Kremer, Joseph M. ..... Jesup	Retired Farmer	27th—Black Hawk, ... *Buchanan*, Delaware	71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 76
Lamberti, Jeffrey M. ..... Ankeny	Attorney	65th—*Polk*	76
Larkin, Richard L. ..... Fort Madison	Correctional Counselor	99th—Des Moines, *Lee*	75, 76
Larson, Charles W., Jr. ... Cedar Rapids	.....	55th—*Linn*	75, 76
Lord, David G. ..... Perry	Self-Employed	77th—*Dallas*, Madison	76
Martin, Mona ..... Davenport	Partner, The Robert ..... Martin Co.	43rd—*Scott*	75, 76
Mascher, Mary ..... Iowa City	Teacher	46th—*Johnson*	76
May, Dennis ..... Kensett	Farmer	20th—Cerro Gordo, ... Mitchell, *Worth*	72, 72X, 72XX, 73, 75, 76
Mertz, Dolores M. ..... Ottosen	Self-Employer, ... Farmer/Legislator	15th—Humboldt, *Kossuth* ...	73, 74, 74X, 74XX, 75, 76
Metcalf, Janet ..... Des Moines	Legislator	75th—*Polk*	71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76
Meyer, Jim ..... Odebolt	Farmer/Agribusinessman	11th—Ida, *Sac*, Woodbury ..	75, 76

Name and Residence	Occupation	Representative District	Former Legislative Service
Millage, David A. ..... Bettendorf	Attorney	41st—*Scott*	74, 74X, 74XX, 75, 76
Moreland, Michael J. ..... Ottumwa	Attorney	93rd—*Wapello*	75, 76
Mundie, Norman ..... Fort Dodge	Retired Farmer	14th—Boone, Calhoun, ... Hamilton, *Webster*	75, 76
Murphy, Patrick J. ..... Dubuque	Self-Employed	36th—*Dubuque*	73(2nd), 74, 74X, 74XX, 75, 76
Myers, Richard E. ..... Iowa City	Business Owner	49th—*Johnson*	75(2nd), 76
Nelson, Beverly J. ..... Marshalltown	Executive Vice President, .. Iowa Valley Community College District	64th—*Marshall*	76
O'Brien, Michael J. ..... Boone	Teacher	79th—*Boone*, Greene	75, 76
Osterhaus, Robert J. ..... Maquoketa	Pharmacist	34th—Dubuque, *Jackson*	76(2nd)
Rants, Christopher ..... Sioux City	Metz Baking Co., ... Environmental Projects	3rd—*Woodbury*	75, 76
Rayhons, Henry ..... Garner	Farmer	16th—*Hancock*, ... Winnebago, Wright	None
Reynolds-Knight, Rebecca Bonaparte	Nurse/Political Activist	94th—Jefferson, ... *Van Buren*, Wapello	None
Richardson, Steve ..... Indianola	Teacher	89th—*Warren*	None
Scherrman, Paul ..... Farley	Vice President, ... J. P. Scherrman, Inc.	33rd—Delaware, *Dubuque*	None
Schrader, David F. ..... Monroe	Small Business Owner/ ..... Operator, Legislator	90th—*Marion*, Warren	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76
Shoultz, Don ..... Waterloo	Job Training Consultant	25th—*Black Hawk*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76
Siegrist, Brent ..... Council Bluffs	Educator	84th—*Pottawattamie*	71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76
Sukup, Steven E. ..... Dougherty	.....	18th—*Franklin*, Hardin	76
Taylor, Todd ..... Cedar Rapids	Staff Representative, ... AFSCME	54th—*Linn*	76(2nd)
Teig, Russell W. ..... Jewell	Farmer	17th—Franklin, *Hamilton*, Hardin, Wright	76
Thomas, Roger ..... Elkader	Farmer/School District ..... Employee	32nd—Allamakee, ... *Clayton*, Fayette	None
Thomson, Rosemary R. .... Marion	.....	51st—*Linn*	76
Tyrrell, Phil ..... North English	Independent Insurance ..... Agent	59th—Benton, *Iowa*	68, 69, 69X, 69XX, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76

Name and Residence	Occupation	Representative District	Former Legislative Service
Vande Hoef, Richard ..... Harris	Retired Farmer	6th—Lyon, O'Brien, ... *Osceola*, Sioux	69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76
Van Fossen, James ..... Davenport	Service Representative, ... Gas & Electric Utility	42nd—*Scott*	76
Van Maanen, Harold ..... Pella	Retired Farmer	95th—Mahaska, *Marion*	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76
Veenstra, Kenneth ..... Orange City	Insurance Agent	5th—*Sioux*	76
Warnstadt, Steve ..... Sioux City	Consultant	2nd—*Woodbury*	76
Weidman, Dick ..... Griswold	Funeral Home Employee	86th—*Cass*, Montgomery, Pottawattamie	74, 74X, 74XX, 75, 76
Weigel, Keith ..... New Hampton	Certified Financial ..... Planner	30th—*Chickasaw*, Howard, Winneshiek	75, 76
Welter, Jerry J. ..... Monticello	Farmer	56th—*Jones*, Linn	75, 76
Whitead, Wesley E. ..... Sioux City	Heavy Equipment Repair	1st—*Woodbury*	None
Wise, Philip ..... Keokuk	Teacher	98th—Henry, *Lee*	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76
Witt, William G. ..... Cedar Falls	Photojournalist	23rd—*Black Hawk*	75, 76

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, 2004
Jerry L. Larson	Harlan	December 31, 2004
James H. Carter	Cedar Rapids	December 31, 2000
Louis A. Lavorato	Des Moines	December 31, 2004
Linda K. Neuman	Davenport	December 31, 2004
Bruce M. Snell Jr.	Ida Grove	December 31, 2004
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)

Rosemary Shaw Sackett	Spencer	December 31, 2002
Albert L. Habhab, C.J.	Fort Dodge	December 31, 2002
Mark S. Cady	Fort Dodge	December 31, 2002
Terry L. Huitink	Ireton	December 31, 2002
Michael J. Streit	Chariton	December 31, 1998
Gayle Nelson Vogel	Knoxville	December 31, 1998

CONGRESSIONAL DELEGATION AND DISTRICT OFFICES

UNITED STATES SENATORS

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(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) 582-2130

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
(319) 322-4331

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

UNITED STATES REPRESENTATIVES

First District

Congressman James A. Leach (R)
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(202) 225-6576

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

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

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

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Internet Address
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Waterloo, Iowa 50702
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2255 John F. Kennedy Road
Dubuque, Iowa 52002
(319) 557-7740

23 Third Street, NW
Mason City, Iowa 50401
(515) 423-0303

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Toll-Free: (888) 432-1984

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Federal Building
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Fax (515) 280-1412

40 Pearl Street
Council Bluffs, Iowa 51503
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UNITED STATES REPRESENTATIVES — Continued

Fifth District

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516 Cannon House Office Bldg.
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(202) 225-5476
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123 Albany Avenue, SE, Suite 1
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Sioux City, Iowa 51101
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1411 First Avenue South, Suite A
Fort Dodge, Iowa 50501
(515) 573-2738
Fax (515) 576-7141

20 West 6th Street
Spencer, Iowa 51301
(712) 262-6480
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CONDITION OF STATE TREASURY

June 30, 1996

	Balance July 1, 1995	Total Receipts and Transfers	Total Available	Total Disbursements and Transfers	Balance June 30, 1996
General Fund	$ 287,852,798	$ 6,324,093,578	$ 6,611,946,376	$ 6,098,037,301	$ 513,909,075
Special Revenue Fund	337,582,657	1,799,864,171	2,137,446,828	1,726,271,903	411,174,925
Capitol Projects Fund	3,341,937	81,795,368	85,137,305	38,966,450	46,170,855
Debt Service Fund	10,333,462	1,852,543	12,186,005	1,445,103	10,740,902
Enterprise Fund	50,065,389	282,538,496	332,603,885	273,611,545	58,992,340
Internal Service Fund	105,519,547	309,587,764	415,107,311	329,216,894	85,890,417
Expendable Trust Fund	38,176,356	211,052,716	249,229,072	214,390,281	34,838,791
Nonexpendable Trust Fund	10,399,687	185,397	10,585,084	20,000	10,565,084
Pension Fund	7,332,439,438	1,356,068,504	8,688,507,942	354,704,364	8,333,803,578
Trust and Agency Fund	98,294,644	2,567,395,660	2,665,690,304	2,546,696,807	118,993,497
Totals	$8,274,005,915	$12,934,434,197	$21,208,440,112	$11,583,360,648	$9,625,079,464

Balance July 1, 1995	$ 8,274,005,915
Receipts and Transfers	12,934,434,197
Total Available	21,208,440,112
Disbursements and Transfers	11,583,360,648
Balance June 30, 1996	$ 9,625,079,464

DEPARTMENT OF REVENUE AND FINANCE

March 25, 1997

ANALYSIS BY CHAPTERS

1997 REGULAR SESSION

For Conversion Tables of Senate and House Files and Joint Resolutions to chapters of the 1997 Acts, see page 770

1997 Regular Session

of the

Seventy-Seventh General Assembly

of the

State of Iowa

CHAPTER 1

INHERITANCE TAX

S.F. 35

AN ACT eliminating the inheritance tax on property passing to parents, grandparents, great-grandparents, and other lineal ascendants, children including legally adopted children and biological children entitled to inherit under the laws of this state, stepchildren, and grandchildren, great-grandchildren, and other lineal descendants of the decedent and providing an applicability date provision.

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

Section 1. Section 450.7, subsection 1, unnumbered paragraph 1, Code 1997, is amended to read as follows:

Except for the share of the estate passing to the surviving spouse, and parents, grandparents, great-grandparents, and other lineal ascendants, children including legally adopted children and biological children entitled to inherit under the laws of this state, stepchildren, and grandchildren, great-grandchildren, and other lineal descendants, 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 limitation:

Sec. 2. Section 450.9, Code 1997, is amended by striking the section and inserting in lieu thereof the following:

450.9 INDIVIDUAL EXEMPTIONS.

In computing the tax on the net estate, the entire amount of property, interest in property, and income passing to the surviving spouse, and parents, grandparents, great-grandparents, and other lineal ascendants, children including legally adopted children and biological children entitled to inherit under the laws of this state, stepchildren, and grandchildren, great-grandchildren, and other lineal descendants are exempt from tax.

Sec. 3. Section 450.10, subsection 1, Code 1997, is amended by striking the subsection.

Sec. 4. Section 450.10, subsection 2, unnumbered paragraph 1, Code 1997, is amended to read as follows:

When the property or any interest ~~therein~~ in property, or income ~~therefrom~~ from property taxable under the provisions of this chapter passes to the brother or sister, son-in-law, or daughter-in-law, ~~or step-children,~~ the rate of tax imposed on the individual share so passing shall be as follows:

Sec. 5. Section 450.10, subsection 3, unnumbered paragraph 1, Code 1997, is amended to read as follows:

When the property or interest in property or income from property, taxable under this chapter, passes to a person not included in subsections ~~1,~~ 2, ~~and~~ 7, the rate of tax imposed on the individual share so passing shall be as follows:

Sec. 6. Section 450.10, subsection 6, Code 1997, is amended to read as follows:

6. When the property or any interest ~~therein~~ in property, or income ~~therefrom~~ from property, taxable under ~~the provisions of~~ this chapter passes to any person included under subsection ~~1 or~~ 2 ~~hereof~~, there shall be credited to the tax imposed on the individual share so passing an amount equal to the tax imposed in this state on the decedent on any property, real, personal or mixed, or the proportionate share thereof on property passing to the person taxed hereunder, which can be identified as having been received by the decedent as a share in the estate of any person who died within two years prior to the death of the decedent, or which can be identified as having been acquired by the decedent in exchange for property so received. The credit shall not be applicable to taxes on property of the decedent which was not acquired from the prior estate.

Sec. 7. Section 450.10, subsection 7, Code 1997, is amended to read as follows:

7. Property, interest in property, or income passing to the surviving spouse, and parents, grandparents, great-grandparents, and other lineal ascendants, children including legally adopted children and biological children entitled to inherit under the laws of this state, stepchildren, and grandchildren, great-grandchildren, and other lineal descendants, is not taxable under this section.

Sec. 8. This Act applies to estates of decedents dying on or after July 1, 1997.

Approved February 10, 1997

CHAPTER 2

EX-PRISONER OF WAR MOTOR VEHICLE PLATES

S.F. 5

AN ACT relating to the registration fee for ex-prisoner of war motor vehicle plates 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 321.34, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 8A. EX-PRISONER OF WAR SPECIAL PLATES. The owner of a motor vehicle subject to registration under section 321.109, subsection 1, light delivery truck, panel delivery truck, or pickup who was a prisoner of war during the Second World War at any time between December 7, 1941, and December 31, 1946, the Korean Conflict at any time between June 25, 1950, and January 31, 1955, or the Vietnam Conflict at any time between August 5, 1964, and June 30, 1973, all dates inclusive, may, upon written application to the department, order only one set of special registration plates with an ex-prisoner of war processed emblem. The emblem shall be designed by the department in cooperation with the adjutant general and shall signify that the owner was a prisoner of war as described in this subsection. The application is subject to approval by the department, in

consultation with the adjutant general. The special plates shall be issued at no charge and are subject to an annual fee registration of fifteen dollars. The county treasurer shall validate the special plates in the same manner as regular registration plates are validated under this section.

The surviving spouse of a person who was issued special plates under this subsection may continue to use the special plates subject to registration of the special plates in the surviving spouse's name and upon payment of the annual registration fee. If the surviving spouse remarries, the surviving spouse shall return the special plates to the department and the department shall issue regular registration plates to the surviving spouse.

Sec. 2. Section 321.34, subsection 15, Code 1997, is amended by striking the subsection.

Sec. 3. A person eligible to be issued ex-prisoner of war special plates who ordered and paid for the special plates on or after January 1, 1997, but prior to the effective date of this Act shall be entitled to a refund from the state department of transportation of all fees in excess of fifteen dollars paid for issuance of one set of the special plates. A person eligible for a refund under this section shall submit a claim for a refund to the state department of transportation on a form for that purpose obtained from the county treasurer. Notwithstanding any provision of the Code to the contrary, refunds shall be paid by the department from registration fees deposited in the road use tax fund under section 321.145.

A person who obtained more than one set of special plates under section 321.34, subsection 15, shall surrender the additional sets of special plates not later than the end of the registration year for which the plates were issued. A refund shall not be issued for additional sets of special plates.

Sec. 4. EFFECTIVE AND APPLICABILITY DATE. This Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to January 1, 1997.

Approved February 18, 1997

CHAPTER 3

MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES SERVICES FUND — LEVY REVISION PROCEDURES

S.F. 145

AN ACT relating to the county mental health, mental retardation, and developmental disabilities services fund levy by providing a procedure for a county to make revisions affecting the services fund levy and other levies, and providing an effective date.

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

Section 1. MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES SERVICES FUND LEVY REVISIONS.

1. For the purposes of this section, "base year expenditures" and "qualified mental health, mental retardation, and developmental disabilities services" mean the same as provided in section 331.438, and "services fund" means the same as provided in section 331.424A.

2. A county may request approval of the county finance committee in accordance with this section for revision of the county's base year expenditures amount. A county is eligible for a revision if the county made a major error in establishing the county's base year expenditures amount by underreporting the county's qualified mental health, mental retardation,

and developmental disabilities services expenditures to the county finance committee and the underreported expenditures amount was also included in the county's final budget certified for the fiscal year beginning July 1, 1995. For the purposes of this section, a major error is a failure to include qualified mental health, mental retardation, and developmental disabilities services expenditures associated with the operation of a county care facility, group home, or similar program.

3. A county's revision request shall be submitted to the county finance committee which may approve or reject the request in whole or in part, based upon the committee's determination as to the extent to which an underreporting error occurred. The revision request must be submitted within ten days of the effective date of this Act, and a decision by the county finance committee to approve or reject the revised amount must be issued within twenty days of the effective date of this Act. The decision of the county finance committee is final.

4. If the county's request for revision of the county's base year expenditures amount is approved under subsection 3, the county board may by resolution provide for transfer of moneys from the county's general fund to the county's services fund for the fiscal year beginning July 1, 1996. The amount of the transfer shall not exceed the net revision amount of the request approved under subsection 3.

5. For the fiscal year beginning July 1, 1997, for a county for which a revision is approved under this section, to the extent the county uses the revision to increase the maximum levy authorized for the services fund of the county in excess of the services fund levy certified in the county's final budget for the fiscal year beginning July 1, 1996, the amount of increase shall be offset by an equivalent decrease in the levy amount certified by the county for general county services.

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

Approved March 6, 1997

CHAPTER 4

DRINKING WATER FACILITIES FINANCING

H.F. 191

AN ACT relating to the establishment of the drinking water facilities financing program, the drinking water treatment revolving loan fund, the drinking water facilities administration fund, and providing an effective date.

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

Section 1. Section 16.131, Code 1997, is amended to read as follows:

16.131 IOWA SEWAGE TREATMENT ~~WORKS~~ AND DRINKING WATER FACILITIES FINANCING PROGRAM — DEFINITIONS — FUNDING — BONDS AND NOTES.

1. The authority shall cooperate with the department of natural resources in the creation, administration, and financing of the Iowa sewage treatment ~~works~~ and drinking water facilities financing program established in sections 455B.291 through 455B.299.

2. Terms used in this part have the meanings given them in sections 455B.101 and 455B.291 unless the context requires otherwise.

3. The authority may issue its bonds and notes for the purpose of funding the revolving loan ~~fund~~ funds created under section 455B.295 and defraying the costs of payment of the

twenty percent state matching funds required for federal funds received for projects.

4. The authority may issue its bonds and notes for the purposes established and may enter into one or more lending agreements or purchase agreements with one or more bondholders or noteholders containing the terms and conditions of the repayment of and the security for the bonds or notes. The authority and the bondholders or noteholders or a trustee agent designated by the authority may enter into agreements to provide for any of the following:

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

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

c. That the bondholders or noteholders may enforce the remedies provided in the loan agreements or other instruments on their own behalf without the appointment or designation of a trustee. If there is a default in the principal of or interest on the bonds or notes or in the performance of any agreement contained in the loan agreements or other instruments, the payment or performance may be enforced in accordance with the loan agreement or other instrument.

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

5. The powers granted the authority under this section are in addition to other powers contained in this chapter. All other provisions of this chapter, except section 16.28, subsection 4, apply to bonds or notes issued and powers granted to the authority under this section except to the extent they are inconsistent with this section.

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

Sec. 2. Section 16.132, subsection 1, paragraphs c and d, Code 1997, are amended to read as follows:

c. The amounts on deposit in the revolving loan ~~fund~~ funds.

d. The amounts payable to the department by municipalities or water systems pursuant to loan agreements with municipalities or water systems.

Sec. 3. Section 16.132, subsection 5, Code 1997, is amended to read as follows:

5. The bonds or notes issued by the authority are not an indebtedness or other liability of the state or of a political subdivision of the state within the meaning of any constitutional or statutory debt limitations but are special obligations of the authority, and are payable solely from the income and receipts or other funds or property of the department, and the amounts on deposit in the revolving loan ~~fund~~ funds, and the amounts payable to the department under its loan agreements with the municipalities and water systems to the extent that the amounts are designated in the resolution, trust agreement, or other instrument of the authority authorizing the issuance of the bonds or notes as being available as security for such bonds or notes. The authority shall not pledge the faith or credit of the state or of a political subdivision of the state to the payment of any bonds or notes. The issuance of any bonds or notes by the authority does not directly, indirectly, or contingently obligate the state or a political subdivision of the state to apply money from, or levy or pledge any form of taxation whatever to the payment of the bonds or notes.

Sec. 4. Section 16.132, subsection 6, Code 1997, is amended to read as follows:

6. The state pledges to and agrees with the holders of bonds or notes issued under the Iowa sewage treatment ~~works~~ and drinking water facilities financing program, that the state will not limit or alter the rights and powers vested in the authority to fulfill the terms of a contract made by the authority with respect to the bonds or notes, or in any way impair the

rights and remedies of the holders until the bonds or notes, together with the interest on them including interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state, as it refers to holders of bonds or notes of the authority, in a contract with the holders.

Sec. 5. Section 455B.177, subsection 2, Code 1997, is amended to read as follows:

2. The general assembly further finds and declares that because the federal Safe Drinking Water Act, ~~Pub. L. No. 93-523~~ 42 U.S.C. § 300f et seq., as amended by Pub. L. No. 104-182, provides for the implementation of ~~said~~ the Act by states which have adequate authority to do so, it is in the interest of the people of Iowa to implement the provisions of the federal Safe Drinking Water Act and federal regulations and guidelines issued pursuant ~~thereto~~ to the Act.

Sec. 6. Section 455B.183, subsection 1, Code 1997, is amended to read as follows:

1. The construction, installation, or modification of any disposal system or public water supply system or part thereof or any extension or addition thereto except those sewer extensions and water supply distribution system extensions that are subject to review and approval by a city or county public works department pursuant to this section and private sewage disposal systems. ~~A~~ Unless federal law or regulation requires the review and approval of plans and specifications, a permit shall be issued for the construction, installation, or modification of a public water supply system or part of a system if a qualified, registered engineer certifies to the department that the plans for the system or part of the system meet the requirements of state and federal law or regulations. The permit shall state that approval is based only upon the engineer's certification that the system's design meets the requirements of all applicable state and federal laws and regulations and the review of the department shall be advisory.

Sec. 7. Section 455B.291, Code 1997, is amended to read as follows:

455B.291 DEFINITIONS.

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

1. "Administrative funds" means the sewage treatment works administration fund and the drinking water facilities administration fund.

2. "Authority" means the Iowa finance authority established in section 16.2.

~~2~~ 3. "Clean Water Act" means the federal Water Pollution Control Act of 1972, Pub. L. No. 92-500, as amended by the Water Quality Act of 1987, Pub. L. No. 100-4, as published in 33 U.S.C. § 1251 – 1376.

~~3~~ 4. "Cost" means all costs, charges, expenses, or other indebtedness incurred by a municipality or water system and determined by the director as reasonable and necessary for carrying out all works and undertakings necessary or incidental to the accomplishment of any project.

5. "Drinking water facilities administration fund" means the drinking water facilities administration fund established in section 455B.295.

6. "Drinking water treatment revolving loan fund" means the drinking water treatment revolving loan fund established in section 455B.295.

~~4~~ 7. "Municipality" means 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 the governmental bodies or corporations acting jointly, in connection with a project.

~~5~~ 8. "Program" means the Iowa sewage treatment ~~works~~ and drinking water facilities financing program created pursuant to section 455B.294.

~~6~~ 9. "Project" means one of the following:

a. In the context of sewage treatment facilities, the acquisition, construction, reconstruction, extension, equipping, improvement, or rehabilitation of any works and facilities useful

for the collection, treatment, and disposal of sewage and industrial waste in a sanitary manner including treatment works as defined in section 212 of the Clean Water Act, or the implementation and development of management programs established under sections 319 and 320 of the Clean Water Act.

b. In the context of drinking water facilities, the acquisition, construction, reconstruction, extending, remodeling, improving, repairing, or equipping of waterworks, water mains, extensions, or treatment facilities useful for providing potable water to residents served by a water system, including the acquisition of real property needed for any of the foregoing purposes, and such other programs as may be authorized under the Safe Drinking Water Act.

10. "Revolving loan funds" means the sewage treatment works revolving loan fund and the drinking water treatment revolving loan fund.

11. "Safe Drinking Water Act" means Title XIV of the federal Public Health Service Act, commonly known as the "Safe Drinking Water Act", 42 U.S.C. § 300f et seq., as amended by the Safe Drinking Water Amendments of 1996, Pub. L. No. 104-182.

~~7~~ 12. "Sewage treatment works administration fund" ~~or "administration fund"~~ means the sewage treatment works administration fund established in section 455B.295.

~~8~~ 13. "Sewage treatment works revolving loan fund" ~~or "revolving loan fund"~~ means the sewage treatment works revolving loan fund established in section 455B.295.

14. "Water system" means any community water system or nonprofit noncommunity water system, each as defined in the Safe Drinking Water Act, that is eligible under the rules of the department to receive a loan under the program for the purposes of undertaking a project.

Sec. 8. Section 455B.292, Code 1997, is amended to read as follows:

455B.292 FINDINGS.

The general assembly finds that the proper construction, rehabilitation, operation, and maintenance of modern and efficient ~~sewer systems and~~ wastewater treatment works and drinking water facilities are essential to protecting and improving the state's water quality and the health of its citizens; that protecting and improving water quality is an issue of concern to the citizens of the state; that in addition to protecting and improving the state's water quality, adequate wastewater treatment works and drinking water facilities are essential to economic growth and development; that during the last several years the amount of federal grant money available to states and local governments for assistance in constructing and improving wastewater treatment works and safe drinking water facilities has sharply diminished and will likely continue to diminish; and that it is proper for the state to encourage local governments to undertake wastewater treatment and drinking water projects through the establishment of a state mechanism to provide loans at the lowest reasonable rates.

Sec. 9. Section 455B.293, Code 1997, is amended to read as follows:

455B.293 POLICY.

It is the policy of the general assembly that it is in the public interest to establish a sewage treatment ~~works~~ and drinking water facilities financing program and ~~a~~ revolving loan ~~fund~~ funds and administration ~~fund~~ funds to make loans available from the state to municipalities ~~to acquire, construct, reconstruct, extend, equip, and improve works and facilities useful for the collection, treatment, and disposal of sewage and industrial waste in a sanitary manner~~ and water systems for the purpose of undertaking projects. This section shall be broadly construed to effect and accomplish that purpose.

Sec. 10. Section 455B.294, Code 1997, is amended to read as follows:

455B.294 ESTABLISHMENT OF THE IOWA SEWAGE TREATMENT ~~WORKS~~ AND DRINKING WATER FACILITIES FINANCING PROGRAM.

The Iowa sewage treatment ~~works~~ and drinking water facilities financing program is

established for the purpose of making loans available to municipalities and water systems to finance all or part of the costs of projects. The program shall be a joint and cooperative undertaking of the department and the authority. The department and the authority may enter into and provide any agreements, documents, instruments, certificates, data, or information necessary in connection with the operation, administration, and financing of the program consistent with this part, the Safe Drinking Water Act, the Clean Water Act, the rules of the department and the commission, the rules of the authority, and state law. The authority and the department may act to conform the program to the applicable guidance and regulations adopted by the United States environmental protection agency.

Sec. 11. Section 455B.295, Code 1997, is amended to read as follows:

455B.295 FUNDS AND ACCOUNTS.

1. ~~Two~~ Four separate funds are established in the state treasury, to be known as the "sewage treatment works revolving loan fund", and the "sewage treatment works administration fund", the drinking water treatment revolving loan fund, and the drinking water facilities administration fund.

2. ~~The~~ Each of the revolving loan ~~fund~~ funds shall include sums appropriated to the revolving loan ~~fund~~ funds by the general assembly, sums transferred by action of the governor under section 455B.296, subsection 3, sums allocated to the state expressly for the purposes of establishing ~~a~~ each of the revolving loan ~~fund~~ funds under the Clean Water Act and the Safe Drinking Water Act, all receipts by the revolving loan ~~fund~~ funds, and any other sums designated for deposit to the revolving loan ~~fund~~ funds from any public or private source. All moneys appropriated to and deposited in the revolving ~~fund~~ loan funds are appropriated and shall be used for the sole purpose of making loans to the municipalities and water systems, as applicable, to finance all or part of the cost of projects. The moneys appropriated to and deposited in the sewage treatment works revolving loan fund shall not be used to pay the nonfederal share of the cost of projects receiving grants under the Clean Water Act. The moneys in the revolving loan ~~fund~~ funds are not considered ~~as a~~ part of the general fund of the state, are not subject to appropriation for any other purpose by the general assembly, and in determining a general fund balance shall not be included in the general fund of the state but shall remain in the revolving loan ~~fund~~ funds to be used for ~~its~~ their respective purposes. The revolving loan ~~fund is a~~ funds are separate dedicated ~~fund~~ funds under the administration and control of the authority and subject to section 16.31. Moneys on deposit in the revolving loan ~~fund~~ funds shall be invested by the treasurer of state in cooperation with the authority, and the income from the investments shall be credited to and deposited in the appropriate revolving loan ~~fund~~ funds.

3. The ~~sewage treatment works~~ administration ~~fund~~ funds shall include sums appropriated to the administration ~~fund~~ funds by the general assembly, sums allocated to the state for the express purposes of administering the ~~program~~ programs, policies, and undertakings authorized by the Clean Water Act and the Safe Drinking Water Act, and all receipts by the administration ~~fund~~ funds from any public or private source. All moneys appropriated to and deposited in the administration ~~fund~~ funds are appropriated for and shall be used and administered by the department to pay the costs and expenses associated with the program, including administration of the program, as may be determined by the department.

4. The department and the authority may establish and maintain other funds or accounts determined to be necessary to carry out the purposes of this part and shall provide for the funding, administration, investment, restrictions, and disposition of the funds and accounts. The department and the authority may combine the financial administration of the revolving loan funds and the administration of the revolving loan funds and the administration funds to the extent permitted by the Safe Drinking Water Act.

Sec. 12. Section 455B.296, Code 1997, is amended to read as follows:

455B.296 INTENDED USE PLANS — CAPITALIZATION GRANTS — ACCOUNTING.

1. Each fiscal year beginning July 1, 1988, the department may prepare and deliver

intended use plans and enter into capitalization grant agreements with the administrator of the United States environmental protection agency under the terms and conditions set forth in ~~Title VI of~~ the Clean Water Act and the Safe Drinking Water Act and federal regulations adopted pursuant to the ~~Act~~ Acts and may accept capitalization grants for each of the revolving loan ~~fund~~ funds in accordance with payment schedules established by the administrator. All payments from the administrator shall be deposited in the appropriate revolving loan ~~fund~~ funds.

2. The department and the authority shall establish fiscal controls and accounting procedures during appropriate accounting periods for payments and disbursements received and made by the revolving loan ~~fund~~ funds, the administration ~~fund~~ funds, and other funds established pursuant to section 455B.295, subsection 4, and to fund balances at the beginning and end of the accounting periods.

3. Upon receipt of the joint recommendation of the department and the authority with respect to the amounts to be so reserved and transferred, and subject in all respects to the applicable provisions of the Safe Drinking Water Act, the governor may direct that the recommended portion of a capitalization grant made in respect of one of the revolving loan funds in any year be reserved for the transfer to the other revolving loan fund. The authority and the department may effect the transfer of any funds reserved for such purpose, as directed by the governor, and shall cause the records of the program to reflect the transfer. Any sums so transferred shall be expended in accordance with the intended use plan for the applicable revolving loan fund.

Sec. 13. Section 455B.297, Code 1997, is amended to read as follows:

455B.297 LOANS TO MUNICIPALITIES AND WATER SYSTEMS.

Moneys deposited in the revolving loan ~~fund~~ funds shall be used for the ~~sole~~ primary purpose of making loans to municipalities and water systems to finance the cost of projects in accordance with the intended use plans developed by the department under section 455B.296. The municipalities and water systems to which loans are to be made, the purposes of the loan, the amount of each loan, the interest rate of the loan, and the repayment terms of the loan, shall be determined by the director, in accordance with rules adopted by the commission, in compliance with and subject to the terms and conditions of ~~Title VI of~~ the Clean Water Act and the Safe Drinking Water Act, as applicable, and any resolution, agreement, indenture, or other document of the authority, and rules adopted by the authority, relating to any bonds, notes, or other obligations issued for the program which may be applicable to the loan.

Sec. 14. Section 455B.298, Code 1997, is amended to read as follows:

455B.298 POWERS AND DUTIES OF THE DIRECTOR.

The director shall:

1. Process and review loan applications to determine if an application meets the eligibility requirements set by the rules of the department.

2. Approve loan applications of municipalities and water systems which satisfy the rules adopted by the commission, and the intended use ~~plan~~ plans developed by the department under section 455B.296.

3. Process and review all documents relating to projects and the extending of loans.

4. Prepare and process, in coordination with the authority, documents relating to the extending of loans to municipalities and water systems, the sale and issuance of bonds, notes, or other obligations of the authority relating to the program, and the administration of the program.

5. Include in the budget prepared pursuant to section 455A.4, subsection 1, paragraph "c", an annual budget for the administration of the program and the use and disposition of amounts on deposit in the administration ~~fund~~ funds.

6. Charge each municipality and water system receiving a loan from the appropriate revolving loan fund a loan origination fee and an annual loan servicing fee. The amount of

the loan origination fees and the loan servicing fees established shall be relative to the amount of a loan made from the revolving loan fund. The director shall deposit the receipts from the loan origination fees and the loan servicing fees in the appropriate administration fund.

7. Consult with and receive the approval of the authority concerning the terms and conditions of loan agreements with municipalities and water systems as to the financial integrity of the loan.

8. Perform other acts and assume other duties and responsibilities necessary for the operation of the program.

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

Approved March 7, 1997

CHAPTER 5

FUNDS HELD IN ACCOUNTS BY LIFE INSURANCE COMPANIES

S.F. 160

AN ACT relating to funds held by life insurance companies and providing an effective date.

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

Section 1. Section 508.32, Code 1997, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. As used in this section, life insurance policies and annuity contracts include accident and health insurance policies and contracts, and include undertakings, duties, and obligations incidental to or in furtherance of any such policies or contracts. As used in this section, proceeds include additions and contributions. Funds held by an insurance company as authorized by this section may be held in a separate account established pursuant to section 508A.1, except that section 508A.1, subsection 5, shall not be applicable to such account. However, funds held by an insurance company as authorized in this section shall not be chargeable with liabilities arising out of any other business the company may conduct.

NEW UNNUMBERED PARAGRAPH. An instrument or agreement issued or used by an insurance company as authorized by this section does not constitute a security as defined in section 502.102.

Sec. 2. NEW SECTION. 508.32A FUNDS HELD IN CUSTODIAL OR SIMILAR ACCOUNT.

A life insurance company organized under this chapter and doing business in this state may hold funds, including additions and contributions, as custodian in a custodial or similar account in conjunction with an accident and health insurance policy. Funds held by an insurance company as authorized by this section may be invested by such company in the manner specified in the account instrument or agreement, and may be held in a separate account established pursuant to section 508A.1. Funds held by an insurance company as authorized by this section shall not be chargeable with liabilities arising out of any other business the company may conduct.

An instrument or agreement issued or used by an insurance company as authorized by

this section does not constitute a security as defined in section 502.102.

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

Approved March 13, 1997

CHAPTER 6

EMERGENCY MEDICAL CARE PROVIDER CERTIFICATION FEES

S.F. 59

AN ACT relating to the disposition of emergency medical care provider certification fees.

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

Section 1. Section 147A.6, subsection 1, Code 1997, is amended to read as follows:

1. The department, upon application and receipt of the prescribed fee, shall issue a certificate to an individual who has met all of the requirements for emergency medical care provider certification established by the rules adopted under section 147A.4, subsection 2. All fees received pursuant to this section shall be deposited in the emergency medical services fund established in section 135.25.

Approved March 18, 1997

CHAPTER 7

UNIFIED LAW ENFORCEMENT DISTRICT TAX LEVIES

H.F. 373

AN ACT to legalize certain unified law enforcement district tax levies and providing an effective date.

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

Section 1. NEW SECTION. 28E.28B TAX LEVIES.

Each unified law enforcement district tax levy authorized pursuant to section 28E.22 prior to July 1, 1983, which continued to be collected for a period subsequent to July 1, 1983, or continues to be collected notwithstanding the expiration of the five-year period specified by the referendum which authorized the levy, is hereby legalized and deemed valid as if the levy had been authorized subsequent to July 1, 1983.

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

Approved March 18, 1997

CHAPTER 8

INDIVIDUAL INCOME TAX RATES

H.F. 388

AN ACT reducing the state individual income tax rates by ten percent and including an effective date provision.

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

Section 1. Section 422.5, subsection 1, paragraphs a through i, Code 1997, are amended to read as follows:

a. On all taxable income from zero through one thousand dollars, ~~four-tenths~~ thirty-six hundredths of one percent.

b. On all taxable income exceeding one thousand dollars but not exceeding two thousand dollars, ~~eight-tenths~~ seventy-two hundredths of one percent.

c. On all taxable income exceeding two thousand dollars but not exceeding four thousand dollars, two and ~~seven-tenths~~ forty-three hundredths percent.

d. On all taxable income exceeding four thousand dollars but not exceeding nine thousand dollars, ~~five~~ four and one-half percent.

e. On all taxable income exceeding nine thousand dollars but not exceeding fifteen thousand dollars, six and ~~eight-tenths~~ twelve hundredths percent.

f. On all taxable income exceeding fifteen thousand dollars but not exceeding twenty thousand dollars, ~~seven and two-tenths~~ six and forty-eight hundredths percent.

g. On all taxable income exceeding twenty thousand dollars but not exceeding thirty thousand dollars, ~~seven and fifty-five hundredths~~ six and eight-tenths percent.

h. On all taxable income exceeding thirty thousand dollars but not exceeding forty-five thousand dollars, ~~eight and eight-tenths~~ seven and ninety-two hundredths percent.

i. On all taxable income exceeding forty-five thousand dollars, ~~nine~~ eight and ninety-eight hundredths percent.

Sec. 2. This Act takes effect January 1, 1998, and applies to tax years beginning on or after that date.

Approved March 27, 1997

CHAPTER 9

REAL PROPERTY USED IN RACETRACK OPERATION

H.F. 212

AN ACT relating to the taxation of real property used in the operation of a racetrack or racetrack enclosure.

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

Section 1. Section 99D.2, subsection 8, Code 1997, is amended to read as follows:

8. "RACETRACK ENCLOSURE" means the grandstand, clubhouse, turf club or other areas of a licensed racetrack which a person may enter only upon payment of an admission fee, or upon payment by another, at any time, based upon the person's admittance, or upon presentation of authorized credentials. "Racetrack enclosure" also means any additional areas designated by the commission.

Sec. 2. Section 99D.14, subsection 6, Code 1997, is amended by striking the subsection and inserting in lieu thereof the following:

6. Real property used in the operation of a racetrack or racetrack enclosure which is exempt from property taxation under another provision of the law, including being exempt because it is owned by a city, county, state, or charitable or nonprofit entity, may be subject to real property taxation by any taxing district in which the real property used in the operation of the racetrack or racetrack enclosure is located. To subject such real property to taxation, the taxing authority of the taxing district shall pass a resolution imposing the tax and shall notify the county assessor, director of revenue and finance, and the owner of record of the real property by September 1 preceding the fiscal year in which the real property taxes are due and payable. The assessed value shall be determined and notice of the assessed value shall be provided to the county auditor by the department of revenue and finance by October 15 and the owner may protest the assessed value to the state board of tax review by December 1. Property taxes due as a result of this subsection shall be paid to the county treasurer in the manner and time as other property taxes. The county treasurer shall remit the tax revenue to those taxing authorities imposing the property tax under this subsection. Real property subject to tax as provided in this subsection shall continue to be taxed until such time as the taxing authority of the taxing district repeals the resolution subjecting the property to taxation. Notwithstanding section 99D.7, the department of revenue and finance shall adopt rules to implement this subsection.

Sec. 3. Section 99F.1, subsection 15, Code 1997, is amended to read as follows:

15. "RACETRACK ENCLOSURE" means the grandstand, clubhouse, turf club, or other areas of a licensed racetrack which an individual may enter only upon payment of an admission fee, or upon payment by another, at any time, based upon the individual's admittance, or upon presentation of authorized credentials. "Racetrack enclosure" also means any additional areas designated by the commission.

Approved March 27, 1997

CHAPTER 10

EASEMENTS ON STATE LAND

S.F. 190

AN ACT relating to granting easements on certain property by the department of natural resources.

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

Section 1. Section 461A.25, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The commission shall adopt rules providing for granting easements to political subdivisions and utility companies on state land under the jurisdiction of the department. An applicant for an easement shall provide the director with information setting forth the need for the easement, availability of alternatives, and measures proposed to prevent or minimize adverse impacts on the affected property. An easement shall be executed by the director, approved as to form by the attorney general, and if granted for a term longer than five years, approved by the commission.

Approved March 31, 1997

CHAPTER 11

VICTIMS OF INTERNATIONAL TERRORISM

S.F. 251

AN ACT relating to compensation to victims of international terrorism who are residents of Iowa and providing an effective date.

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

Section 1. Section 912.5, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 5. To or for the benefit of a resident of this state who is a victim of an act of terrorism as defined in 18 U.S.C. § 2331, which occurred outside of the United States.

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

Approved March 31, 1997

CHAPTER 12

OZONE TRANSPORT ASSESSMENT GROUP

H.F. 309

AN ACT relating to review and oversight of actions of the ozone transport assessment group.

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

Section 1. FINDINGS. The general assembly finds and declares all of the following:

1. The federal Clean Air Act, 42 U.S.C. § 7401 et seq., as amended by the federal Clean Air Act Amendments of 1990, Pub. L. No. 101-549, contains a comprehensive regulatory scheme for the control of emissions from mobile and stationary sources.

2. Ozone and other air pollutants have declined substantially during the past twenty-five years throughout the United States due to the implementation of the federal Clean Air Act, and additional air quality improvements will result as the federal Clean Air Act Amendments of 1990 are implemented.

3. The northeast ozone transport commission, established in 42 U.S.C. § 7511c, in an effort to remedy the serious ozone nonattainment conditions prevailing in urbanized areas of the northeastern United States, has proposed emission control requirements for stationary and mobile sources more stringent than those applicable to states outside of the northeast ozone transport region, including a petition to the United States environmental protection agency concerning low-emitting vehicle emission control requirements and a memorandum of understanding concerning stationary source emission control requirements.

4. The northeast ozone transport commission's initiatives, together with other local emission control actions, will help northeastern states to attain the national ambient air quality standard for ozone established by the United States environmental protection agency.

5. In response to concerns raised by certain northeastern states about the interstate transport of ozone, the United States environmental protection agency has convened the ozone

transport assessment group, involving representatives from the original twelve northeastern states in the ozone transport region and representatives from twenty-five states to the west and south of the northeast ozone transport region, including Iowa, to consider means to reduce the atmospheric transport of ozone.

6. The ozone transport assessment group will develop recommendations in 1997 for emission control actions in states outside of the northeast ozone transport region that may form the basis for United States environmental protection agency enforcement actions under the federal Clean Air Act, including the preparation and submission of state implementation plans calling for control actions in Iowa not specifically mandated by the federal Clean Air Act Amendments of 1990.

7. Computer modeling studies prepared by the ozone transport assessment group indicate all of the following:

a. Ozone nonattainment is caused predominantly by local emission sources in densely populated urbanized areas.

b. Emissions originating in Iowa do not contribute significantly to the nonattainment of ozone standards in other states or regions.

8. Emission controls for stationary and mobile sources under consideration by the ozone transport assessment group for states outside the northeast ozone transport region are more stringent and more costly than those mandated by the federal Clean Air Act Amendments of 1990, and could impair the competitiveness of businesses and industries in Iowa with negligible environmental benefits and with adverse effects on employment and income in Iowa.

9. The emission control requirements under consideration by the ozone transport assessment group could impede economic development, to the detriment of the well-being of the citizens of Iowa and its economy.

10. Legislative oversight of proposed actions of the ozone transport assessment group, and related actions of the United States environmental protection agency directly or indirectly affecting the citizens and economy of Iowa, is in the public interest.

Sec. 2. OZONE TRANSPORT ASSESSMENT GROUP DECISION MAKING.

1. The director of the department of natural resources shall provide periodic reports on progress in the ozone transport assessment group decision-making process to the senate standing committee on natural resources and environment and the house of representatives standing committee on environmental protection if the general assembly is in session, and to the legislative council if the general assembly is not in session. The director shall also submit any ozone transport assessment group decisions or recommendations, together with an explanation thereof, as expeditiously as is practicable to the senate standing committee on natural resources and environment and the house of representatives standing committee on environmental protection for review if the general assembly is in session, and to the legislative council if the general assembly is not in session.

2. If the general assembly is in session, within a reasonable amount of time following receipt of the ozone transport assessment group decisions or recommendations, the senate standing committee on natural resources and environment and the house of representatives standing committee on environmental protection may convene public hearings to receive comments from agencies of government and other interested parties on the prospective impact of the decisions or recommendations on this state's economy and the environment, including the impact on energy use, environment, economic development, utility costs and rates, transportation fuel costs, and industrial competitiveness. If the general assembly is not in session, the legislative council may convene public hearings for the same purposes.

Sec. 3. STATE IMPLEMENTATION PLAN.

1. Upon publication by the United States environmental protection agency of a notice of proposed rulemaking to require states to submit state implementation plan revisions or upon the issuance of a request by the United States environmental protection agency for submission of a state implementation plan for Iowa related to ozone attainment, the director

of the department of natural resources shall notify the senate standing committee on natural resources and environment, the house of representatives standing committee on environmental protection, and the administrative rules review committee of the request or notice if the general assembly is in session. If the general assembly is not in session, the director shall notify the legislative council and the administrative rules review committee. The director shall also provide the committees or the legislative council and the administrative rules review committee with copies of any state implementation plan prepared by the department pursuant to such a request or notice not less than sixty days prior to the submission of the state implementation plan to the United States environmental protection agency.

2. Within a reasonable amount of time following receipt of the state implementation plan, if the general assembly is in session, the senate standing committee on natural resources and environment and the house of representatives standing committee on environmental protection shall convene public hearings to receive comments from agencies of government and other interested parties on the prospective impact of the state implementation plan on this state's economy and environment, including impacts on energy use, the environment, economic development, utility costs and rates, transportation fuel costs, and industrial competitiveness. If the general assembly is not in session, the legislative council may convene public hearings for the same purposes.

3. The department shall not implement the state implementation plan through the use of emergency rules adopted under section 17A.4, subsection 2, or made effective under section 17A.5, subsection 2.

4. In the absence of a recommendation or other act of the general assembly, or of the legislative council if the general assembly is not in session, endorsing the state implementation plan, the director shall not submit to the United States environmental protection agency any state implementation plan related to ozone transport which would impose emission controls in Iowa more stringent than necessary for Iowa to demonstrate attainment with any national ambient air quality standard for ozone, unless all of the following can be shown:

a. Emissions from other than natural sources located within the state of Iowa contribute significantly to nonattainment of an ozone standard in another state.

b. Technically feasible emission reductions in such other nonattaining state would not permit the nonattaining state to demonstrate attainment and maintenance of an ozone standard.

c. Technically and economically feasible emission reductions in the state of Iowa will significantly benefit or enable a nonattaining state to achieve the ozone standard.

Approved March 31, 1997

CHAPTER 13

REGISTRATION AND ACCREDITATION REQUIREMENTS FOR POSTSECONDARY SCHOOLS

H.F. 320

AN ACT increasing the exceptions to the registration requirements for postsecondary schools, and eliminating an exemption for nondegree specialty vocational training programs from the accreditation requirement for postsecondary schools.

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

Section 1. Section 261B.3A, Code 1997, is amended to read as follows:

261B.3A REQUIREMENT.

A school offering courses or programs of study leading to a degree in the state of Iowa shall be accredited by an agency or organization approved or recognized by the United States department of education or a successor agency and be approved for operation by the appropriate state agencies in all other states in which it operates or maintains a presence. ~~A school is exempt from this section if the programs offered by the school are limited to nondegree specialty vocational training programs.~~

Sec. 2. Section 261B.11, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 11. Postsecondary educational institutions offering programs limited to nondegree specialty vocational training programs.

Approved March 31, 1997

CHAPTER 14

COMMUNITY COLLEGE RETIREMENT BENEFITS

S.F. 233

AN ACT concerning eligible alternative retirement benefit systems for newly employed community college employees, and providing an applicability date.

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

Section 1. Section 97B.42, unnumbered paragraph 7, Code 1997, is amended to read as follows:

Notwithstanding any other provision of this section, a person newly entering employment with a community college on or after July 1, 1990, may elect coverage under an alternative retirement benefits system, as defined in section 260C.14, subsection 18, which is issued by or through a nonprofit corporation issuing retirement annuities exclusively to educational institutions and their employees or, for persons newly entering employment on or after July 1, 1997, which is issued by or through an insurance company authorized to issue annuity contracts in this state, in lieu of coverage under the Iowa public employees' retirement system, but only if the person is already a member of the alternative retirement benefits system. An election to participate in the alternative retirement benefits system is irrevocable as to the person's employment with that community college and any other community college in this state.

Sec. 2. Section 260C.14, subsection 18, Code 1997, is amended to read as follows:

18. Provide for an alternative retirement benefits system, which is issued by or through a nonprofit corporation issuing retirement annuities exclusively to educational institutions and their employees, for persons newly employed after July 1, 1990, or, in addition, which is issued by or through an insurance company authorized to issue annuity contracts in this state, for persons newly employed on or after July 1, 1997, who are already members of the alternative retirement benefits system and who elect coverage under that system pursuant to section 97B.42, in lieu of coverage under the Iowa public employees' retirement system. ~~The system for employee and employer contributions under the alternative system shall be substantially the same as provided by the state board of regents under the teachers insurance annuity association-college retirement equities fund, and the employer's contribution rate shall not exceed the employer's contribution rate established for employees of the state board of regents who are under that system.~~ However, the employer's annual contribution

in dollars under the alternative retirement benefits system shall not exceed the annual contribution in dollars which the employer would contribute if the employee had elected to remain an active member pursuant to the Iowa public employees' retirement system, as set forth in section 97B.11. For purposes of this subsection, "alternative retirement benefits system" means an employer sponsored primary pension plan requiring mandatory employer contributions that meets the requirements of section 401(a), 403(a), or 403(b) of the Internal Revenue Code.

Sec. 3. APPLICABILITY DATE. This Act applies to persons newly entering employment with a community college on or after July 1, 1997.

Approved April 3, 1997

CHAPTER 15

IMPLEMENTATION OF ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

S.F. 272

AN ACT relating to the implementation of certain assistance programs of the department of economic development.

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

Section 1. Section 15.108, subsection 1, paragraph c, Code 1997, is amended to read as follows:

c. Provide financial assistance to local development corporations as provided for in sections 15E.25 ~~to~~ through 15E.29. Such financial assistance is subject to the availability of funds in the building loan fund established in section 15E.26.

Sec. 2. Section 15.108, subsection 7, paragraph i, Code 1997, is amended to read as follows:

i. Assist in the development, promotion, implementation, and administration of a statewide network of regional corporations designed to increase the availability of financing for small businesses as provided for in sections 15.261 through 15.268. The department shall administer this paragraph subject to the availability of funds in the small business economic development corporation fund established in section 15.263.

Approved April 3, 1997

CHAPTER 16

COOPERATIVE CORPORATIONS — MISCELLANEOUS PROVISIONS

S.F. 292

AN ACT relating to cooperative corporations, by providing for the transfer of stock, the allocation of patronage dividends upon termination of membership, and dissolution.

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

Section 1. Section 501.501, subsection 2, Code 1997, is amended to read as follows:

2. A member ~~may~~ shall not sell or otherwise transfer ~~stock, other than~~ voting stock~~, to any other member or~~ to any person ~~who has been approved by the board for membership, subject to the limitations in the articles or bylaws on the amount of each class of stock that may be owned by one member~~. A member may be restricted or limited from selling or otherwise transferring any other class of stock of the cooperative as provided by the cooperative's articles of incorporation or bylaws or an agreement executed between the cooperative and the member.

Sec. 2. Section 501.502, subsection 5, Code 1997, is amended to read as follows:

5. The cooperative shall redeem, without interest, all of the terminated member's allocated patronage refunds and preferred stock originally issued as allocated patronage refunds for the issue price~~.~~ as follows:

a. ~~A~~ If a terminated member's current equity is less than two percent of the cooperative's total members' equity, the cooperative shall ~~make this payment~~ either redeem the terminated member's equity within one year after the termination of the membership or redeem the terminated member's equity in annual amounts of not less than twenty percent of the total amount provided that the entire amount must be redeemed within five years after the termination of the membership. ~~However, if~~

b. If a terminated member's current equity equals or exceeds two percent of the cooperative's total members' equity, the cooperative shall redeem the terminated member's equity in annual amounts of not less than fifteen percent of the total amount provided that the entire amount must be redeemed within seven years after the termination of the membership.

Sec. 3. Section 501.604, Code 1997, is amended to read as follows:

501.604 DISSOLUTION.

The provisions of sections 490.1401 through 490.1440 shall apply to ~~cooperatives~~ a cooperative in the same manner as they apply to ~~corporations~~ a corporation organized under chapter 490. However, notwithstanding any provision in those sections to the contrary, upon the cooperative's dissolution, the cooperative's assets shall first be used to pay expenses necessary to carry out the dissolution and liquidation of assets, then be used to pay the cooperative's obligations other than the payment of patronage dividends or stock issued as patronage dividends, and the remainder shall be paid in the manner set forth in the cooperative's articles of incorporation.

Approved April 3, 1997

CHAPTER 17

COOPERATIVE ASSOCIATIONS — QUALIFIED MERGERS AND OTHER MATTERS

S.F. 299

AN ACT relating to cooperative associations and corporations by providing for operations and procedures, including providing for mergers, and providing an effective date.

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

Section 1. NEW SECTION. 490.1109 QUALIFIED MERGER.

A corporation and a cooperative association organized under chapter 499 may merge as provided in section 499.69A.

Sec. 2. Section 499.13, Code 1997, is amended to read as follows:

499.13 MEMBERSHIP — ELIGIBILITY.

~~No~~ A membership or share of common stock shall ~~ever~~ not be issued to, or held by, any ~~party not~~ person unless the person is eligible ~~to~~ for membership in the association under its articles. ~~Individuals~~ A person may be ~~made~~ eligible only if ~~they are~~ the person is engaged in producing ~~products~~ a product marketed by the association, ~~or if they~~ the person customarily ~~consume~~ consumes or ~~use~~ uses the supplies or commodities ~~it~~ that the association handles, or ~~use~~ the person uses the services ~~it~~ that the association renders. ~~Farm tenants, and landlords~~ A farm tenant or landlord who ~~receive~~ receives a share of agricultural products as rent~~,~~ may be ~~made~~ eligible ~~to~~ for membership in an agricultural ~~associations~~ association as ~~producers~~ a producer. ~~Other associations~~ A cooperative association engaged in any directly or indirectly related activity may be ~~made~~ eligible ~~to~~ for membership. ~~Federated associations~~ An association may be formed ~~whose membership is restricted~~ which includes among its members cooperative associations or restricts its membership to cooperative associations.

Sec. 3. Section 499.16, Code 1997, is amended to read as follows:

499.16 SUBSCRIPTIONS — ISSUING CERTIFICATES.

If permitted by the association's articles ~~permit~~ of incorporation, any eligible subscriber for common stock or membership may vote and be treated as a member, after making part payment ~~therefor~~ for the common stock or membership in cash ~~and~~, giving the subscriber's note for the balance, and satisfying any other requirement for the subscription as set forth in the articles. ~~Such subscriptions~~ A subscription may be forfeited as provided in section 499.32. ~~No stock~~ Stock or a membership certificate shall not be issued until payment for the stock or membership certificate is fully ~~paid for~~ made. ~~No~~ A subscriber shall not hold office until the subscriber's certificate has been issued.

Sec. 4. Section 499.22, Code 1997, is amended to read as follows:

499.22 CAPITAL STOCK.

~~Associations~~ An association with capital stock may divide the shares into common and preferred stock. Par value stock shall not be issued for less than par. The general corporation laws shall govern the consideration for which no-par stock is issued. If the articles so provide, common stock may be issued in two classes, voting and nonvoting. Voting stock shall be issued to all agricultural producers and nonvoting stock to all other members. Voting stock or nonvoting stock may be issued to a cooperative association as provided in the cooperative association's articles of incorporation. Nonvoting stock shall have all privileges of membership except the right to vote. Preferred stock held by nonmembers shall not exceed in amount that held by members.

Sec. 5. Section 499.36, subsections 1 and 2, Code 1997, are amended to read as follows:

1. The affairs of each association shall be managed by a board of ~~not less than five~~ directors~~, who~~.

1A. a. A director must be ~~members~~ a member of the association or ~~officers~~ an officer or ~~members~~ a member of a member-association. ~~They~~ A director shall be elected by the members as prescribed by the association's articles ~~prescribe~~ of incorporation.

b. At least five directors shall serve on the association's board. The number of directors shall be established in accordance with the association's articles of incorporation or bylaws. If a board has the power to fix or change the number of directors, the board may increase or decrease by thirty percent or less the number of directors last approved by the members. Only the members may increase or decrease by more than thirty percent the number of directors last approved by the members.

c. The articles of incorporation may establish a variable range for the size of the board by fixing a minimum and maximum number of directors. If a variable range is established, the number of directors may be fixed or changed from time to time, within the minimum and maximum number, by the members or the board. After shares are issued, only the members may change the range for the size of the board, change from a fixed to a variable-range-size board, or change from a variable-size to a fixed-size board.

2. a. Unless the articles or bylaws otherwise provide, ~~vacancies in~~ if a vacancy occurs on the board ~~shall~~, including a vacancy resulting from an increase in the number of directors, the vacancy may be filled by ~~the remaining directors, the director thus selected to serve for the remainder of the vacant term.~~ any of the following:

(1) The shareholders.

(2) The board.

(3) If the directors remaining in office constitute fewer than a quorum of the board, the directors may fill the vacancy by the affirmative vote of all the directors remaining in office.

b. A vacancy that will occur at a specific later date, by reason of a resignation effective at a later date, may be filled before the vacancy occurs. The new director shall not take office until the vacancy occurs.

Sec. 6. Section 499.40, subsection 5, Code 1997, is amended to read as follows:

5. The following information regarding the directors:

a. Their number ~~of directors, their~~.

b. Whether there is a fixed number or a variable range as provided in section 499.36. If a variable range is established, the information shall include the minimum and maximum number.

c. Their qualifications ~~and~~.

d. Their terms of office~~, and how~~.

e. How they shall be chosen and removed from office.

Sec. 7. Section 499.61, Code 1997, is amended by adding the following new subsections:

NEW SUBSECTION. 3A. "Qualified corporation" means a corporation organized and existing under chapter 490, which is structured and operated on a cooperative basis pursuant to 26 U.S.C. § 1381(a)(2) and which meets the definitional requirements of an association as provided in 12 U.S.C. § 1141j(a) or 7 U.S.C. § 291.

NEW SUBSECTION. 3B. "Qualified merger" means the uniting of one or more cooperative associations with one or more qualified corporations to form one cooperative association or qualified corporation, in such a manner that one entity participating in the merger continues to exist and absorbs the others, with the others ceasing to exist as cooperative or corporate entities.

NEW SUBSECTION. 3C. "Qualified survivor" means the cooperative association or qualified corporation which continues to exist after a qualified merger.

Sec. 8. Section 499.64, unnumbered paragraph 1, Code 1997, is amended to read as follows:

The board of directors of ~~each~~ a cooperative association, upon approving a plan of merger or consolidation, shall, by motion or resolution, direct that the plan be submitted to a vote at a meeting of members, which may be either an annual or special meeting. Written notice

shall be given not less than twenty days prior to the meeting, either personally or by mail to each voting member and shareholder of record. The notice shall state the time, place, and purpose of the meeting, and a summary of the plan of merger or consolidation shall be included in or enclosed with the notice.

Sec. 9. NEW SECTION. 499.69A QUALIFIED MERGERS.

1. One or more cooperative associations and one or more qualified corporations may participate in a qualified merger as provided in this section.

2. Each participating cooperative association and qualified corporation must approve a written plan of qualified merger.

a. The plan shall set forth all of the following:

(1) The name of each cooperative association and qualified corporation participating in the qualified merger, and the name of the qualified survivor.

(2) The terms and conditions of the qualified merger.

(3) The manner and basis of converting the interests, including shares or other securities, and obligations in each nonsurviving cooperative association or qualified corporation into the interests and obligations of the qualified survivor.

(4) Any amendments to the articles of incorporation of the qualified survivor as are desired to be effected by the qualified merger, or a statement that no amendment is desired.

(5) The date that the qualified merger becomes effective, if the date is different than the date when a certificate of merger is to be issued for a cooperative association, or if the date is different than the date when the articles of merger are filed with the secretary of state for a qualified corporation.

(6) Other provisions relating to the qualified merger as are deemed necessary or desirable.

b. A proposed plan for a qualified merger complying with the requirements of this section shall be approved as follows:

(1) For a cooperative association which is a party to the proposed qualified merger, the cooperative association shall approve the plan as provided in this chapter.

(2) For a qualified corporation which is a party to the proposed qualified merger, the qualified corporation shall approve the plan as provided in chapter 490.

c. After the proposed plan for the qualified merger is approved, a cooperative association or qualified corporation may abandon the merger in the manner provided in the plan, prior to the filing of the articles of merger.

3. After a proposed plan of the qualified merger is approved, the qualified survivor shall deliver articles of merger for the qualified merger to the secretary of state for filing. The articles of merger shall be executed by each cooperative association and qualified corporation which is a party to the qualified merger. The articles of merger shall set forth all of the following:

a. The name of each cooperative association and qualified corporation which is a party to the qualified merger.

b. The plan for the qualified merger.

c. The effective date of the qualified merger, if later than the date of filing the articles of merger.

d. The name of the qualified survivor.

e. A statement that the plan for the qualified merger was approved by each participating cooperative association and qualified corporation in a manner required for the cooperative association and qualified corporation as provided in this section.

4. For a surviving cooperative association, a qualified merger becomes effective upon the filing of the articles of merger with the secretary of state and the issuance of a certificate of merger pursuant to section 499.68 or the date stated in the articles of merger, whichever is later. For a surviving qualified corporation, a qualified merger becomes effective upon the filing of the articles of merger with the secretary of state pursuant to section 490.1105 or the date stated in the articles, whichever is later.

5. The effect of a qualified merger for a qualified survivor which is a cooperative association shall be as provided for in this chapter. The effect of a qualified merger for a qualified survivor which is a qualified corporation shall be as provided for corporations under chapter 490.

6. The provisions governing the right of a shareholder or member of a cooperative association to object to a merger or the right of a member to dissent and obtain payment of the fair value of an interest in the cooperative association in the case of a merger as provided in this chapter shall apply to a qualified merger. The provisions governing the right of a shareholder of a corporation to dissent from and obtain payment of the fair value of the shareholder's shares in the case of a merger as provided in division XIII of chapter 490 shall apply to a qualified merger.

7. A foreign cooperative association may participate in a qualified merger as provided in this section, if the foreign cooperative association complies with the requirements for a cooperative association under this section and the requirements for a foreign cooperative association under section 499.69. A foreign corporation may participate in a qualified merger as provided in this section if it complies with the requirements of a qualified corporation under this section and the requirements for a foreign corporation under section 490.1107.

Sec. 10. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 3, 1997

CHAPTER 18

SCHOOL FINANCE — REGULAR PROGRAM DISTRICT COST GUARANTEE

S.F. 189

AN ACT extending the regular program district cost guarantee for school districts for two years, and providing an effective date.

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

Section 1. Section 257.14, subsection 1, Code 1997, is amended to read as follows:

1. For the budget years commencing ~~July 1, 1991, July 1, 1992, July 1, 1993, July 1, 1994,~~ July 1, ~~1995~~ 1997, and July 1, ~~1996~~ 1998, if the department of management determines that the regular program district cost of a school district for a budget year is less than the total of the regular program district cost plus any adjustment added under this section for the base year for that school district, the department of management shall provide a budget adjustment for that district for that budget year that is equal to the difference.

Sec. 2. Section 257.14, subsection 3, Code 1997, is amended by striking the subsection.

Sec. 3. This Act, being deemed of immediate importance, takes effect upon enactment for the purpose of computations required for the budget year beginning July 1, 1997.

Approved April 9, 1997

CHAPTER 19

OPEN BURNING

S.F. 126

AN ACT allowing a supervised, controlled burn for which a permit has been issued during an open burning ban.

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

Section 1. Section 100.40, subsection 3, Code 1997, is amended to read as follows:

3. ~~This section does not give~~ A proclamation issued by the state fire marshal ~~the authority to prohibit~~ pursuant to this section shall not prohibit a supervised, controlled burn for which a permit has been issued by the fire chief of the fire district where the burn will take place, the use of outdoor fireplaces, ~~barbeque~~ barbecue grills, properly supervised ~~dumping grounds~~ landfills, or the burning of trash in incinerators or trash burners made of metal, concrete, masonry, or heavy one-inch wire mesh, with no openings greater than one square inch.

Approved April 11, 1997

CHAPTER 20

WAIVERS AND EXEMPTIONS UNDER NEW JOBS AND INCOME PROGRAM

S.F. 205

AN ACT relating to continued eligibility under the new jobs and income program concerning the ownership of land by nonresident aliens and certain capital investment and job creation provisions.

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

Section 1. Section 15.331B, subsection 3, Code 1997, is amended to read as follows:

3. An eligible business shall not receive the exemption under this section unless it has applied to be designated an exempt business by July 1, ~~1998~~ 2002.

Sec. 2. Section 15.337, unnumbered paragraph 3, Code 1997, is amended by striking the unnumbered paragraph.

Approved April 11, 1997

CHAPTER 21

RULES FOR HIV HOME TESTING KITS

S.F. 300

AN ACT relating to the prohibited sale of home testing kits for the human immunodeficiency virus.

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

Section 1. Section 126.25, subsection 1, Code 1997, is amended to read as follows:

1. A person shall not advertise for sale, offer for sale, or sell in this state a home testing kit for human immunodeficiency virus antibody or antigen testing. The Iowa department of public health, in consultation with the board, shall adopt rules to establish what constitutes a home testing kit for the purposes of this section.

Approved April 11, 1997

CHAPTER 22

OFFICE OF CITY ASSESSOR

H.F. 4

AN ACT relating to the office of city assessor in certain counties.

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

Section 1. Section 441.1, Code 1997, is amended to read as follows:

441.1 OFFICE CREATED.

In ~~every city in the state of Iowa having more than one hundred twenty-five thousand population and in~~ every county in the state of Iowa the office of assessor is hereby created. A city having a population of ten thousand or more, ~~but not in excess of one hundred twenty-five thousand,~~ according to the latest federal census, may by ordinance provide for the selection of a city assessor and for the assessment of property in the city under the provisions of this chapter. A city desiring to provide for assessment under the provisions of this chapter shall, not less than sixty days before the expiration of the term of the assessor in office, notify the taxing bodies affected and proceed to establish a conference board, examining board, and board of review and select an assessor, all as provided in this chapter. A city desiring to abolish the office of city assessor shall repeal the ordinance establishing the office of city assessor, notify the county conference board and the affected taxing districts, provide for the transfer of appropriate records and other matters, and provide for the abolition of the respective boards and the termination of the terms of office of the assessor and members of the respective boards. The abolition of the city assessor's office shall take effect on July 1 following notification of the abolition unless otherwise agreed to by the affected conference boards. If notification of the proposed abolition is made after January 1, sufficient funds shall be transferred from the city assessor's budget to fund the additional responsibilities transferred to the county assessor for the next fiscal year.

Sec. 2. Section 441.31, subsection 2, Code 1997, is amended to read as follows:

2. a. 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. However, if the city has a population of more than one hundred twenty-five thousand, the expenses incurred by the city board of review shall be paid by the county. 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.

b. If a city having a population of more than one hundred twenty-five thousand abolishes its office of city assessor, the city may provide, by ordinance, for a city board of review or request the county conference board to appoint a ten-member county board of review. The initial ten-member county board of review established pursuant to this paragraph shall consist of the members of the city board of review and the county board of review who are serving unexpired terms of office. The members of the initial ten-member county board of review may continue to serve their unexpired terms of office and are eligible for reappointment for a six-year term. The ten-member county board of review created pursuant to this paragraph is in lieu of the boards of review provided for in subsection 1, but the professional and occupational qualifications of members shall apply.

Sec. 3. Section 441.31, subsection 3, Code 1997, is amended to read as follows:

3. Notwithstanding the 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. If the board of review has ten members, not more than four additional members may be appointed by the conference board. ~~These two~~ The 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 11, 1997

CHAPTER 23

NONSUBSTANTIVE CODE CORRECTIONS

H.F. 200

AN ACT relating to nonsubstantive Code corrections.

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

Section 1. Section 7G.1, subsection 7, Code 1997, is amended to read as follows:

7. FUNDS RECEIVED. All funds received by the commission, including but not limited to gifts, transfers, endowments, application and other fees related to the issuance of sesquicentennial motor vehicle registration plates ~~pursuant to section 321.34, subsection 14~~, moneys from the sale of mementos and products related to the purposes of the commission, and appropriations, shall be credited to the sesquicentennial fund and are appropriated to the commission to be invested or used to support the activities of the commission. Notwithstanding section 8.33, any balance in the fund on June 30 of any fiscal year shall not revert to the general fund of the state.

Sec. 2. Section 10A.108, subsection 1, unnumbered paragraph 2, Code 1997, is amended to read as follows:

A lien under this section shall not attach to any amount of inappropriately obtained benefits or provider payments, or portions of the benefits or provider payments, attributable to errors by the department of human services. Liens shall only attach to the amounts of inappropriately obtained benefits or provider payments or portions of the benefits or provider payments which were obtained due to false, misleading, incomplete, or inaccurate information submitted by a person in connection with the application for or receipt of benefits or provider payments.

Sec. 3. Section 10A.108, subsection 4, unnumbered paragraph 1, Code 1997, is amended to read as follows:

The county recorder of each county shall prepare and maintain in the recorder's office an index of liens of debts established based upon benefits or provider payments inappropriately obtained from and owed the department of human services, which provides appropriate columns for all of the following data, under the names of debtors, arranged alphabetically:

Sec. 4. Section 12.40, subsection 3, Code 1997, is amended to read as follows:

3. In order to qualify as an eligible borrower, the rural small business must be located in a city with a population of five thousand or less. A business in a city located in a county with a population in excess of three hundred thousand, if the city is contiguous to another city in the county and that other city is contiguous to the largest city in that county, shall be ineligible to qualify as a borrower.

Sec. 5. Section 15.114, subsection 1, paragraph c, Code 1997, is amended to read as follows:

c. "~~Microbusiness~~ Microenterprise organization" means a nonprofit corporation organized under chapter 504A which is exempt from taxation pursuant to section 501(c) of the Internal Revenue Code and which has a principal mission of actively engaging in microbusiness development, training, technical assistance, and capital access for the start-up or expansion of microbusinesses.

Sec. 6. Section 15A.7, subsection 4, Code 1997, is amended to read as follows:

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

Sec. 7. Section 80.16, Code 1997, is amended to read as follows:

80.16 BONDS.

All special agents appointed by the commissioner of public safety pursuant to section 80.7 shall furnish bond as required by the commissioner in the amount of five thousand dollars. All members of the state department of public safety excepting the members of the clerical force shall be bonded for the faithful performance of their duties, in such an amount as the commissioner of public safety may deem necessary, but not less than five thousand dollars for any one position, and clerical employees may be so bonded. The ~~director~~ commissioner is authorized to purchase bond coverage with departmental funds, either in blanket bond form or in individual bond form or in any combination thereof.

Sec. 8. Section 84A.7, subsection 2, Code 1997, is amended to read as follows:

2. IOWA CONSERVATION CORPS ESTABLISHED. The Iowa conservation corps is established in this state to provide meaningful and productive public service jobs for ~~the~~ youth, ~~the~~ unemployed persons, ~~the disabled~~ persons with disabilities, ~~the~~ disadvantaged persons, and ~~the~~ elderly persons, and to provide participants with an opportunity to explore careers,

gain work experience, and contribute to the general welfare of their communities and the state. The corps shall provide opportunities in the areas of natural resource and wildlife conservation, park maintenance and restoration, land management, energy savings, community improvement projects, tourism, economic development, and work benefiting human services programs. The department of workforce development shall administer the corps and shall adopt rules governing its operation, eligibility for participation, cash contributions, and implementation of an incentive program.

Sec. 9. Section 97A.7, subsection 5, Code 1997, is amended by striking the subsection.

Sec. 10. Section 97B.49, subsection 17, paragraph c, subparagraph (1), Code 1997, is amended by striking the subparagraph.

Sec. 11. Section 97B.80, unnumbered paragraph 1, Code 1997, is amended to read as follows:

Effective July 1, 1992, a vested or retired member, who at any time served on active duty in the armed forces of the United States, upon submitting verification of the dates of the active duty service, may make employer and employee contributions to the system based upon the member's covered wages for the most recent full calendar year in which the member had reportable wages at the applicable rates in effect for that year under sections 97B.11 and 97B.49, for all or a portion of the period of time of the active duty service, in increments of one or more calendar quarters, and receive credit for membership service and prior service for the period of time for which the contributions are made. If the member's most recent covered wages were earned prior to the most recent calendar year, the member's covered wages shall be adjusted by the department by an inflation factor to reflect changes in the economy. The department shall adjust benefits for a six-month period prior to the date the member pays contributions under this section if the member is receiving a retirement allowance at the time the contribution payment is made. Verification of active duty service and payment of contributions shall be made to the department. However, a member is not eligible to make contributions under this section if the member is receiving, is eligible to receive, or may in the future be eligible to receive retirement pay from the United States government for active duty in the armed forces, except for retirement pay granted by the United States government under retired pay for nonregular service ~~(10 U.S.C. § 1331, et seq.)~~ pursuant to 10 U.S.C. § 12731 - 12739. A member receiving retired pay for nonregular service who makes contributions under this section shall provide information required by the department documenting time periods covered under retired pay for nonregular service.

Sec. 12. Section 99D.25A, subsection 2, Code 1997, is amended to read as follows:

2. Phenylbutazone shall not be administered to a horse in dosages which would result in concentrations of more than two point two micrograms of the substance or its metabolites per ~~millimeter~~ milliliter of blood.

Sec. 13. Section 135.11, subsection 16, Code 1997, is amended by striking the subsection.

Sec. 14. Section 135.107, subsection 3, paragraph c, subparagraph (2), subparagraph subdivision (a), Code 1997, is amended to read as follows:

(a) Determination of eligibility requirements and qualifications of an applicant to receive scholarships under the program, including but not limited to years of obligated service, clinical practice requirements, and residency requirements. One year of obligated service shall be provided by the applicant in exchange for each year of ~~loan repayment~~ scholarship receipt, unless federal requirements otherwise require.

Sec. 15. Section 137E.1, subsection 11, Code 1997, is amended to read as follows:

11. "Potentially hazardous food" means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shell fish, edible crustacea, or other ingredients

including synthetic ingredients, in a form capable of supporting rapid and progressive growth ~~or~~ of infectious or toxigenic microorganisms. The term does not include clean, whole, uncracked, odor-free shell eggs or foods which have a pH level of 4.5 or below or a water activity (Aw) value of 0.85 or less.

Sec. 16. Section 191.3, unnumbered paragraph 1, Code 1997, is amended to read as follows:

Every person owning or in charge of any place where food or drink is sold who uses or serves therein imitation cheese~~, as in this subtitle defined,~~ shall display at all times opposite each table or place of service a placard for such imitation, with the words "Imitation ..... served here", without other matter, printed in black roman letters not less than three inches in height and two inches in width, on a white card twelve by twenty-two inches in dimensions.

Sec. 17. Section 229.33, Code 1997, is amended to read as follows:

229.33 HEARING.

If, on such report and statement, and the hearing of testimony if any is offered, the judge shall find that such person is not seriously mentally impaired, the judge shall order the person's discharge; if the contrary, the judge shall so state, and authorize the continued detention of the person, subject to all applicable requirements of ~~this Act~~ chapter 229.

Sec. 18. Section 230.6, subsection 1, Code 1997, is amended to read as follows:

1. If the administrator finds that the decision of the court as to legal settlement is correct, the administrator shall cause said patient either to be transferred to a state hospital for persons with mental illness at the expense of the state, or to be transferred, with approval of the court as required by ~~this Act~~ chapter 229 to the place of foreign settlement.

Sec. 19. Section 230.7, Code 1997, is amended to read as follows:

230.7 TRANSFER OF NONRESIDENTS.

Upon determining that a patient in a state hospital who has been involuntarily hospitalized under ~~this Act~~ chapter 229 or admitted voluntarily at public expense was not a resident of this state at the time of the involuntary hospitalization or admission, the administrator may cause that patient to be conveyed to the patient's place of residence. However, a transfer under this section may be made only if the patient's condition so permits and other reasons do not render the transfer inadvisable. If the patient was involuntarily hospitalized, prior approval of the transfer must be obtained from the court which ordered the patient hospitalized.

Sec. 20. Section 231.53, Code 1997, is amended to read as follows:

231.53 COORDINATION WITH JOB TRAINING PARTNERSHIP ACT.

The employment and training program administered by the department shall be coordinated with the training program for older individuals administered by the department of ~~economic development~~ workforce development under the Job Training Partnership Act.

A proposed annual plan for coordinating these programs shall be developed jointly by the department of elder affairs, ~~the department of economic development,~~ the department of education, and the department of workforce development for submittal to the state job training coordinating council. The state job training coordinating council shall take the proposed plan under advisement in preparing a final annual plan for coordinating these programs which will be submitted to the governor.

After the end of each annual planning period, the department of elder affairs, ~~the department of economic development,~~ the department of education, and the department of workforce development shall submit a joint report to the state job training coordinating council describing the services provided to elderly Iowans, assessing the extent to which coordination of programs was achieved, and making recommendations for improving coordination.

Sec. 21. Section 231C.4, Code 1997, is amended to read as follows:

231C.4 FIRE AND SAFETY STANDARDS.

The state fire marshal shall adopt rules, in coordination with the department, relating to the certification or voluntary accreditation and monitoring of the fire and safety standards of certified or voluntarily accredited assisted living programs.

Sec. 22. Section 232.89, subsection 1, Code 1997, is amended to read as follows:

1. Upon the filing of a petition the parent, guardian, or custodian identified in the petition shall have the right to counsel in connection with all subsequent hearings and proceedings. If that person desires but is financially unable to employ counsel, the court shall appoint counsel. However, an incarcerated parent without legal custody shall not have the right to court-appointed counsel.

Sec. 23. Section 249F.1, subsection 2, paragraph b, subparagraph (6), Code 1997, is amended to read as follows:

(6) Transfers of assets that would, at the time of the transferor's application for medical assistance, have been exempt from consideration as a resource if ~~it had been~~ retained by the transferor, pursuant to 42 U.S.C. § 1382b(a), as implemented by regulations adopted by the secretary of the United States department of health and human services.

Sec. 24. Section 256B.2, subsection 3, unnumbered paragraph 1, Code 1997, is amended to read as follows:

It is the policy of this state to require school districts and state operated educational programs to provide or make provision, as an integral part of public education, for a free and appropriate public education sufficient to meet the needs of all children requiring special education. This chapter is not to be construed as encouraging separate facilities or segregated programs designed to meet the needs of children requiring special education when the children can benefit from all or part of the education program as offered by the local school district. To the maximum extent possible, children requiring special education shall attend regular classes and shall be educated with children who do not require special education. Whenever possible, hindrances to learning and to the normal functioning of children requiring special education within the regular school environment shall be overcome by the provision of special aids and services rather than by separate programs for those in need of special education. Special classes, separate schooling, or other removal of children requiring special education from the regular educational environment, shall occur only when, and to the extent that the nature or severity of the educational disability is such, that education in regular classes, even with the use of supplementary aids and services, cannot be accomplished satisfactorily. For those children who cannot adapt to the regular educational or home living conditions, and who are attending facilities under chapters 263, 269, and 270, upon the request of the board of directors of an area education agency, the department of human services shall provide residential or detention facilities and the area education agency shall provide special education programs and services. The area education agencies shall cooperate with the board of regents to provide the services required by this ~~Act~~ chapter.

Sec. 25. Section 257.21, unnumbered paragraph 2, Code 1997, is amended to read as follows:

The instructional support income surtax shall be imposed on the state individual income tax for the calendar year during which the school's budget year begins, or for a taxpayer's fiscal year ending during the second half of that calendar year and after the date the board adopts a resolution to participate in the program or the first half of the succeeding calendar year, and shall be imposed on all individuals residing in the school district on the last day of the applicable tax year. As used in this section, "state individual income tax" means the taxes computed under section 422.5, less the credits allowed in sections 422.11A, 422.11B, ~~422.11C,~~ 422.12, and 422.12B.

Sec. 26. Section 257.31, subsection 17, paragraph d, Code 1997, is amended to read as follows:

d. Funds transferred to the committee in accordance with section 321.34, subsection ~~12~~ 22, are appropriated to and may be expended for the purposes of the committee, as described in this section. However, highest priority shall be given to districts that meet the conditions described in this subsection. Notwithstanding any other provision of the Code, unencumbered or unobligated funds transferred to the committee pursuant to section 321.34, subsection ~~12~~ 22, remaining on June 30 of the fiscal year for which the funds were transferred, shall not revert but shall be available for expenditure for the purposes of this subsection in subsequent fiscal years.

Sec. 27. Section 260C.39, unnumbered paragraphs 3 and 4, Code 1997, are amended by striking the unnumbered paragraphs.

Sec. 28. Section 260C.45, unnumbered paragraph 3, Code 1997, is amended by striking the paragraph.

Sec. 29. Section 260C.46, Code 1997, is amended to read as follows:

260C.46 PROGRAM AND ADMINISTRATIVE SHARING.

By September 1, 1990, the department shall establish guidelines and an approval process for program sharing agreements and for administrative sharing agreements entered into by two or more community colleges or by a community college and a higher education institution under the control of the board of regents. Guidelines established shall be designed to increase student access to programs, enhance educational program offerings throughout the state, and enhance interinstitutional cooperation in program offerings. ~~A community college must submit an application and obtain approval from the department in order to become eligible to receive funds from the community college excellence 2000 account under section 260D.14A for an administrative sharing or program sharing agreement. The application shall describe the sharing agreement, costs, and benefits associated with the sharing proposal.~~

Sec. 30. Section 260F.8, subsection 1, Code 1997, is amended to read as follows:

1. For each fiscal year, the department shall make funds available to the community colleges. The department shall allocate by formula from the moneys in the fund an amount for each community college to be used to provide the financial assistance for proposals of businesses whose applications have been approved by the department. The financial assistance shall be provided by the department from the amount set aside for that community college. If any portion of the moneys set aside for a community college have not been used or committed by May 1 of the fiscal year, that portion is available for use by the department to provide financial assistance to businesses ~~located in~~ applying to other community colleges. The department shall adopt by rule a formula for this set-aside.

Sec. 31. Section 282.18, subsection 7, Code 1997, is amended to read as follows:

7. A pupil participating in open enrollment shall be counted, for state school foundation aid purposes, in the pupil's district of residence. A pupil's residence, for purposes of this section, means a residence under section 282.1. The board of directors of the district of residence shall pay to the receiving district the state cost per pupil for the previous school year, plus any moneys received for the pupil as a result of the non-English speaking weighting under section 280.4, subsection 3, for the previous school year multiplied by the state cost per pupil for the previous year. The district of residence shall also transmit the phase III moneys allocated to the district for the previous year for the full-time equivalent attendance of the pupil, who is the subject of the request, to the receiving district specified in the request for transfer.

Sec. 32. Section 282.18, subsection 9, unnumbered paragraph 2, Code 1997, is amended to read as follows:

If a request to transfer is due to a change in family residence, change in the state in which the family residence is located, a change in a child's parents' marital status, a guardianship

proceeding, placement in foster care, adoption, participation in a foreign exchange program, or participation in a substance abuse or mental health treatment program, and the child, who is the subject of the request, is not currently using any provision of open enrollment, the parent or guardian of the child shall have the option to have the child remain in the child's original district of residence under open enrollment with no interruption in the child's educational program. If a parent or guardian exercises this option, the child's new district of residence is not required to pay the ~~lower of the two district costs per pupil or other costs to the receiving district~~ amount calculated in subsection 7, until the start of the first full year of enrollment of the child.

Sec. 33. Section 321.210, subsection 1, unnumbered paragraph 1, Code 1997, is amended to read as follows:

The department is authorized to establish rules providing for the suspension of the license of an operator upon ~~twenty~~ thirty days' notice and without preliminary hearing upon a showing by its records or other sufficient evidence that the licensee:

Sec. 34. Section 321E.14, unnumbered paragraph 2, Code 1997, is amended by striking the paragraph.

Sec. 35. Section 321L.1, subsection 4, paragraph a, Code 1997, is amended to read as follows:

a. A handicapped registration plate issued to or for a handicapped person under section 321.34, subsection ~~7~~ 14.

Sec. 36. Section 331.438, subsection 2, Code 1997, is amended to read as follows:

2. 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 by applying the ~~inflation~~ allowed growth 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. 37. Section 331.602, subsection 14, Code 1997, is amended by striking the subsection.

Sec. 38. Section 372.4, unnumbered paragraph 2, Code 1997, is amended to read as follows:

However, a city governed, on ~~the effective date of this section~~ July 1, 1975, by the mayor-council form composed of a mayor and a council consisting of two council members elected at large, and one council member from each of four wards, or a special charter city governed, on ~~the effective date of this section~~ July 1, 1975, by the mayor-council form composed of a mayor and a council consisting of two council members elected at large and one council member elected from each of eight wards, may continue until the form of government is changed as provided in section 372.2 or section 372.9. While a city is thus operating with an even number of council members, the mayor may vote to break a tie vote on motions not involving ordinances, resolutions or appointments made by the council alone, and in a special charter city operating with ten council members under this section, the mayor may vote to break a tie vote on all measures.

Sec. 39. Section 372.5, unnumbered paragraph 3, Code 1997, is amended to read as follows:

However, a city governed, on ~~the effective date of this section~~ July 1, 1975, by the commission form and having a council composed of a mayor and two council members elected at

large may continue with a council of three until the form of government is changed as provided in section 372.2 or section 372.9 or without changing the form, may submit to the voters the question of increasing the council to five members assigned to the five departments as set out in this section.

Sec. 40. Section 372.12, unnumbered paragraph 1, Code 1997, is amended to read as follows:

A city may not adopt the special charter form but a city governed by a special charter on ~~the effective date of the city code~~ July 1, 1975, is considered to have the special charter form although it may utilize elements of the mayor-council form in conjunction with the provisions of its special charter. In adopting and filing its charter as required in section 372.1, a special charter city shall include the provisions of its charter and any provisions of the mayor-council form which are followed by the city on ~~the effective date of the city code~~ July 1, 1975.

Sec. 41. Section 421.16, Code 1997, is amended to read as follows:

421.16 EXPENSES.

The director, deputy directors, ~~secretary,~~ and ~~assistants~~ department employees are entitled to receive from the state their actual necessary expenses while traveling on the business of the department. The expenditures shall be sworn to by the party who incurred the expense, and approved and allowed by the director. However, such expenses shall not be allowed residents of Polk county while in the city of Des Moines or traveling between their homes and the city of Des Moines.

Sec. 42. Section 422.6, unnumbered paragraph 1, Code 1997, is amended to read as follows:

The tax imposed by section 422.5 less the credits allowed under sections 422.10, 422.11A, and 422.11B, ~~and 422.11C,~~ and the personal exemption credit allowed under section 422.12 apply to and are a charge against estates and trusts with respect to their taxable income, and the rates are the same as those applicable to individuals. The fiduciary shall make the return of income for the estate or trust for which the fiduciary acts, whether the income is taxable to the estate or trust or to the beneficiaries.

Sec. 43. Section 422.10, unnumbered paragraph 2, Code 1997, is amended to read as follows:

Any credit in excess of the tax liability imposed by section 422.5 less the credits allowed under sections 422.11A, ~~422.11C,~~ 422.12, and 422.12B for the taxable year shall be refunded with interest computed under section 422.25. In lieu of claiming a refund, a taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return credited to the tax liability for the following taxable year.

Sec. 44. Section 422.12C, subsection 1, unnumbered paragraph 1, Code 1997, is amended to read as follows:

The taxes imposed under this division, less the credits allowed under sections 422.11A, 422.11B, ~~422.11C,~~ 422.12, and 422.12B shall be reduced by a child and dependent care credit equal to the following percentages of the federal child and dependent care credit provided in section 21 of the Internal Revenue Code:

Sec. 45. Section 422.26, unnumbered paragraph 2, Code 1997, is amended to read as follows:

The lien shall attach at the time the tax becomes due and payable and shall continue for ten years from the date an assessment is issued unless sooner released or otherwise discharged. The lien may, within ten years from the date an assessment is issued, be extended by filing for record a notice with the appropriate county official of any county and from the time of such filing, the lien shall be extended to the property in such county for ten years, unless sooner released or otherwise discharged, with no limit on the number of extensions.

~~Liens having attached prior to January 1, 1969, will expire on January 1, 1979, unless extended by the director.~~ The director shall charge off any account whose lien is allowed to lapse and may charge off any account and release the corresponding lien before the lien has lapsed if the director determines under uniform rules prescribed by the director that the account is uncollectible or collection costs involved would not warrant collection of the amount due.

Sec. 46. Section 422D.2, Code 1997, is amended to read as follows:

422D.2 LOCAL INCOME SURTAX.

A county may impose by ordinance a local income surtax as provided in section 422D.1 at the rate set by the board of supervisors, of up to one percent, on the state individual income tax of each individual residing in the county at the end of the individual's applicable tax year. However, the cumulative total of the percents of income surtax imposed on any taxpayer in the county shall not exceed twenty percent. The reason for imposing the surtax and the amount needed shall be set out in the ordinance. The surtax rate shall be set to raise only the amount needed. For purposes of this section, "state individual income tax" means the tax computed under section 422.5, less the credits allowed in sections 422.11A, 422.11B, ~~422.11C,~~ 422.12, and 422.12B.

Sec. 47. Section 424.18, Code 1997, is amended to read as follows:

424.18 EFFECTIVE DATE.

The environmental protection charge is imposed beginning July 1, 1989. For all deposits subject to the charge made on or after July 1, 1989, the depositor and receiver are obligated to pay the charge as provided in this chapter. ~~The amount of the initial environmental protection charge as calculated after determination of the cost factor by the board and the required forms and procedures shall be published in the Iowa administrative bulletin prior to July 1, 1989.~~

Sec. 48. Section 425.40, Code 1997, is amended to read as follows:

425.40 LOW-INCOME FUND CREATED.

1. A low-income tax credit and reimbursement fund is created.

2. If the amount appropriated ~~under subsection 1 plus any supplemental appropriation made~~ for purposes of this section for a fiscal year is insufficient to pay all claims in full, the director shall pay, in full, all claims to be paid during the fiscal year for reimbursement of rent constituting property taxes paid or if moneys are insufficient to pay all such claims on a pro rata basis. If the amount of claims for credit for property taxes due to be paid during the fiscal year exceed the amount remaining after payment to renters, the director of revenue and finance shall prorate the payments to the counties for the property tax credit. In order for the director to carry out the requirements of this subsection, notwithstanding any provision to the contrary in this division, claims for reimbursement for rent constituting property taxes paid filed before May 1 of the fiscal year shall be eligible to be paid in full during the fiscal year and those claims filed on or after May 1 of the fiscal year shall be eligible to be paid during the following fiscal year and the director is not required to make payments to counties for the property tax credit before June 15 of the fiscal year.

Sec. 49. Section 427A.12, subsection 5, Code 1997, is amended to read as follows:

5. For each state fiscal year ending with or before the year in which the ninth increase in the additional personal property tax credit under this division becomes effective, each taxing district shall be reimbursed from the personal property tax replacement fund in an amount equal to its personal property tax replacement base multiplied by a fraction the numerator of which is the total assessed value of all personal property, excluding livestock, in the taxing district, on which taxes are not payable during the fiscal year because of the various tax credits granted by this chapter, and the denominator of which is the total assessed value of all personal property in the taxing district, excluding livestock but including other personal property eligible for tax credits granted by this chapter. ~~For the half year~~

~~beginning January 1, 1974, and ending June 30, 1974, the amount of reimbursement shall be half the amount determined pursuant to this subsection.~~ The county auditor shall certify and forward to the director of the department of management and the director of revenue and finance, at the times and in the form directed by the director of the department of management, any information needed for the purposes of this subsection. The director of the department of management shall make any necessary corrections and certify the appropriate information to the director of revenue and finance.

Sec. 50. Section 427A.12, subsection 6, Code 1997, is amended to read as follows:

6. The amount due each taxing district shall be paid in the form of warrants payable to the respective county treasurers by the director of revenue and finance on May 15 of each fiscal year, taking into consideration the relative budget and cash position of the state resources. ~~For the fiscal year beginning July 1, 1984 and ending June 30, 1985, one-half of the amount due each taxing district shall be paid to the respective county treasurers by the state comptroller on May 15, 1985.~~ For the fiscal year beginning July 1, 1985 and ending June 30, 1986, and for each succeeding fiscal year the amount due each taxing district shall be paid in the form of warrants payable to the respective county treasurers by the director of revenue and finance on July 15 and May 15 of that fiscal year, taking into consideration the relative budget and cash position of the state resources. The July 15 payment shall be equal to the amount paid on May 15 of the preceding fiscal year and the payments received shall be an account receivable for each taxing district for the preceding fiscal year. The May 15 payment is equal to one-half of the amount of the additional personal property tax credit payable for the fiscal year. The county treasurer shall pay the proceeds to the various taxing districts in the county.

Sec. 51. Section 441.21, subsection 4, Code 1997, is amended by striking the subsection.

Sec. 52. Section 441.46, unnumbered paragraph 2, Code 1997, is amended to read as follows:

~~The assessment date for property taxes for the fiscal period beginning January 1, 1973 and ending June 30, 1974 and which became delinquent during the fiscal period beginning January 1, 1974 and ending June 30, 1975, was January 1, 1973. The assessment date for property taxes for the fiscal year beginning July 1, 1974 and ending June 30, 1975 and which became delinquent during the fiscal year beginning July 1, 1975 and ending June 30, 1976, was January 1, 1974. Thereafter, the~~ The assessment date is January 1 for taxes for the fiscal year which commences six months after the assessment date and which become delinquent during the fiscal year commencing eighteen months after the assessment date.

Sec. 53. Section 441.73, subsections 2 and 4, Code 1997, are amended to read as follows:

2. If the director of revenue and finance determines that foreseeable litigation expenses will exceed the amount available from appropriations made to the department of revenue and finance, the director of revenue and finance may apply to the executive council for use of funds on deposit in the litigation ~~defense~~ expense fund. The initial application for approval shall include an estimate of potential litigation expenses, allocated to each of the next four succeeding calendar quarters and substantiated by a breakdown of all anticipated costs for legal counsel, expert witnesses, and other applicable litigation expenses.

4. The executive council shall transfer for the fiscal year beginning July 1, 1992, and each fiscal year thereafter, from funds established in sections 405A.8, 425.1, and 426.1, an amount necessary to pay litigation expenses. ~~However, the amount of funds transferred to the litigation expense fund for the fiscal year beginning July 1, 1992, shall not exceed three hundred fifty thousand dollars and the~~ The amount of the fund for ~~the succeeding~~ each fiscal ~~years~~ year shall not exceed seven hundred thousand dollars. The executive council shall determine annually the proportionate amounts to be transferred from the three separate funds. At any time when no litigation is pending or in progress the balance in the litigation ~~defense~~ expense fund shall not exceed one hundred thousand dollars. Any excess moneys

shall be transferred in a proportionate amount back to the funds from which they were originally transferred.

Sec. 54. Section 457B.1, article V, paragraph c, Code 1997, is amended to read as follows:

c. If a party state's right to have waste generated within its borders disposed of at compact facilities, or at any noncompact facility made available to the region by an agreement entered into by the commission under article III, section h, subsection 6, is suspended, low-level radioactive waste generated within its borders by any person shall not be disposed of at any such facility during the period of the suspension.

Sec. 55. Section 462A.77, subsection 3, paragraph b, Code 1997, is amended to read as follows:

b. A person who is the owner of a vessel that is documented with the United States coast guard is not required to file an application for a certificate of title for the vessel and the vessel is exempt from the requirements of ~~sections~~ section 462A.82, subsections 1 and 2, and section 462A.84.

Sec. 56. Section 499.4, Code 1997, is amended to read as follows:

499.4 USE OF TERM "COOPERATIVE" RESTRICTED.

No person or firm, and no corporation hereafter organized, which is not an association as defined ~~herein~~ in this chapter or a cooperative as defined in chapter 501, shall use the word "cooperative" or any abbreviation thereof in its name or advertising or in any connection with its business, except foreign associations admitted under section 499.54. The attorney general or any association or any member thereof may sue and enjoin such use.

Sec. 57. Section 501.404, subsection 1, paragraph b, Code 1997, is amended to read as follows:

b. The material facts of the transaction and the director's interest were disclosed or known to the shareholders entitled to vote and they authorized, approved, or ratified the transaction. For purposes of this paragraph, a conflict of interest transaction is authorized, approved, or ratified if it receives a majority of the votes entitled to be counted under this paragraph. Shares owned by or voted under the control of a director who has a direct or indirect interest in the transaction, and shares owned by or voted under the control of an entity described in subsection 2, paragraph "a", shall not be counted in a vote of members to determine whether to authorize, approve, or ratify a conflict of interest transaction under this paragraph. The vote of those shares, however, is counted in determining whether the transaction is approved under other sections of this chapter. A majority of the votes, whether or not the shareholders are present, that are entitled to be counted in a vote on the transaction under this paragraph constitutes a quorum for the purpose of taking action under this paragraph.

Sec. 58. Section 501.408, Code 1997, is amended to read as follows:

501.408 INDEMNIFICATION.

A cooperative may indemnify a present or former director, officer, employee, or agent in the manner and in the instances authorized in sections 490.850 through 490.858, provided that where these sections provide for action by the shareholders these sections are applicable to actions by the members, and where these sections refer to the ~~cooperative~~ corporation these sections are applicable to a cooperative.

Sec. 59. Section 502.207B, Code 1997, is amended to read as follows:

502.207B LEGISLATIVE REVIEW AND OVERSIGHT.

The director of revenue and finance and the administrator of the securities bureau of the insurance division shall each report on an annual basis to the senate's and house of representatives' committees on ways and means concerning ~~issuers using the seed capital tax credit, as authorized for personal taxpayers by section 422.11C and for corporate taxpayers by section 422.33, subsection 8, and~~ the expedited filing by registration system provided by section 502.207A.

Sec. 60. Section 502.404, Code 1997, is amended to read as follows:

502.404 PROHIBITED TRANSACTIONS OF BROKER-DEALERS AND AGENTS.

A broker-dealer or agent shall not effect a transaction in, or induce or attempt to induce the purchase or sale of, any security in this state by means of any manipulative, deceptive or other fraudulent scheme, device, or contrivance, fictitious quotation, or in violation of this ~~Act~~ chapter or any rule or order hereunder. A broker-dealer or agent shall not recommend to a customer the purchase, sale or exchange of a security without reasonable grounds to believe that the transaction or recommendation is suitable for the customer based upon reasonable inquiry concerning the customer's investment objectives, financial situation and needs, and other relevant information known by the broker-dealer.

Sec. 61. Section 505.8, subsection 2, Code 1997, is amended to read as follows:

2. The commissioner shall, subject to chapter 17A, establish, publish, and enforce rules not inconsistent with law for the enforcement of this subtitle and for the enforcement of the laws, the administration and supervision of which are imposed on the division, including rules to establish fees sufficient to administer the laws, where appropriate fees are not otherwise provided for in rule or statute, and as necessary to obtain from persons authorized to do business in the state or regulated by the division that data required ~~pursuant to former section 145.3~~ by the ~~state health data commission~~ community health management information system.

Sec. 62. Section 523A.2, subsection 1, paragraph d, Code 1997, is amended to read as follows:

d. A financial institution referred to in paragraph "a" shall file notice with the commissioner of all funds deposited under the trust agreement. The notice shall be on forms prescribed by the commissioner and shall be filed not later than March 1 of each year. Each notice shall contain the required information for all deposits made during the previous calendar year. Forms may be obtained from the commissioner. The commissioner may accept ~~annual reports~~ notices submitted in an electronic format, such as computer diskettes.

Sec. 63. Section 523E.2, subsection 1, paragraph d, Code 1997, is amended to read as follows:

d. A financial institution referred to in paragraph "a" shall file notice with the commissioner of all funds deposited under the trust agreement. The notice shall be on forms prescribed by the commissioner and shall be filed not later than March 1 of each year. Each notice shall contain the required information for all deposits made during the previous calendar year. Forms may be obtained from the commissioner. The commissioner may accept ~~annual reports~~ notices submitted in an electronic format, such as computer diskettes.

Sec. 64. Section 524.1802, subsection 2, Code 1997, is amended to read as follows:

2. A bank holding company shall not acquire a bank or bank holding company pursuant to section 524.1805 ~~or 524.1903~~ if, following that acquisition, those state and national banks located in this state in which out-of-state bank holding companies directly or indirectly control more than twenty-five percent of the voting shares or have the power to control in any manner the election of the majority of directors would have, in the aggregate, more than thirty-five percent of the sum of the total time and demand deposits of all state and national banks located in this state plus the total time and demand deposits of all offices located in this state of savings and loan associations and savings banks, whether chartered under the law of this or another state or under federal law, as determined by the superintendent on the basis of the most recent reports of those financial institutions to their supervisory authorities.

Sec. 65. Section 542B.27, subsection 1, unnumbered paragraph 1, Code 1997, is amended to read as follows:

In addition to any other penalties provided for in this ~~section~~ chapter, the board may by order impose a civil penalty upon a person who is not licensed under this chapter as a

professional engineer or a land surveyor and who does any of the following:

Sec. 66. Section 542B.35, subsection 2, paragraph c, Code 1997, is amended to read as follows:

c. A person who completes the real property inspection report shall not ~~represent themselves as~~ claim to be a licensed land surveyor or a professional engineer for purposes of the report.

Sec. 67. Section 543B.46, subsection 3, Code 1997, is amended to read as follows:

3. Each broker shall authorize the real estate commission to examine each trust account and shall obtain the certification of the bank or savings and loan association attesting to each trust account and consenting to the examination and audit of each account by a duly authorized representative of the commission. The certification and consent shall be furnished on forms prescribed by the commission. This subsection does not apply to an individual farm account maintained in the name of the owner or owners for the purpose of conducting ongoing farm business whether it is conducted by the farm owner or by an agent or farm manager when the account is part of a farm management agreement between the owner and agent or manager. This ~~section~~ subsection also does not apply to an individual property management account maintained in the name of the owner or owners for the purpose of conducting ongoing property management whether it is conducted by the property owner or by an agent or manager when the account is part of a property management agreement between the owner and agent or manager.

Sec. 68. Section 554.2512, subsection 1, paragraph b, Code 1997, is amended to read as follows:

b. despite tender of the required documents the circumstances would justify injunction against honor under ~~the provisions of~~ this chapter (section 554.5109, subsection 2).

Sec. 69. Section 554.5116, subsection 4, Code 1997, is amended to read as follows:

4. If there is conflict between this Article and Article 3, 4, ~~or~~ 9, or 12, this Article governs.

Sec. 70. Section 554.8111, Code 1997, is amended to read as follows:

554.8111 CLEARING CORPORATION RULES.

A rule adopted by a clearing corporation governing rights and obligations among the clearing corporation and its participants in the clearing corporation is effective even if the rule conflicts with this ~~Article~~ chapter and affects another party who does not consent to the rule.

Sec. 71. Section 554.8205, unnumbered paragraph 1, Code 1997, is amended to read as follows:

An unauthorized signature placed on a security certificate before or in the course of issue is ineffective, but the signature is effective in favor of a purchaser for value of the certificated security if the purchaser is without notice of the lack of authority and the signing has been done by:

Sec. 72. Section 554.8401, subsection 1, unnumbered paragraph 1, Code 1997, is amended to read as follows:

If a certificated security in registered form is presented to an issuer with a request to register transfer or an instruction is presented to an issuer with a request to register transfer of an uncertificated security, the issuer shall register the transfer as requested if:

Sec. 73. Section 554.9305, Code 1997, is amended to read as follows:

554.9305 WHEN POSSESSION BY SECURED PARTY PERFECTS SECURITY INTEREST WITHOUT FILING.

A security interest in ~~letters of credit (section 554.5114),~~ goods, instruments, money, negotiable documents, or chattel paper may be perfected by the secured party's taking possession of the collateral. A security interest in the right to proceeds of a written letter of credit

may be perfected by the secured party's taking possession of the letter of credit. If such collateral other than goods covered by a negotiable document is held by a bailee, the secured party is deemed to have possession from the time the bailee receives notification of the secured party's interest. A security interest is perfected by possession from the time possession is taken without a relation back and continues only so long as possession is retained, unless otherwise specified in this Article. The security interest may be otherwise perfected as provided in this Article before or after the period of possession by the secured party.

Sec. 74. Section 589.6, Code 1997, is amended to read as follows:

589.6 INSTRUMENTS AFFECTING REAL ESTATE.

All instruments in writing executed by a corporation before July 1, 1996, which are more than one year old, conveying, encumbering, or affecting real estate, including releases~~,~~ or satisfactions of mortgages, judgments, or any other liens by entry of the release or satisfaction upon the page where the lien appears recorded or entered, where the corporate seal of the corporation has not been affixed or attached, and which are otherwise legally and properly executed, are legal, valid, and binding as though the corporate seal had been attached or affixed.

Sec. 75. Section 602.8102, subsection 32, Code 1997, is amended by striking the subsection.

Sec. 76. Section 602.8104, subsection 2, paragraph j, Code 1997, is amended by striking the paragraph.

Sec. 77. Section 690.1, Code 1997, is amended to read as follows:

690.1 CRIMINAL IDENTIFICATION.

The ~~director~~ commissioner of public safety may provide in the department a bureau of criminal identification. The ~~director~~ commissioner may adopt rules for the same. The sheriff of each county and the chief of police of each city shall furnish to the department criminal identification records and other information as directed by the ~~director~~ commissioner of public safety.

Sec. 78. Section 724.11, Code 1997, is amended to read as follows:

724.11 ISSUANCE OF PERMIT TO CARRY WEAPONS.

Applications for permits to carry weapons shall be made to the sheriff of the county in which the applicant resides. Applications from persons who are nonresidents of the state, or whose need to go armed arises out of employment by the state, shall be made to the commissioner of public safety. In either case, the issuance of the permit shall be by and at the discretion of the sheriff or commissioner, who shall, before issuing the permit, determine that the requirements of sections 724.6 to 724.10 have been satisfied. However, the training program requirements in section 724.9 may be waived for renewal permits. The issuing officer shall collect a fee of ten dollars, except from a duly appointed peace officer or correctional officer, for each permit issued. Renewal permits or duplicate permits shall be issued for a fee of five dollars. The issuing officer shall notify the commissioner of public safety of the issuance of any permit at least monthly and forward to the ~~director~~ commissioner an amount equal to two dollars for each permit issued and one dollar for each renewal or duplicate permit issued. All such fees received by the commissioner shall be paid to the treasurer of state and deposited in the operating account of the department of public safety to offset the cost of administering this chapter. Any unspent balance as of June 30 of each year shall revert to the general fund as provided by section 8.33.

Sec. 79. Section 901A.1, subsection 2, Code 1997, is amended to read as follows:

2. As used in this ~~section~~ chapter, the term "prior conviction" includes a plea of guilty, deferred judgment, deferred or suspended sentence, or adjudication of delinquency.

Approved April 11, 1997

CHAPTER 24

REGULATION OF WASTE TIRE COLLECTION SITES

H.F. 228

AN ACT relating to permits issued to licensed automobile tire recycling dealers to own or operate a waste tire site.

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

Section 1. Section 455D.11, subsection 1, paragraph d, Code 1997, is amended to read as follows:

d. "Tire collector" means either a person who owns or operates a site used for the storage, collection, or deposit of more than five hundred waste tires or authorized vehicle recycler who is licensed by the department of transportation pursuant to section 321H.4 and who owns or operates a site used for the storage, collection, or deposit of more than three thousand five hundred waste tires.

Approved April 11, 1997

CHAPTER 25

COUNTY DEBT SERVICE FUND

H.F. 244

AN ACT relating to the county debt service fund.

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

Section 1. Section 331.430, subsection 2, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For the purposes of this section, warrants issued by a county in anticipation of revenue, refunding or refinancing of such warrants, and judgments based on a default in payment of such warrants shall not be considered debt payable from the debt service fund.

Sec. 2. Section 331.430, subsection 3, Code 1997, is amended to read as follows:

3. A tax levied for the debt service fund is not invalid if it raises moneys in excess of those needed for a specific purpose. Only excess moneys remaining after retirement of all indebtedness payable from the debt service fund may be transferred from the fund to the fund most closely related to the project for which the indebtedness arose, or to the general fund, subject to the terms of the original bond issue. This subsection shall not be construed to give a county board of supervisors authority to increase the debt service levy for the purpose of creating excess moneys in the fund to be used for purposes other than those related to retirement of debt.

Approved April 11, 1997

CHAPTER 26

LABOR COMMISSIONER — CONSTRUCTION CONTRACTORS AND OTHER PROVISIONS

H.F. 398

AN ACT relating to subject matter under the regulatory authority of the labor commissioner, including the construction contractors law, and making nonsubstantive Code corrections relating to the child labor law.

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

Section 1. Section 91C.1, subsection 1, Code 1997, is amended to read as follows:

1. As used in this chapter, unless the context otherwise requires, "contractor" means a person who engages in the business of construction, as the term "construction" is defined in ~~section 345-3.82 (96),~~ the Iowa Administrative Code~~,~~ for purposes of the Iowa employment security law. However, a person who earns less than one thousand dollars annually or who performs work or has work performed on the person's own property is not a contractor for purposes of this chapter. The state, its boards, commissions, agencies, departments, and its political subdivisions including school districts and other special purpose districts, are not contractors for purposes of this chapter.

Sec. 2. Section 91C.7, subsection 5, Code 1997, is amended to read as follows:

5. If it is determined that this section may cause denial of federal funds which would otherwise be available, or ~~would~~ is otherwise ~~be~~ inconsistent with requirements of federal law, this ~~subsection~~ section shall be suspended, but only to the extent necessary to prevent denial of the funds or to eliminate the inconsistency with federal requirements.

Sec. 3. Section 92.9, unnumbered paragraph 1, Code 1997, is amended to read as follows:

The provisions of sections 92.8 and 92.10 shall not apply to pupils working under an instructor in ~~a manual training~~ an industrial arts department in the public schools of the state or under an instructor in a school shop, or industrial plant, or in a course of vocational education approved by the board for vocational education, or to apprentices provided they are employed under all of the following conditions:

Sec. 4. Section 92.9, subsection 3, Code 1997, is amended to read as follows:

3. ~~Such~~ The work is intermittent and for short periods of time and is under the direct and close supervision of a ~~journeyman~~ journeyperson as a necessary part of ~~such~~ apprentice training.

Approved April 11, 1997

CHAPTER 27

UNFIRED STEAM PRESSURE VESSELS

H.F. 399

AN ACT relating to inspections of unfired steam pressure vessels.

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

Section 1. Section 89.3, Code 1997, is amended by adding the following new subsection and renumbering the subsequent subsections:

NEW SUBSECTION. 10. Internal inspections of unfired steam pressure vessels operating in excess of fifteen pounds per square inch shall be conducted once every two years. External inspections shall be conducted annually. An internal inspection of an unfired steam pressure vessel may be required at any time by the commissioner upon the observation by an inspector of conditions, enumerated by the commissioner through rules, warranting an internal inspection.

Sec. 2. REPEAL. 1996 Iowa Acts, chapter 1149, section 2, is repealed effective December 31, 1997.

Approved April 11, 1997

CHAPTER 28

STATE GOVERNMENT PERSONNEL PROCEDURES

H.F. 401

AN ACT relating to state government personnel procedures including job classifications, pay plans, employee recall from layoff, and abolishing the personnel commission.

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

Section 1. Section 19A.1, subsection 3, paragraph a, Code 1997, is amended by striking the paragraph.

Sec. 2. Section 19A.2, subsection 2, Code 1997, is amended by striking the subsection.

Sec. 3. Section 19A.9, unnumbered paragraph 1, Code 1997, is amended to read as follows:

The ~~personnel commission~~ director shall adopt and may amend rules for the administration and implementation of this chapter in accordance with chapter 17A. ~~The director shall prepare and submit proposed rules to the commission.~~ Rulemaking shall be carried out with due regard to the terms of collective bargaining agreements. A rule shall not supersede a provision of a collective bargaining agreement negotiated under chapter 20. The rules shall provide:

Sec. 4. Section 19A.9, subsections 1, 2, 14, 16, and 23, Code 1997, are amended by striking the subsections and inserting in lieu thereof the following:

1. For the preparation, maintenance, and revision of a job classification plan that encompasses each job in the executive branch, excluding job classifications under the state board of regents, based upon assigned duties and responsibilities, so that the same general qualifications may reasonably be required for and the same pay plan may be equitably applied to all jobs in the same job classification. The director shall classify the position of every employee in the executive branch, excluding employees of the state board of regents, into one of the classes in the plan. An appointing authority or employee adversely affected by a job classification or reclassification may file an appeal with the director. The classification or reclassification of a position that would cause the expenditure of additional salary funds shall not become effective if the expenditure of funds would be in excess of the total amount budgeted for the department of the appointing authority until budgetary approval has been obtained from the director of the department of management.

When the public interest requires a diminution or increase of employees in any position

or type of employment not otherwise provided by law, or the creation or abolishment of any position or type of employment, the director, acting in good faith, shall so notify the governor. Thereafter, the position or type of employment shall stand abolished or created and the number of employees therein reduced or increased.

2. For pay plans covering all employees in the executive branch of state government, excluding employees of the state board of regents, after consultation with the governor and appointing authorities, and consistent with the terms of collective bargaining agreements negotiated under chapter 20.

14. For layoffs by reason of lack of funds or work, or organization, and for the recall of employees so laid off, giving primary consideration in layoffs to the performance record and secondary consideration to the length of service. An employee who has been laid off may be on a recall list for one year, which list shall be exhausted by the agency enforcing the layoff before selection of an employee may be made from the promotional or nonpromotional list of eligibles in the employee's classification. Employees who are subject to contracts negotiated under chapter 20 which include layoff and recall provisions shall be governed by the contract provisions.

16. For discharge, suspension, or reduction in job classification or pay grade for any of the following causes: failure to perform assigned duties; inadequacy in performing assigned duties; negligence; inefficiency; incompetence; insubordination; unrehabilitated alcoholism or narcotics addiction; dishonesty; unlawful discrimination; failure to maintain a license, certificate, or qualification necessary for a job classification or position; any act or conduct which adversely affects the employee's performance or the employing agency; or any other good cause for discharge, suspension, or reduction. The person discharged, suspended, or reduced shall be given a written statement of the reasons for the discharge, suspension, or reduction within twenty-four hours after the discharge, suspension, or reduction. All persons concerned with the administration of this chapter shall use their best efforts to insure that this chapter and the rules adopted hereunder shall not be a means of protecting or retaining unqualified or unsatisfactory employees, and shall discharge, suspend, or reduce in job classification or pay grade all employees who should be discharged, suspended, or reduced for any of the causes stated in this subsection.

23. For the establishment of work test appointments to job classifications such as laborers, attendants, aides, food service workers, laundry workers, custodial workers, or similar types of employment when the character of the work makes it impracticable to effectively supply the needs of the departments by written or other type of competitive examination. If this subsection conflicts with any other provisions of this chapter, the provisions of this subsection govern the positions to which it applies. All persons appointed to the positions specified in this subsection shall serve a probationary period in accordance with this chapter, may acquire permanent status, and are subject to the same rules as other employees. Such persons shall be required to pass promotional examinations as prescribed by this chapter and the rules adopted by the director before they may be promoted to a higher classification.

Sec. 5. Section 19A.16, Code 1997, is amended to read as follows:

19A.16 SERVICES TO POLITICAL SUBDIVISIONS.

~~Subject to the rules approved by the commission, the~~ The director may enter into agreements with any municipality or political subdivision of the state to furnish services and facilities of the agency to ~~such~~ the municipality or political subdivision ~~in the administration of its personnel on merit principles~~. ~~Any such~~ The agreement shall provide for the reimbursement to the state of the reasonable cost of the services and facilities furnished. All municipalities and political subdivisions of the state are authorized to enter into such agreements.

Nothing in this chapter shall affect any municipal civil service programs presently established under and pursuant to ~~the provisions of~~ chapter 400.

Sec. 6. Section 19A.18, unnumbered paragraphs 6 and 7, Code 1997, are amended to read as follows:

Any officer or employee ~~in the merit system~~ who violates any of the provisions of this section shall be subject to suspension, dismissal, or demotion subject to the right of appeal herein.

The ~~commission~~ director shall adopt any rules necessary for further restricting political activities of ~~persons holding positions in the classified service~~ employees in the executive branch, but only to the extent necessary to comply with federal standards. Employees retain the right to vote as they please and to express their opinions on all subjects.

Sec. 7. Section 70A.1, unnumbered paragraphs 1 and 7, Code 1997, are amended to read as follows:

Salaries specifically provided for in an appropriation Act of the general assembly shall be in lieu of existing statutory salaries, for the positions provided for in the Act, and all salaries, including longevity where applicable by express provision in the Code, shall be paid according to the provisions of chapter 91A and shall be in full compensation of all services, including any service on committees, boards, commissions or similar duty for Iowa government, except for members of the general assembly. A state employee on an annual salary shall not be paid for a pay period an amount which exceeds the employee's annual salary transposed into a rate applicable to the pay period by dividing the annual salary by the number of pay periods in the fiscal year. Salaries for state employees ~~other than annual salaries~~ covered by the overtime payment provisions of the federal Fair Labor Standards Act shall be established on an hourly basis.

State employees, excluding state board of regents' faculty members with nine-month appointments, and employees covered under a collective bargaining agreement negotiated with the public safety bargaining unit who are eligible for accrued vacation benefits and accrued sick leave benefits, who have accumulated thirty days of sick leave, and who do not use sick leave during a full month of employment may elect to accrue up to one-half day of additional vacation. The accrual of additional vacation time by an employee for not using sick leave during a month is in lieu of the accrual of up to one and one-half days of sick leave for that month. The ~~personnel commission~~ director of the department of personnel may adopt the necessary rules and procedures for the implementation of this program for all state employees except employees of the state board of regents. The state board of regents may adopt necessary rules for the implementation of this program for its employees.

Sec. 8. Section 70A.16, subsection 2, unnumbered paragraph 1, Code 1997, is amended to read as follows:

A state employee who is reassigned shall be reimbursed for moving expenses incurred in accordance with rules and policies adopted by the director of the department of personnel ~~commission~~ when all of the following circumstances exist:

Sec. 9. Section 137.6, subsection 4, Code 1997, is amended to read as follows:

4. Employ persons as necessary for the efficient discharge of its duties. Employment practices shall meet the requirements of ~~the personnel commission~~ chapter 19A or any civil service provision adopted under chapter 400.

Sec. 10. Sections 19A.4, 19A.6, and 19A.7, Code 1997, are repealed.

Approved April 11, 1997

CHAPTER 29

BOXING AND WRESTLING

H.F. 589

AN ACT relating to professional boxing and wrestling matches, providing for properly related matters, and providing for a tax and for penalties.

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

Section 1. Section 90A.1, Code 1997, is amended by striking the section and inserting in lieu thereof the following:

90A.1 DEFINITIONS.

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

1. "Boxer registry" means an entity certified by the association of boxing commissions for the purpose of maintaining records and identification of boxers.

2. "Commissioner" means the state commissioner of athletics, who is also the labor commissioner appointed pursuant to section 91.2.

3. "Official" means a person who is employed as a referee, judge, timekeeper, or match physician for a boxing or wrestling match event.

4. "Participant" means a person involved in the boxing or wrestling match event and includes contestants, seconds, managers, and similar event personnel.

5. "Professional boxing or wrestling match" means a boxing or wrestling contest or exhibition open to the public in this state for which the contestants are paid or awarded a prize for their participation.

6. "Promoter" means a person or business that does at least one of the following:

a. Organizes, holds, advertises, or otherwise conducts a professional boxing or wrestling match.

b. Charges admission for the viewing of a professional boxing or wrestling match received through a closed-circuit, pay-per-view, or similarly distributed signal.

Sec. 2. Section 90A.2, Code 1997, is amended by striking the section and inserting in lieu thereof the following:

90A.2 LICENSE.

1. A person shall not act as a promoter of a professional boxing or wrestling match without first obtaining a license from the commissioner. This subsection shall not apply to a person distributing a closed-circuit, pay-per-view, or similarly distributed signal to a person acting as a promoter or to a person viewing the signal in a private residence.

2. The license application shall be in the form prescribed by the commissioner and shall contain information that is substantially complete and accurate. Any change in the information provided in the application shall be reported promptly to the commissioner. The application shall be submitted no later than seven days prior to the intended date of the match.

3. Each application for a license shall be accompanied by a surety or cash bond in the sum of five thousand dollars, payable to the state of Iowa, which shall be conditioned upon the payment of the tax and any penalties imposed pursuant to this chapter.

Sec. 3. Section 90A.3, Code 1997, is amended by striking the section and inserting in lieu thereof the following:

90A.3 PROFESSIONAL BOXER REGISTRATION.

1. Each professional boxer residing in Iowa shall register with the commissioner. The registration application shall be in the form prescribed by the commissioner and shall be accompanied by the fee established by rule by the commissioner. The information required by the commissioner shall include, but is not limited to, the following:

a. The boxer's name and address.

b. The boxer's gender.

c. The boxer's date of birth.

d. The boxer's social security number or, if a foreign boxer, any similar citizen identification number or professional boxer number from the country of residence of the boxer.

e. The boxer's personal identification number assigned to the boxer by a professional boxing registry certified by the association of boxing commissions if the boxer is registered with a registry.

f. Two copies of a recent photograph of the boxer.

g. An official government issued photo identification containing the boxer's photograph and social security number or similar foreign identification number.

2. The commissioner shall issue an identification card to a boxer registered pursuant to this chapter. The identification card shall contain a recent photograph, the boxer's social security number or similar foreign identification number, and a personal identification number assigned to the boxer by a boxing registry.

3. A registration issued pursuant to this section shall be valid for two years from the date of issue.

4. This section does not apply to professional wrestlers or contestants in boxing elimination tournaments.

Sec. 4. Section 90A.4, Code 1997, is amended by striking the section and inserting in lieu thereof the following:

90A.4 MATCH PROMOTER RESPONSIBILITY.

The promoter, as defined in section 90A.1, subsection 6, paragraph "a", shall be responsible for the conduct of all officials and participants at a professional boxing or wrestling match. The commissioner may reprimand, suspend, deny, or revoke the participation of any promoter, official, or participant for violations of rules adopted by the commissioner. Rulings or decisions of a promoter or an official are not decisions of the commissioner and are not subject to procedures under chapter 17A. The commissioner may take action based upon the rulings or decisions of a promoter or an official. This section shall not apply to a promoter as defined in section 90A.1, subsection 6, paragraph "b".

Sec. 5. Section 90A.5, Code 1997, is amended by striking the section and inserting in lieu thereof the following:

90A.5 EMERGENCY SUSPENSIONS.

1. Notwithstanding the procedural requirements of chapter 17A, the commissioner may orally suspend a license, registration, or participation immediately if the commissioner determines that any of the following have occurred:

a. A license or registration was fraudulently or deceptively obtained.

b. The holder of a license or registration fails at any time to meet the qualifications for issuance.

c. A boxer fails to pass a prefight physical examination.

d. A match promoter permits a nonregistered boxer to participate in a professional boxing match.

e. A match promoter permits a person whose license, registration, or authority, issued pursuant to this chapter, is under suspension to participate in a boxing event.

f. A match promoter or professional boxer is under suspension by any other state boxing regulatory organization.

g. A match promoter or professional boxer is under suspension in any state.

h. A match promoter, professional boxer, or participant is in violation of rules adopted pursuant to section 90A.7.

2. A written notice of a suspension issued pursuant to this section shall be given to the person suspended within seven days of the emergency suspension. The provisions of chapter 17A shall apply once the written notice is given.

Sec. 6. Section 90A.6, Code 1997, is amended by striking the section and inserting in lieu thereof the following:

90A.6 SUSPENSIONS, DENIALS, AND REVOCATIONS.

1. The commissioner may suspend, deny, revoke, annul, or withdraw a license, registration, or authority to participate in a professional boxing or wrestling match if any of the following occur:

a. Any of the reasons enumerated in section 90A.5.

b. Failure to pay fees or penalties due pursuant to section 90A.2, 90A.3, or 90A.9.

2. The provisions of chapter 17A shall apply to actions under this section.

Sec. 7. Section 90A.7, Code 1997, is amended by striking the section and inserting in lieu thereof the following:

90A.7 RULES.

The commissioner shall adopt rules, pursuant to chapter 17A, that the commissioner determines are reasonably necessary to administer and enforce this chapter.

The commissioner may adopt the rules of a recognized national or world boxing organization that sanctions a boxing match in this state to regulate the match if the organization's rules provide protection to the boxers participating in the match which is equal to or greater than the protections provided by this chapter or by rules adopted pursuant to this chapter. As used in this paragraph, "recognized national or world boxing organization" includes, but is not limited to, the international boxing federation, the world boxing association, and the world boxing council.

Sec. 8. Section 90A.8, Code 1997, is amended by striking the section and inserting in lieu thereof the following:

90A.8 REQUIRED CONDITIONS FOR BOXING MATCHES.

A boxing match shall be not more than fifteen rounds in length and the contestants shall wear gloves weighing at least eight ounces during such contests. The commissioner may adopt rules requiring more stringent procedures for specific types of boxing.

A contestant shall not take part in a boxing match unless the contestant has presented a valid registration identification card issued pursuant to section 90A.3 to the commissioner prior to the weigh-in for the boxing match. The contestant shall pass a rigorous physical examination to determine the contestant's fitness to engage in any such match within twenty-four hours of the start of the match. The examination shall be conducted by a licensed practicing physician designated or authorized by the commissioner.

Sec. 9. Section 90A.9, Code 1997, is amended by striking the section and inserting in lieu thereof the following:

90A.9 WRITTEN REPORT FILED — TAX DUE — PENALTY.

1. The promoter of a professional boxing or wrestling match or event shall, within twenty days after the match or event, furnish to the commissioner a written report stating the number of tickets sold, the gross amount of admission proceeds of the professional boxing or wrestling match, and other matters the commissioner may prescribe by rule. The value of complimentary tickets in excess of five percent of the number of tickets sold shall be included in the gross admission receipts. Within twenty days of the match or event, the promoter shall pay to the treasurer of state a tax of five percent of its total gross admission receipts, after deducting state sales tax, from the sale of tickets of admission to the professional boxing or wrestling match or event.

2. If the promoter fails to make a timely report within the time prescribed, or if the report is unsatisfactory to the commissioner, the commissioner may examine or cause to be examined the books and records of the promoter, and subpoena and examine under oath witnesses, for the purpose of determining the total amount of the gross admission receipts for any match and the amount of tax due pursuant to the provisions of this chapter. The commissioner may, as the result of such examination, fix and determine the tax, and may

also assess the promoter the reasonable cost of conducting the examination. If a promoter defaults in the payment of any tax due or the costs incurred in making such examination, the promoter shall forfeit to the state the sum of five thousand dollars, which may be recovered by the attorney general pursuant to the bond required under section 90A.2, subsection 3.

Sec. 10. Section 90A.10, Code 1997, is amended by striking the section and inserting in lieu thereof the following:

90A.10 GRANTS.

1. Moneys collected pursuant to sections 90A.3 and 90A.9 in excess of the amount of moneys needed to administer this chapter are appropriated and shall be used by the commissioner to award grants to organizations that promote amateur boxing matches in this state.

2. The commissioner shall adopt rules pursuant to chapter 17A to establish application procedures and criteria for the review and approval of grants awarded pursuant to this section.

3. An advisory committee composed of three members of the golden gloves association of America, incorporated — Iowa branch, who shall be appointed by the association, and three members of the United States of America amateur boxing federation — Iowa branch, who shall be appointed by the federation, shall advise the commissioner regarding the awarding of grants pursuant to this section.

Sec. 11. NEW SECTION. 90A.11 LICENSE PENALTY.

A person who acts as a professional boxing or wrestling match promoter, as defined in section 90A.1, without first obtaining a license commits a serious misdemeanor. In addition to criminal penalties, the promoter shall be liable to the state for the taxes and penalties pursuant to section 90A.9.

Sec. 12. NEW SECTION. 90A.12 MAXIMUM AGE FOR AMATEUR BOXING CONTESTANTS.

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

2. Subsection 1 does not apply to contestants in regional, national, or international organized amateur boxing contests or to organized amateur boxing contests involving contestants who are serving in the military service.

Approved April 14, 1997

CHAPTER 30

BEEF CATTLE PRODUCERS ASSOCIATION

H.F. 687

AN ACT relating to statutory references to the Iowa beef industry council and increasing an excise tax on beef cattle upon a referendum.

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

Section 1. Section 181.3, subsection 1, unnumbered paragraph 1, Code 1997, is amended to read as follows:

An executive committee of the Iowa beef cattle producers association is created. ~~The executive committee may also be known as the Iowa beef industry council.~~ The executive committee consists of eight members as follows:

Sec. 2. Section 181.6, subsection 1, Code 1997, is amended to read as follows:

1. "Executive committee" means the executive committee created in section 181.3~~, which is also known as the Iowa beef industry council~~.

Sec. 3. Section 181.13, unnumbered paragraph 1, Code 1997, is amended to read as follows:

All excise taxes imposed and levied under this chapter shall be paid to and collected by the executive committee and deposited with the treasurer of state in a separate cattle and veal calf fund which shall be created by the treasurer of state. The department of revenue and finance shall transfer moneys from the fund to the executive committee for deposit into an account established by the executive committee in a qualified financial institution. The department shall transfer the moneys as provided in a resolution adopted by the executive committee. However, the department is only required to transfer moneys once during each day and only during hours when the offices of the state are open. From the moneys collected, deposited, and transferred to the executive committee, in accordance with the provisions of this chapter, the executive committee shall first pay the costs of referendums held pursuant to this chapter, the costs of collection of such excise tax, the expenses of its agents and expenses of officers provided for in section 181.5. Except as otherwise provided in section 181.19, ~~at least thirty percent of the remaining moneys shall be remitted to the national livestock and meat board and the beef industry council, and~~ at least ten percent of the remaining funds shall be remitted to the Iowa beef cattle producers association in proportions determined by the executive committee, for use in a manner not inconsistent with section 181.7. The remaining moneys, with approval of a majority of the executive committee, shall be expended as the executive committee finds necessary to carry out the provisions and purposes of this chapter. However, in no event shall the total expenses exceed the total amount transferred from the fund for use by the executive committee.

Sec. 4. Section 181.14, Code 1997, is amended to read as follows:

181.14 NOTICE.

Notice of any such referendum shall be given by the secretary by publishing the same for a period of not less than five days in a newspaper of general circulation in the state and in such other newspapers as the secretary may prescribe. The notice of referendum shall set forth the period for voting and the voting places for the referendum and the amount of the deduction ~~pursuant to section 181.11~~. No referendum shall be commenced prior to five days after the last day of such period of publication.

Sec. 5. Section 181.17, Code 1997, is amended to read as follows:

181.17 PRODUCERS NOT MEMBERS.

~~Every~~ A producer~~, even though~~ who is not a member ~~thereof,~~ of the Iowa beef cattle producers association shall be entitled to vote in elections of persons to be ~~directors of the Iowa beef cattle producers association~~ members of the executive committee in the same manner as if the producer were a member. ~~Directors thus~~ The members elected~~,~~ to the executive committee shall elect from their number the officers referred to in section 181.1.

Sec. 6. Section 181.19, Code 1997, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 1:

NEW UNNUMBERED PARAGRAPH. The secretary shall, upon the petition of five hundred producers, conduct a special referendum to determine whether an excise tax already collected shall be increased to a rate, established by the executive committee, not to exceed one dollar per head on all beef cattle and veal calves sold for any purpose.

Sec. 7. Section 181.19, unnumbered paragraphs 2, 4, and 5, Code 1997, are amended to read as follows:

The ~~initial referendum and subsequent referendums for extension of such excise tax~~ referenda shall be conducted under the provisions of sections 181.9 and 181.10, as nearly as ~~may be~~ is possible. Upon determination by the secretary that assent to the assessment has been given, there shall be assessed and levied an excise tax on each sale in the amount provided in this section. The tax shall be due at or before the time the animals are sold and shall be paid at a time prescribed by the council, but not later than the last day of the month following the end of the prior reporting period in which the animals are sold.

On the date of the effective ~~period for the collection~~ date of ~~the~~ an excise tax which is larger than provided for in this section, any lesser excise tax being assessed ~~and levied under section 181.11~~ shall terminate ~~during any period for which any excise tax provided for in this section shall be in effect~~. However, if a special referendum to increase the excise tax should fail, it shall not affect the existence or length of the assessment in effect on the date that the special referendum is conducted. The provisions of sections 181.12, 181.13, 181.14, 181.15 and 181.16 shall also be applicable to the tax provided for in this section, as nearly as ~~may be~~ is possible. ~~Notwithstanding the provisions in section 181.13 to the contrary, at least fifteen percent of the funds collected from an excise tax assessed and levied under the provisions of this section shall be remitted to the national livestock and meat board and the beef industry council thereof, after first paying the costs and expenses referred to in section 181.13.~~

An assessment adopted ~~following the initial~~ by referendum shall be effective for four years from its effective date and shall be either extended or terminated as provided in this section.

Sec. 8. Section 181.11, Code 1997, is repealed.

Sec. 9. DIRECTIONS TO CODE EDITOR. The Iowa Code editor shall transfer section 181.6 and recodify it as section 181.1 and renumber subsequent sections in chapter 181 and correct internal references as necessary.

Approved April 14, 1997

CHAPTER 31

GROUNDWATER PROFESSIONALS

S.F. 75

AN ACT relating to the qualifications of groundwater professionals.

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

Section 1. Section 455G.18, subsection 2, paragraph d, Code 1997, is amended to read as follows:

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~~.

Approved April 18, 1997

CHAPTER 32

COACHING AUTHORIZATION

S.F. 104

AN ACT relating to a minimum age requirement for a coaching authorization issued by the state board of educational examiners and providing an effective date.

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

Section 1. Section 272.31, subsection 1, Code 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. Attainment of at least eighteen years of age.

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

Approved April 18, 1997

CHAPTER 33

SUBSTANTIVE CODE CORRECTIONS

S.F. 118

AN ACT relating to statutory corrections which may adjust language to reflect current practices, insert earlier omissions, delete redundancies and inaccuracies, delete temporary language, resolve inconsistencies and conflicts, update ongoing provisions, or remove ambiguities, and providing effective and retroactive applicability dates.

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

Section 1. Section 74A.6, subsection 1, Code 1997, is amended to read as follows:

1. The authority contained in this section shall be exercised by a committee composed of the treasurer of state, the superintendent of banking, the superintendent of credit unions, and the auditor of state or a designee.

Sec. 2. Section 124.406, subsection 1, paragraph a, Code 1997, is amended to read as follows:

a. Unlawfully distributes or possesses with intent to distribute a substance listed in schedule I or II to a person under eighteen years of age commits a class "B" felony and shall serve a minimum term of confinement of five years. However, if the substance was distributed in or on, or within one thousand feet of, the real property comprising a public or private elementary or secondary school, ~~or in or on the real property comprising a~~ public park, public swimming pool, public recreation center, or on a marked school bus, the person shall serve a minimum term of confinement of ten years.

Sec. 3. Section 124.406, subsection 2, paragraph a, Code 1997, is amended to read as follows:

a. Unlawfully distributes or possesses with the intent to distribute a counterfeit substance listed in schedule I or II, or a simulated controlled substance represented to be a substance classified in schedule I or II, to a person under eighteen years of age commits a class "B" felony. However, if the substance was distributed in or on, or within one thousand feet of,

the real property comprising a public or private elementary or secondary school, ~~or in or on the real property comprising a~~ public park, public swimming pool, public recreation center, or on a marked school bus, the person shall serve a minimum term of confinement of ten years.

Sec. 4. Section 190.14, subsection 1, Code 1997, is amended to read as follows:

1. The department shall administer this chapter consistent with the provisions of the "Grade 'A' Pasteurized Milk Ordinance~~, 1993 Revision~~", as provided in section 192.102.

Sec. 5. Section 191.9, subsection 1, Code 1997, is amended to read as follows:

1. The department shall administer this chapter consistent with the provisions of the "Grade 'A' Pasteurized Milk Ordinance~~, 1993 Revision~~", as provided in section 192.102.

Sec. 6. Section 192.102, Code 1997, is amended to read as follows:

192.102 GRADE "A" PASTEURIZED MILK ORDINANCE.

The department shall adopt, by rule, the "Grade 'A' Pasteurized Milk Ordinance, ~~1993~~ 1995 Revision", including a subsequent revision of the ordinance. If the ordinance specifies that compliance with a provision of the ordinance's appendices is mandatory, the department shall also adopt that provision. The department shall not amend the ordinance, unless the department explains each amendment and reasons for the amendment in the Iowa administrative bulletin when the rules are required to be published pursuant to chapter 17A. The department shall administer this chapter consistent with the provisions of the ordinance.

Sec. 7. Section 192.110, subsection 2, Code 1997, is amended to read as follows:

2. The facilities and equipment used to produce, store, or transport milk or milk products comply with requirements of the "Grade 'A' Pasteurized Milk Ordinance~~, 1993 Revision~~" as provided in section 192.102.

Sec. 8. Section 542B.10, Code 1997, is amended to read as follows:

542B.10 ANNUAL REPORT.

At the time provided by law, the board shall submit to the governor a written report of its transactions for the preceding year, and shall file with the secretary of state a copy thereof, ~~together with a complete statement of the receipts and expenditures of the board,~~ attested by the affidavits of the chairperson and the secretary, and a complete list of those licensed under this chapter with their addresses and the dates of their certificates of licensure. Said report shall be printed by the state and a copy mailed to, and placed on file in the office of the clerk of each incorporated city in the state and in the office of the auditor of each county therein.

Sec. 9. Section 542C.3, subsection 3, unnumbered paragraph 2, Code 1997, is amended to read as follows:

The board shall make a biennial report to the governor of its proceedings, with ~~an account of all moneys received and disbursed,~~ a list of the names of certified public accountants and accounting practitioners whose certificates, permits to practice, or licenses have been revoked or suspended, and other information as it deems proper or the governor requests.

Sec. 10. Section 544A.4, Code 1997, is amended to read as follows:

544A.4 REPORT.

On or before the thirtieth day of June of each year the board shall submit to the governor a report of its transactions for the preceding year~~, together with a complete statement of the receipts and expenditures of the board~~. This report shall include a roster of the name, place of business and number of certificate of registration of every registered architect entitled to practice the profession in the state of Iowa. A copy of this report shall be filed with the secretary of state.

Sec. 11. Section 544B.6, Code 1997, is amended to read as follows:

544B.6 ANNUAL REPORT.

Before the first day of July of each year the board shall submit to the governor a report of its transactions for the preceding year~~, together with a complete statement of the receipts and expenditures of the board~~. This report shall include the roster of registered landscape architects. A copy of this report shall be filed with the secretary of state.

Sec. 12. Section 669.2, subsection 4, Code 1997, is amended to read as follows:

4. "Employee of the state" includes any one or more officers, agents, or employees of the state or any state agency, including members of the general assembly, and persons acting on behalf of the state or any state agency in any official capacity, temporarily or permanently in the service of the state of Iowa, whether with or without compensation, but does not include a contractor doing business with the state. Professional personnel, including physicians, osteopathic physicians and surgeons, osteopathic physicians, optometrists, dentists, nurses, physician assistants, and other medical personnel, who render services to patients or inmates of state institutions under the jurisdiction of the department of human services~~, and employees of the commission of veterans affairs,~~ or the Iowa department of corrections, and employees of the commission of veterans affairs, are to be considered employees of the state, whether the personnel are employed on a full-time basis or render services on a part-time basis on a fee schedule or other arrangement. Criminal defendants while performing unpaid community service ordered by the district court, board of parole, or judicial district department of correctional services, or an inmate providing services pursuant to a chapter 28E agreement entered into pursuant to section 904.703, are to be considered employees of the state.

"Employee of the state" also includes an individual performing unpaid community service under an order of the district court pursuant to section 598.23A.

Sec. 13. Section 692A.1, subsection 6, paragraph h, Code 1997, is amended to read as follows:

h. A criminal offense committed in another jurisdiction which would constitute an indictable offense under paragraphs "a" through ~~"e" and~~ "g" if committed in this state.

Sec. 14. Section 708.2A, subsections 6, 7, and 9, Code 1997, are amended to read as follows:

6. a. A person convicted of violating subsection 2 or 3 shall serve a minimum term of two days of the sentence imposed by law, and shall not be eligible for suspension of the minimum sentence. The minimum term shall be served on consecutive days. The court shall not impose a fine in lieu of the minimum sentence, although a fine may be imposed in addition to the minimum sentence. This section does not prohibit the court from sentencing and the ~~defendant~~ person from serving the maximum term of confinement or from paying the maximum fine permitted pursuant to chapters 902 and 903, and does not prohibit the court from entering a deferred judgment or sentence pursuant to section 907.3, if the ~~defendant~~ person has not previously received a deferred sentence or judgment for a violation of section 708.2 or this section which was issued on a domestic abuse assault. ~~However, once the defendant has received one deferred sentence or judgment involving a violation of section 708.2 or this section which was issued on a domestic abuse assault, the defendant shall not be eligible to receive another deferred sentence or judgment for a violation of this section.~~

b. A person convicted of violating subsection 4 shall be ~~sentenced to a term of not less than one year and~~ committed to the custody of the director of the department of corrections, shall serve a minimum of one year of the sentence imposed, and shall be assessed a fine of ~~not less than~~ at least seven hundred fifty dollars. Notwithstanding section 901.5, subsection 3, and section 907.3, subsection 3, the sentence cannot be suspended; however, the person sentenced shall receive credit for any time the person was confined in a jail or detention facility following arrest.

7. If a ~~defendant~~ person is convicted for, receives a deferred judgment for, or pleads guilty to a violation of this section, the court shall modify the no-contact order issued upon initial appearance in the manner provided in section 236.14, regardless of whether the ~~defendant~~ person is placed on probation.

9. In addition to the mandatory minimum term of confinement imposed by subsection 6, paragraph "a", the court shall order a ~~defendant~~ person convicted under subsection 2 or 3 to participate in a batterers' treatment program as required under section 708.2B. In addition, as a condition of deferring judgment or sentence pursuant to section 907.3, the court shall order the ~~defendant~~ person to participate in a batterers' treatment program. The clerk of the district court shall send a copy of the judgment or deferred judgment to the judicial district department of correctional services.

Sec. 15. EFFECTIVE AND APPLICABILITY DATES. The section which amends section 669.2, subsection 4, of this Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 1996.

Approved April 18, 1997

CHAPTER 34

USE TAX ON MOTOR VEHICLE LEASING

S.F. 222

AN ACT relating to the use tax on motor vehicle leasing.

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

Section 1. Section 423.4, subsection 16, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A lessor may maintain the exemption from use tax under this subsection for a qualifying lease that terminates at the conclusion or prior to the contracted expiration date, if the lessor does not use the vehicle for any purpose other than for lease. Once the vehicle is used by the lessor for a purpose other than for lease, the exemption from use tax under this subsection no longer applies and, unless there is an exemption from the use tax, use tax is due on the fair market value of the vehicle determined at the time the lessor uses the vehicle for a purpose other than for lease, payable to the department. If the lessor holds the vehicle exclusively for sale, use tax is due and payable on the purchase price of the vehicle at the time of purchase pursuant to this chapter.

Sec. 2. Section 423.7A, subsections 1, 2, and 4, Code 1997, are amended to read as follows:

1. The tax imposed upon the use of leased vehicles subject to registration under chapter 321, with gross vehicle weight ratings of less than sixteen thousand pounds, excluding motorcycles and motorized bicycles, which are leased by a lessor licensed pursuant to chapter 321F for a period of twelve months or more shall be paid by the owner of the vehicle to the county treasurer or state department of transportation from whom the registration receipt or certificate of title is obtained. A registration receipt for a vehicle subject to registration or issuance of a certificate of title shall not be issued until the tax is paid in the initial instance. Tax on the lease transaction that does not require titling or registration of the vehicle shall be remitted to the department. Tax and the reporting of tax due to the department shall be remitted on or before fifteen days from the last day of the month that the vehicle lease tax

becomes due. Failure to timely report or remit any of the tax when due shall result in a penalty and interest being imposed on the tax due pursuant to sections 423.18 and 423.23.

2. The amount subject to tax shall be computed on each separate lease transaction by ~~multiplying the number of months of the lease by the monthly~~ taking the total of the lease payments, plus the down payment, ~~less any manufacturer's rebate~~ and excluding all of the following:

a. Title fee.

b. Registration fees.

c. Vehicle lease tax pursuant to this section.

d. Federal excise taxes attributable to the sale of the vehicle to the owner or to the lease of the vehicle by the owner.

e. Optional service or warranty contracts subject to tax pursuant to section 422.43, subsection 6.

f. Insurance.

g. Manufacturer's rebate.

h. Refundable deposit.

i. Finance charges, if any, on items listed in paragraphs "a" through "h".

If any or all of the items in paragraphs "a" through "i" are excluded from the taxable lease price, the owner shall maintain adequate records of the amounts of those items. If the parties to a lease enter into an agreement providing that the tax imposed under this statute is to be paid by the lessee or included in the monthly lease payments to be paid by the lessee, the total cost of the tax shall not be included in the computation of lease price for the purpose of taxation under this section. The county treasurer ~~or~~, the state department of transportation, or the department of revenue and finance shall require every applicant for a registration receipt for a vehicle subject to tax under this section to supply information as the county treasurer or director deems necessary as to the date of the lease transaction, the lease price, and other information relative to the lease of the vehicle.

4. If the lease is terminated prior to the termination date contained in the lease agreement, no refund shall be allowed for tax previously paid ~~on the monthly rental payments~~ under this section, except as provided in section 322G.4.

Approved April 18, 1997

CHAPTER 35

CHILD ABUSE ASSESSMENTS

S.F. 230

AN ACT relating to child abuse provisions involving assessments performed by the department of human services in response to reports of child abuse and providing effective dates.

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

DIVISION I
EXPANSION OF PILOT PROJECTS

Section 1. Section 232.71A, subsection 1, Code 1997, is amended to read as follows:

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. During the period beginning with the effective date of this division of this Act and ending June 30, 1998, the department shall incrementally expand the pilot projects areas in a manner so as to ensure the assessment-based approach is used throughout the state as of July 1, 1998. The department shall adopt rules to implement the provisions of this subsection.

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

DIVISION II
STATEWIDE USE OF ASSESSMENTS

Sec. 3. Section 232.67, Code 1997, is amended to read as follows:

232.67 LEGISLATIVE FINDINGS — PURPOSE AND POLICY.

Children in this state are in urgent need of protection from abuse. It is the purpose and policy of this part 2 of division III to provide the greatest possible protection to victims or potential victims of abuse through encouraging the increased reporting of suspected cases of ~~such~~ abuse, ~~insuring~~ ensuring the thorough and prompt ~~investigation~~ assessment of these reports, and providing rehabilitative services, where appropriate and whenever possible to abused children and their families which will stabilize the home environment so that the family can remain intact without further danger to the child.

Sec. 4. Section 232.68, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. "Child protection worker" means an individual designated by the department to perform an assessment in response to a report of child abuse.

Sec. 5. Section 232.68, subsection 3, Code 1997, is amended to read as follows:

3. "Confidential access to a child" means access to a child, during an ~~investigation~~ assessment of an alleged act of child abuse, who is alleged to be the victim of the child abuse. The access may be accomplished by interview, observation, or examination of the child. As used in this subsection and this part:

a. "Interview" means the verbal exchange between the ~~department investigator~~ child protection worker and the child for the purpose of developing information necessary to protect the child. A ~~department investigator~~ child protection worker is not precluded from recording visible evidence of abuse.

b. "Observation" means direct physical viewing of a child under the age of four by the ~~department investigator~~ child protection worker where the viewing is limited to the child's body other than the genitalia and pubes. "Observation" also means direct physical viewing of a child age four or older by the ~~department investigator~~ child protection worker without touching the child or removing an article of the child's clothing, and doing so without the consent of the child's parent, custodian, or guardian. A ~~department investigator~~ child protection worker is not precluded from recording evidence of abuse obtained as a result of a child's voluntary removal of an article of clothing without inducement by the ~~investigator~~ child protection worker. However, if prior consent of the child's parent or guardian, or an ex parte court order, is obtained, "observation" may include viewing the child's unclothed body other than the genitalia and pubes.

c. ~~"Examination"~~ "Physical examination" means direct physical viewing, touching, and medically necessary manipulation of any area of the child's body by a physician licensed under chapter 148 or 150A.

Sec. 6. NEW SECTION. 232.71B DUTIES OF THE DEPARTMENT UPON RECEIPT OF REPORT.

1. COMMENCEMENT OF ASSESSMENT — PURPOSE.

a. If the department determines a report constitutes a child abuse allegation, the department shall promptly commence an appropriate assessment within twenty-four hours of receiving the report.

b. The primary purpose of the assessment shall be the protection 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.

2. NOTIFICATION OF PARENTS. The department, within five working days of commencing the assessment, shall provide written notification of the assessment 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 to a subject of a child abuse report listed in section 235A.15, subsection 2, paragraph "a".

3. INVOLVEMENT OF LAW ENFORCEMENT. The department shall apply a protocol, developed with representatives of law enforcement agencies at the local level, to work jointly with law enforcement agencies in performing assessment and investigative processes for child abuse reports in which a criminal act harming a child is alleged. The county attorney and appropriate law enforcement agencies shall also take any other lawful action which may be necessary or advisable for the protection of the child. 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.

4. ASSESSMENT PROCESS. The assessment is subject to all of the following:

a. Identification of the nature, extent, and cause of the injuries, if any, to the child named in the report.

b. Identification of the person or persons responsible for the alleged child abuse.

c. A description of the name, age, and condition of other children in the same home as the child named in the report.

d. An evaluation of the home environment. If concerns regarding protection of children are identified by the child protection worker, the child protection worker shall evaluate the child named in the report and any other children in the same home as the parents or other persons responsible for their care.

e. An interview of the person alleged to have committed the child abuse, if the person's identity and location are known, to afford the person the opportunity to address the allegations of the child abuse report. The interview shall be conducted, or an opportunity for an interview shall be provided, prior to a determination of child abuse being made. The court may waive the requirement of the interview for good cause.

f. Unless otherwise prohibited under section 234.40 or 280.21, the use of corporal punishment by the person responsible for the care of a child which does not result in a physical injury to the child shall not be considered child abuse.

5. HOME VISIT. The assessment may, with the consent of the parent or guardian, include a visit to the home of the child named in the report and an interview or observation of the child may be conducted. If permission to enter the home to interview or observe the child is refused, the juvenile court or district court upon a showing of probable cause may authorize the person making the assessment to enter the home and interview or observe the child.

6. FACILITY OR SCHOOL VISIT. The assessment may include a visit to a facility providing care to the child named in the report or to any public or private school subject to the authority of the department of education where the child named in the report is located. The administrator of a facility, or a public or private school shall cooperate with the child protection worker by providing confidential access to the child named in the report for the purpose of interviewing the child, and shall allow the child protection worker confidential access to

other children for the purpose of conducting interviews in order to obtain relevant information. The child protection worker may observe a child named in a report in accordance with the provisions of section 232.68, subsection 3, paragraph "b". A witness shall be present during an observation of a child. Any child age ten years of age or older can terminate contact with the child protection worker by stating or indicating the child's wish to discontinue the contact. The immunity granted by section 232.73 applies to acts or omissions in good faith of administrators and their facilities or school districts for cooperating in an assessment and allowing confidential access to a child.

7. INFORMATION REQUESTS.

a. The department may request information from any person believed to have knowledge of a child abuse case. The county attorney, any law enforcement or social services agency in the state, and any mandatory reporter, whether or not the reporter made the specific child abuse report, shall cooperate and assist in the assessment upon the request of the department.

b. In performing an assessment, the department may request criminal history data from the department of public safety on any person believed to be responsible for an injury to a child which, if confirmed, would constitute child abuse. The department shall establish procedures for determining when a criminal history records check is necessary.

8. PHYSICAL EXAMINATION. If the department refers a child to a physician for a physical examination, the department shall contact the physician regarding the examination within twenty-four hours of making the referral. If the physician who performs the examination upon referral by the department reasonably believes the child has been abused, the physician shall report to the department within twenty-four hours of performing the examination.

9. MULTIDISCIPLINARY TEAM. In each county or multicounty area in which more than fifty child abuse reports are made per year, the department shall establish a multidisciplinary team, as defined in section 235A.13, subsection 7. Upon the department's request, a multidisciplinary team shall assist the department in the assessment, diagnosis, and disposition of a child abuse report.

10. FACILITY PROTOCOL. The department shall apply a protocol, developed in consultation with facilities providing care to children, for conducting an assessment of reports of abuse of children allegedly caused by employees of facilities providing care to children. As part of such an assessment, the department shall notify the licensing authority for the facility, the governing body of the facility, and the administrator in charge of the facility of any of the following:

a. A violation of facility policy noted in the assessment.

b. An instance in which facility policy or lack of facility policy may have contributed to the reported incident of alleged child abuse.

c. An instance in which general practice in the facility appears to differ from the facility's written policy.

The licensing authority, the governing body, and the administrator in charge of the facility shall take any lawful action which may be necessary or advisable to protect children receiving care.

11. ASSESSMENT REPORT. The department, upon completion of the assessment, shall make a written report of the assessment, in accordance with all of the following:

a. The written assessment shall incorporate the information required by subsection 4.

b. The written assessment shall be completed within twenty business days of the receipt of the report.

c. The written 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.

d. The written assessment shall identify the strengths and needs of the child, and of the child's parent, home, and family.

e. The written assessment shall identify services available from the department and informal and formal services and other support available in the community to address the strengths and needs identified in the assessment.

f. 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.

12. COURT-ORDERED AND VOLUNTARY SERVICES. The department shall provide or arrange for and monitor services for abused children and their families on a voluntary basis or under a final or intermediate order of the juvenile court.

13. COUNTY ATTORNEY — JUVENILE COURT. The department shall provide the juvenile court and the county attorney with a copy of the portion of the written assessment pertaining to the child abuse report. The juvenile court and the county attorney shall notify the department of any action taken concerning an assessment provided by the department.

14. FALSE REPORTS. If a fourth report is received from the same person who made three earlier reports which identified the same child as a victim of child abuse and the same person responsible for the child as the alleged abuser and which were determined by the department to be entirely false or without merit, the department may determine that the report is again false or without merit due to the report's spurious or frivolous nature and may in its discretion terminate its assessment of the report.

Sec. 7. NEW SECTION. 232.71C COURT ACTION FOLLOWING CHILD ABUSE ASSESSMENT — GUARDIAN AD LITEM.

1. If, upon completion of an assessment performed under section 232.71B, the department determines that the best interests of the child require juvenile court action, the department shall act appropriately to initiate the action. If at any time during the assessment process the department believes court action is necessary to safeguard a child, the department shall act appropriately to initiate the action. The county attorney shall assist the department as provided under section 232.90, subsection 2.

2. The department shall assist the juvenile court or district court during all stages of court proceedings involving an alleged child abuse case in accordance with the purposes of this chapter.

3. In every case involving child abuse which results in a child protective judicial proceeding, whether or not the proceeding arises under this chapter, a guardian ad litem shall be appointed by the court to represent the child in the proceedings. Before a guardian ad litem is appointed pursuant to this section, the court shall require the person responsible for the care of the child to complete under oath a detailed financial statement. If, on the basis of that financial statement, the court determines that the person responsible for the care of the child is able to bear the cost of the guardian ad litem, the court shall so order. In cases where the person responsible for the care of the child is unable to bear the cost of the guardian ad litem, the expense shall be paid out of the county treasury.

Sec. 8. Section 232.72, Code 1997, is amended to read as follows:

232.72 JURISDICTION — TRANSFER.

1. ~~"Department~~ For the purposes of this division, the terms "department of human services", "department", or "county attorney" ordinarily refer to the regional or local ~~or county~~ office of the department of human services or of the county attorney's office serving the county in which the child's home is located.

2. However, if the person making ~~the~~ a report of child abuse pursuant to this chapter does not know where the child's home is located, or if the child's home is not located in the service area where the health practitioner examines, attends, or treats the child, the report may be made to the ~~state~~ department ~~of human services~~ or to the local office serving the county where the person making the report resides or the county where the health practitioner examines, attends, or treats the child. These agencies shall promptly proceed as provided in section ~~232.71~~ 232.71B, unless the matter is transferred as provided in this section.

3. If the child's home is located in a county not served by the office receiving the report, the

department shall promptly transfer the matter by transmitting a copy of the report of injury and any other pertinent information to the office and the county attorney serving the other county. They shall promptly proceed as provided in section ~~232.71~~ 232.71B.

Sec. 9. Section 232.73, unnumbered paragraph 1, Code 1997, is amended to read as follows:

A person participating in good faith in the making of a report, photographs, or X rays, or in the performance of a medically relevant test pursuant to this chapter, or aiding and assisting in an ~~investigation~~ assessment of a child abuse report pursuant to section ~~232.71~~ 232.71B, shall have immunity from any liability, civil or criminal, which might otherwise be incurred or imposed. The person shall have the same immunity with respect to participation in good faith in any judicial proceeding resulting from the report or relating to the subject matter of the report.

Sec. 10. Section 232.77, Code 1997, is amended to read as follows:

232.77 PHOTOGRAPHS, X RAYS, AND MEDICALLY RELEVANT TESTS.

1. A person who is required to report a case of child abuse may take or cause to be taken, at public expense, photographs, X rays, or other physical examinations or tests of a child which would provide medical indication of allegations arising from a child abuse ~~investigation~~ assessment. A health practitioner may, if medically indicated, cause to be performed radiological examination, physical examination, or other medical tests of the child. A person who takes any photographs or X rays or performs physical examinations or other tests pursuant to this section shall notify the department ~~of human services~~ that the photographs or X rays have been taken or the examinations or other tests have been performed. The person who made notification shall retain the photographs or X rays or examination or test findings for a reasonable time following the notification. Whenever the person is required to report under section 232.69, in that person's capacity as a member of the staff of a medical or other private or public institution, agency or facility, that person shall immediately notify the person in charge of the institution, agency, or facility or that person's designated delegate of the need for photographs or X rays or examinations or other tests.

2. If a health practitioner discovers in a child physical or behavioral symptoms of the effects of exposure to cocaine, heroin, amphetamine, methamphetamine, or other illegal drugs, or combinations or derivatives thereof, which were not prescribed by a health practitioner, or if the health practitioner has determined through examination of the natural mother of the child that the child was exposed in utero, the health practitioner may perform or cause to be performed a medically relevant test, as defined in section 232.73, on the child. The practitioner shall report any positive results of such a test on the child to the department. The department shall begin an ~~investigation~~ assessment pursuant to section ~~232.71~~ 232.71B upon receipt of such a report. A positive test result obtained prior to the birth of a child shall not be used for the criminal prosecution of a parent for acts and omissions resulting in intrauterine exposure of the child to an illegal drug.

Sec. 11. Section 232.78, subsection 4, unnumbered paragraph 1, Code 1997, is amended to read as follows:

The juvenile court, before or after the filing of a petition under this chapter, may enter an ex parte order authorizing a physician or hospital to conduct an outpatient physical examination or authorizing a physician, a psychologist certified under section 154B.7, or a community mental health center accredited pursuant to chapter 230A to conduct an outpatient mental examination of a child if necessary to identify the nature, extent, and cause of injuries to the child as required by section ~~232.71, subsection 2~~ 232.71B, provided all of the following apply:

Sec. 12. Section 232.141, subsection 6, Code 1997, is amended to read as follows:

6. If a child is given physical or mental examinations or treatment relating to a child abuse ~~investigation~~ assessment with the consent of the child's parent, guardian, or legal

custodian and no other provision of law otherwise requires payment for the costs of the examination and treatment, the costs shall be paid by the state. Reimbursement for costs of services described in this subsection is subject to subsection 5.

Sec. 13. Section 235A.13, subsection 3, paragraph a, Code 1997, is amended to read as follows:

a. Any intermediate or ultimate opinion or decision reached by ~~investigative~~ assessment personnel.

Sec. 14. Section 235A.15, subsection 2, paragraph b, Code 1997, is amended to read as follows:

b. Persons involved in an ~~investigation~~ assessment of child abuse as follows:

(1) To a health practitioner or mental health professional who is examining, attending, or treating a child 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 a child believed to have been the victim of abuse is requested by the department.

(2) To an employee or agent of the department of human services responsible for the ~~investigation~~ assessment of a child abuse report.

(3) To a law enforcement officer responsible for assisting in an ~~investigation~~ assessment of a child abuse allegation or for the temporary emergency removal of a child from the child's home.

(4) To 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 child abuse case.

(5) In an individual case, to the mandatory reporter who reported the child abuse.

Sec. 15. Section 235A.15, subsection 2, paragraph c, subparagraph (1), Code 1997, is amended to read as follows:

(1) To a licensing authority for a facility providing care to a child named in a report, if the licensing authority is notified of a relationship between facility policy and the child abuse under section ~~232.71, subsection 4~~ 232.71B.

Sec. 16. Section 235A.15, subsection 4, unnumbered paragraphs 2 and 3, Code 1997, are amended to read as follows:

If a child who is a legal resident of another state is present in this state and a report of child abuse is made concerning the child, the department shall act to ensure the safety of the child. The department shall contact the child's state of legal residency to coordinate the ~~investigation~~ assessment of the report. If the child's state of residency refuses to conduct an investigation, the department shall commence an appropriate ~~investigation~~ assessment.

If a report of child abuse is made concerning an alleged perpetrator who resides in this state and a child who resides in another state, the department shall assist the child's state of residency in conducting an ~~investigation~~ assessment of the report. The assistance shall include but is not limited to an offer to interview the alleged perpetrator and any other relevant source. If the child's state of residency refuses to conduct an investigation of the report, the department shall commence an appropriate ~~investigation~~ assessment. The department shall seek to develop protocols with states contiguous to this state for coordination in the investigation or assessment of a report of child abuse when a person involved with the report is a resident of another state.

Sec. 17. Section 235A.17, subsection 2, Code 1997, is amended to read as follows:

2. The department of human services may notify orally the mandatory reporter in an individual child abuse case of the results of the case ~~investigation~~ assessment and of the confidentiality provisions of sections 235A.15 and 235A.21. The department shall subsequently transmit a written notice to the mandatory reporter of the results and confidentiality

provisions. A copy of the written notice shall be transmitted to the registry and shall be maintained by the registry as provided in section 235A.18.

Sec. 18. Section 235A.18, subsection 2, paragraph a, Code 1997, is amended to read as follows:

a. The ~~investigation~~ assessment of a report of suspected child abuse by the department.

Sec. 19. Section 235A.18, subsection 4, Code 1997, is amended to read as follows:

4. The registry, at least once a year, shall review and determine the current status of child abuse reports which are transmitted or made to the registry after July 1, 1974, which are at least one year old and in connection with which no ~~investigatory~~ assessment report has been filed by the department of human services pursuant to section ~~232.71~~ 232.71B. If no such ~~investigatory~~ assessment report has been filed, the registry shall request the department of human services to file a report. In the event a report is not filed within ninety days subsequent to ~~such a~~ the request, the report and information relating ~~thereto~~ to the report and information shall be sealed and remain sealed unless good cause be shown why the information should remain open to authorized access.

Sec. 20. Section 235A.19, subsection 2, paragraph a, Code 1997, is amended to read as follows:

a. A subject of a child abuse report may file with the department within six months of the date of the notice of the results of an ~~investigation~~ assessment required by section ~~232.71, subsection 7~~ 232.71B, a written statement to the effect that child abuse information referring to the subject is in whole or in part erroneous, and may request a correction of that information or of the findings of the ~~investigation~~ assessment report. The department shall provide the subject with an opportunity for an evidentiary hearing pursuant to chapter 17A to correct the information or the findings, unless the department corrects the information or findings as requested. The department shall delay the expungement of information which is not determined to be founded until the conclusion of a proceeding to correct the information or findings. The department may defer the hearing until the conclusion of a pending juvenile or district court case relating to the information or findings.

Sec. 21. Section 235A.19, subsection 2, paragraph b, subparagraph (7), Code 1997, is amended to read as follows:

(7) To persons involved in an ~~investigation~~ assessment of child abuse.

Sec. 22. Section 331.424, subsection 1, paragraph b, Code 1997, is amended to read as follows:

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~~ 232.71C.

Sec. 23. Section 331.653, subsection 24, Code 1997, is amended to read as follows:

24. Carry out duties relating to the ~~investigation~~ assessment of reported child abuse cases and the protection of abused children as provided in section ~~232.71~~ 232.71B.

Sec. 24. Sections 232.71 and 232.71A, Code 1997, are repealed.

Sec. 25. EFFECTIVE DATE. This division of this Act takes effect July 1, 1998.

Approved April 18, 1997

CHAPTER 36

WORKERS' COMPENSATION AND NONOCCUPATIONAL HEALTH COVERAGE

S.F. 296

AN ACT relating to nonoccupational health care plan payments when an employer disputes workers' compensation liability.

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

Section 1. Section 85.38, subsection 2, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If an employer denies liability under this chapter, chapter 85A, or chapter 85B, for payment for any medical services received by an employee with a disability, and the employee is a beneficiary under either an individual or group plan for nonoccupational illness, injury, or disability, the nonoccupational plan shall not deny payment for the medical services received on the basis that the employer's liability for the medical services under this chapter, chapter 85A, or chapter 85B is unresolved.

Approved April 18, 1997

CHAPTER 37

SCHOOL-TO-WORK PROGRAMS — WORKERS' COMPENSATION

S.F. 361

AN ACT relating to the state workers' compensation coverage for students participating in school-to-work programs and providing for related matters.

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

Section 1. Section 85.20, Code 1997, is amended to read as follows:

85.20 RIGHTS OF EMPLOYEE EXCLUSIVE.

The rights and remedies provided in this chapter, chapter 85A or chapter 85B for an employee, or a student participating in a school-to-work program as provided in section 85.61, on account of injury, occupational disease or occupational hearing loss for which benefits under this chapter, chapter 85A or chapter 85B are recoverable, shall be the exclusive and only rights and remedies of ~~such~~ the employee or student, the employee's or student's personal or legal representatives, dependents, or next of kin, at common law or otherwise, on account of such injury, occupational disease, or occupational hearing loss against any of the following:

1. Against the employee's employer~~; or~~.

2. Against any other employee of such employer, provided that such injury, occupational disease, or occupational hearing loss arises out of and in the course of such employment and is not caused by the other employee's gross negligence amounting to such lack of care as to amount to wanton neglect for the safety of another.

3. For a student participating in a school-to-work program, against the student's school district of residence, receiving school district if the student is participating in open enrollment under section 282.18, accredited nonpublic school, community college, and directors, officers, authorities, and employees of the applicable school corporation.

Sec. 2. Section 85.60, Code 1997, is amended to read as follows:

85.60 INJURIES WHILE IN EMPLOYMENT TRAINING OR EVALUATION.

A person participating in a school-to-work program referred to in section 85.61, or receiving earnings while engaged in employment training or while undergoing an employment evaluation under the direction of a rehabilitation facility approved for purchase-of-service contracts or for referrals by the department of human services or the department of education, who sustains an injury arising out of and in the course of the school-to-work program participation, employment training, or employment evaluation is entitled to benefits as provided in this chapter, chapter 85A, chapter 85B, and chapter 86. Notwithstanding the minimum benefit provisions of this chapter, ~~such~~ a person referred to in this section and entitled to benefits under this chapter is entitled to receive a minimum weekly benefit amount for a permanent partial disability under section 85.34, subsection 2, or for a permanent total disability under section 85.34, subsection 3, equal to the weekly benefit amount of a person whose gross weekly earnings are thirty-five percent of the statewide average weekly wage computed pursuant to section 96.3 and in effect at the time of the injury.

Sec. 3. Section 85.61, subsection 2, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. "Employer" also includes and applies to an eligible postsecondary institution as defined in section 261C.3, subsection 1, a school corporation, or an accredited nonpublic school if a student enrolled in the eligible postsecondary institution, school corporation, or accredited nonpublic school is providing unpaid services under a school-to-work program that includes, but is not limited to, the components provided for in section 258.10, subsection 2, paragraphs "a" through "f". However, if such a student is participating in open enrollment under section 282.18, "employer" means the receiving district. If a student participating in a school-to-work program that includes, but is not limited to, the components provided for in section 258.10, subsection 2, paragraphs "a" through "f", is paid for services provided under the program, "employer" means any entity otherwise defined as an employer under this subsection which pays the student for providing services under the program.

Sec. 4. Section 85.61, subsection 11, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. "Worker" or "employee" includes a student enrolled in a public school corporation or accredited nonpublic school who is participating in a school-to-work program that includes, but is not limited to, the components provided for in section 258.10, subsection 2, paragraphs "a" through "f".

Sec. 5. Section 87.4, unnumbered paragraph 2, Code 1997, is amended to read as follows:

A self-insurance association formed under this section and an association comprised of cities or counties, or both, or community colleges~~,~~ as defined in section 260C.2, or school corporations, or both, which have entered into an agreement under chapter 28E for the purpose of establishing a self-insured program for the payment of workers' compensation benefits are exempt from taxation under section 432.1.

Sec. 6. Section 258.10, Code 1997, is amended to read as follows:

258.10 POWERS OF DISTRICT BOARDS.

1. The board of directors of ~~any~~ a school district ~~is authorized to~~ may carry on prevocational and vocational instruction in subjects relating to agriculture, commerce, industry, and home economics, and to pay the expense of such instruction in the same way as the expenses for other subjects in the public schools are ~~now~~ paid.

2. The board of directors of a school district may establish and maintain school-to-work programs including alternative learning opportunities through which students may obtain skills or training outside the classroom. School-to-work programs include, but are not limited to, the following:

a. Short-term job shadowing opportunities for students to explore career interests by observing work at a workplace or to include a series of visits to various workplaces and time spent with individual workers to observe specific jobs.

b. Structured work experiences integrating school and work-based experiences in an internship that may be an extension of a job shadowing experience.

c. Mentoring experiences providing students with a formal relationship with a worksite role model who shares career insights and teaches students specific work-related skills.

d. Career-oriented work experiences tied to school lessons through formal or informal training agreements, formal learning plans or mentoring, by workplace personnel who may be paid or unpaid, and which may earn students credit toward graduation.

e. Structured on-the-job training or apprenticeships for students who are enrolled in a technical or professional program that leads to a high school diploma, advanced certificate of mastery, or associate degree.

f. Work experiences available to students in school and community placements directly supervised by a school district or community college staff member.

3. The board may provide workers' compensation coverage by insuring, or self-insuring as provided in section 87.4, students participating in unpaid school-to-work programs. A school district's liability to students injured while participating in an unpaid school-to-work program is as provided in section 85.20.

Sec. 7. IMPLEMENTATION OF ACT. Section 25B.2, subsection 3, shall not apply to this Act.

Approved April 18, 1997

CHAPTER 38

DEPARTMENT OF WORKFORCE DEVELOPMENT — UNEMPLOYMENT COMPENSATION AND OTHER MATTERS

S.F. 395

AN ACT relating to the department of workforce development concerning the offsetting of unemployment compensation benefits, unemployment compensation for inmates, departmental liability for the release of unemployment compensation records, the voluntary shared work program, and workforce development services employees, and providing for an effective date.

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

Section 1. Section 96.3, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 11. OVERISSUANCE OF FOOD STAMP BENEFITS. The department shall collect any overissuance of food stamp benefits by offsetting the amount of the overissuance from the benefits payable under this chapter to the individual. This subsection shall only apply if the department is reimbursed under an agreement with the department of human services for administrative costs incurred in recouping the overissuance. The provisions of section 96.15 do not apply to this subsection.

Sec. 2. Section 96.11, subsection 6, Code 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. LIABILITY FOR RELEASE OF INFORMATION. The department

and its employees shall not be liable for any acts or omissions resulting from the release of information to any person pursuant to this subsection.

Sec. 3. Section 96.19, subsection 18, paragraph a, subparagraph (6), subparagraph subdivision (f), Code 1997, is amended by striking the subparagraph subdivision.

Sec. 4. Section 96.19, subsection 18, paragraph g, Code 1997, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (8) Services performed by an inmate of a correctional institution.

Sec. 5. Section 96.40, subsection 9, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. An employer may provide as part of the plan a training program the employees may attend during the hours that have been reduced. If the employer is able to show that the training program will provide a substantive increase in the workplace and employability skills of the employee so as to reduce the potential for future periods of unemployment, the department shall relieve the employer of charges for benefits paid to the individual attending training under the plan. The employee may attend the training at the work site utilizing internal resources, provided the training is outside of the normal course of employment, or in conjunction with an educational institution.

Sec. 6. 1996 Iowa Acts, chapter 1186, section 25, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If approved by the community college and the department of workforce development, an employee of a community college who currently provides workforce development services under a contract with the department of workforce development which was in existence as of July 1, 1996, may become a state employee with the department subject to the requirements of this paragraph. The hiring provisions of chapter 19A and the provisions of any collective bargaining agreement made pursuant to chapter 20 shall not apply to the initial placement of a new employee into state service pursuant to this paragraph. A new state employee employed pursuant to this paragraph shall retain any vacation and sick leave hours previously accrued and their accrued years of service. However, accrued years of service shall not be used for the purpose of calculating years of service for a retirement allowance under the Iowa public employees' retirement system unless the employee was covered under the system for those years of service. A new state employee employed pursuant to this paragraph shall not suffer any loss in salary unless the salary would exceed the current allowable state salary for a position of comparable worth. Except as provided in this paragraph, a new state employee employed pursuant to this paragraph shall be entitled to benefits offered to all state employees, but shall not be entitled to benefits offered to an employee of a community college but not to a state employee. For the purposes of health benefits for a new state employee employed pursuant to this paragraph, the eleven-month preexisting condition waiting period is waived. For purposes of group health, dental, life, and long-term disability coverage for a new state employee employed pursuant to this paragraph, the thirty-day new employee waiting period is waived.

Sec. 7. EFFECTIVE DATE — REPEAL. Section 6 of this Act, amending 1996 Iowa Acts, chapter 1186, being deemed of immediate importance, takes effect upon enactment and is repealed effective July 1, 1999.

Approved April 18, 1997

CHAPTER 39

PHARMACY PRACTICE AND PROCEDURES — NITROUS OXIDE

S.F. 457

AN ACT relating to the Iowa pharmacy practice Act by permitting qualified individuals to transport emergency medications; permitting more than one emergency drug box in a licensed health care facility; providing for electronic signatures on prescriptions; establishing programs to aid impaired pharmacists, pharmacist interns, and pharmacy technicians; and establishing a penalty.

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

Section 1. Section 155A.4, subsection 2, Code 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. A qualified individual authorized to administer prescription drugs and employed by a home health agency or hospice to obtain, possess, and transport emergency prescription drugs as provided by state or federal law or by rules of the board.

Sec. 2. Section 155A.15, subsection 2, paragraph d, unnumbered paragraph 2, Code 1997, is amended to read as follows:

However, this chapter does not prohibit a pharmacy from furnishing a prescription drug or device to a licensed health care facility for storage in ~~a~~ secured emergency pharmaceutical supplies ~~container~~ containers maintained within the facility in accordance with rules of the department of inspections and appeals and rules of the board.

Sec. 3. Section 155A.27, subsection 1, unnumbered paragraph 1, Code 1997, is amended to read as follows:

If written or electronic, shall contain:

Sec. 4. Section 155A.27, subsection 1, paragraph e, Code 1997, is amended to read as follows:

e. The name, address, and written or electronic signature of the practitioner issuing the prescription.

Sec. 5. NEW SECTION. 155A.39 PROGRAMS TO AID IMPAIRED PHARMACISTS, PHARMACIST INTERNS, OR PHARMACY TECHNICIANS — REPORTING, CONFIDENTIALITY, IMMUNITY, FUNDING.

1. A person or pharmaceutical peer review committee may report relevant facts to the board relating to the acts of a pharmacist in this state, a pharmacist intern as defined in section 155A.3, subsection 23, or a pharmacy technician in this state if the person or peer review committee has knowledge relating to the pharmacist, pharmacist intern, or pharmacy technician which, in the opinion of the person or pharmaceutical peer review committee, might impair competency due to chemical abuse, chemical dependence, or mental or physical illness, or which might endanger the public health and safety, or which provide grounds for disciplinary action as specified in this chapter and in the rules of the board.

2. A committee of a professional pharmaceutical organization, its staff, or a district or local intervenor participating in a program established to aid pharmacists, pharmacist interns, or pharmacy technicians impaired by chemical abuse, chemical dependence, or mental or physical illness may report in writing to the board the name of the impaired pharmacist, pharmacist intern, or pharmacy technician together with pertinent information relating to the impairment. The board may report to a committee of a professional pharmaceutical organization or the organization's designated staff information which the board receives with regard to a pharmacist, pharmacist intern, or pharmacy technician who may be impaired by chemical abuse, chemical dependence, or mental or physical illness.

3. Upon determination by the board that a report submitted by a peer review committee or

a professional pharmaceutical organization committee is without merit, the report shall be expunged from the pharmacist's, pharmacist intern's, or pharmacy technician's individual record in the board's office. A pharmacist, pharmacist intern, pharmacy technician, or an authorized representative of the pharmacist, pharmacist intern, or pharmacy technician shall be entitled on request to examine the peer review committee report or the pharmaceutical organization committee report submitted to the board and to place into the record a statement of reasonable length of the pharmacist's, pharmacist intern's, or pharmacy technician's view with respect to any information existing in the report.

4. Notwithstanding other provisions of the Code, the records and proceedings of the board, its authorized agents, a peer review committee, or a pharmaceutical organization committee as set out in subsections 1 and 2 shall be privileged and confidential and shall not be considered public records or open records unless the affected pharmacist, pharmacist intern, or pharmacy technician so requests and shall not be subject to a subpoena or to a discovery proceeding. The board may disclose the records and proceedings only as follows:

a. In a criminal proceeding.

b. In a disciplinary hearing before the board or in a subsequent trial or appeal of a board action or order.

c. To the pharmacist licensing or disciplinary authorities of other jurisdictions.

d. To the pharmacy technician registering, licensing, or disciplinary authorities of other jurisdictions.

e. Pursuant to an order of a court of competent jurisdiction.

f. Pursuant to subsection 11.

g. As otherwise provided by law.

5. An employee or a member of the board, a peer review committee member, a professional pharmaceutical organization committee member, a professional pharmaceutical organization district or local intervenor, or any other person who furnishes information, data, reports, or records in good faith for the purpose of aiding the impaired pharmacist, pharmacist intern, or pharmacy technician, shall be immune from civil liability. This immunity from civil liability shall be liberally construed to accomplish the purpose of this section and is in addition to other immunity provided by law.

6. An employee or member of the board or a committee or intervenor program is presumed to have acted in good faith. A person alleging a lack of good faith has the burden of proof on that issue.

7. The board may contract with professional pharmaceutical associations or societies to provide a program for pharmacists, pharmacist interns, and pharmacy technicians who are impaired by chemical abuse, chemical dependence, or mental or physical illness. Such programs shall include, but not be limited to, education, intervention, and posttreatment monitoring. A contract with a professional pharmaceutical association or society shall include the following requirements:

a. Periodic reports to the board regarding education, intervention, and treatment activities.

b. Immediate notification to the board's executive secretary or director or the executive secretary's or director's designee of the identity of the pharmacist, pharmacist intern, or pharmacy technician who is participating in a program to aid impaired pharmacists, pharmacist interns, or pharmacy technicians.

c. Release to the board's executive secretary or director or the executive secretary's or director's designee upon written request of all treatment records of a participant.

d. Quarterly reports to the board, by case number, regarding each participant's diagnosis, prognosis, and recommendations for continuing care, treatment, and supervision which maintain the anonymity of the participant.

e. Immediate reporting to the board of the name of an impaired pharmacist, pharmacist intern, or pharmacy technician who the treatment organization believes to be an imminent danger to either the public or to the pharmacist, pharmacist intern, or pharmacy technician.

f. Reporting to the board, as soon as possible, the name of a participant who refuses to cooperate with the program, who refuses to submit to treatment, or whose impairment is not substantially alleviated through intervention and treatment.

g. Immediate reporting to the board of the name of a participant where additional information is evident that known distribution of controlled substances or legend drugs to other individuals has taken place.

8. The board may add a surcharge of not more than ten percent of the applicable fee to a pharmacist license fee, pharmacist license renewal fee, pharmacist intern registration fee, pharmacy technician registration fee, or pharmacy technician registration renewal fee authorized under this chapter to fund programs to aid impaired pharmacists, pharmacist interns, or pharmacy technicians.

9. The board may accept, transfer, and expend funds made available by the federal or state government or by another public or private source to be used in programs authorized by this section. The board may contract to provide funding on an annual basis to a professional pharmaceutical association or society for expenses incurred in management and operation of a program to aid impaired pharmacists, pharmacist interns, or pharmacy technicians. Documentation of the use of these funds shall be provided to the board not less than annually for review and comment.

10. Funds and surcharges collected under this section shall be deposited in an account and may be used by the board to administer programs authorized by this section, including the provision of education, intervention, and posttreatment monitoring to an impaired pharmacist, pharmacist intern, or pharmacy technician and to pay the administrative costs incurred by the board in connection with that funding and appropriate oversight, but not for costs incurred for a participant's initial evaluation, referral services, treatment, or rehabilitation subsequent to intervention.

11. The board may disclose that the license of a pharmacist, the registration of a pharmacist intern, or the registration of a pharmacy technician who is the subject of an order of the board that is confidential pursuant to subsection 4 is suspended, revoked, canceled, restricted, or retired; or that the pharmacist, pharmacist intern, or pharmacy technician is in any manner otherwise limited in the practice of pharmacy; or other relevant information pertaining to the pharmacist, pharmacist intern, or pharmacy technician which the board deems appropriate.

12. The board may adopt rules necessary for the implementation of this section.

Sec. 6. NEW SECTION. 155A.41 NITROUS OXIDE.

1. UNLAWFUL POSSESSION. Any person who possesses nitrous oxide or any substance containing nitrous oxide, with the intent to breathe, inhale, or ingest for the purpose of causing a condition of intoxication, elation, euphoria, dizziness, stupefaction, or dulling of the senses, or who knowingly and with the intent to do so is under the influence of nitrous oxide or any material containing nitrous oxide, is guilty of a serious misdemeanor. This subsection shall not apply to a person who is under the influence of nitrous oxide or any material containing nitrous oxide for the purpose of medical, surgical, or dental care by a person duly licensed to administer such an agent.

2. UNLAWFUL DISTRIBUTION. Any person who distributes nitrous oxide, or possesses nitrous oxide with intent to distribute to any other person, if such distribution is with the intent to induce unlawful inhaling of the substance or is with the knowledge that the other person will unlawfully inhale the substance, is guilty of a serious misdemeanor.

Approved April 18, 1997

CHAPTER 40

DEPARTMENT OF WORKFORCE DEVELOPMENT — MISCELLANEOUS PROVISIONS

S.F. 501

AN ACT relating to the department of workforce development and the enforcement of employment laws concerning emergency and hazardous materials inventories, amusement rides, asbestos and employment agency licenses, wage assignments, and boxing and wrestling.

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

Section 1. Section 30.7, subsection 5, Code 1997, is amended to read as follows:

5. The department of workforce development shall compile data or information from the emergency and hazardous chemical inventory forms required to be submitted to the commission under section 312 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11022~~, by county, and shall make the compiled reports available, annually, to each county in the state by providing the report to at least one public library in the named county~~.

Sec. 2. Section 88A.11, subsection 3, Code 1997, is amended to read as follows:

3. The commissioner may exempt amusement devices from the provisions of this chapter that have self-contained wiring installed by the manufacturer, that are operated manually by the use of hands or feet, that operate on less than one hundred twenty volts of electrical power, and that are fixtures or appliances within or part of a structure subject to the building code of this state or any political subdivision of this state.

Sec. 3. Section 88B.6, subsection 2, paragraph a, subparagraph (3), Code 1997, is amended to read as follows:

(3) An asbestos management planner for a school ~~or a public or commercial~~ building.

Sec. 4. Section 95.2, unnumbered paragraph 1, Code 1997, is amended to read as follows:

Application for a license shall be made in writing to the labor commissioner. The application must contain the name of the applicant, and if the applicant is a firm, the names of the members, and if it is a corporation, the names of the officers; and the name, number, and address of the building and place where the employment agency is to be conducted. The application must be accompanied by ~~the affidavits of at least two reputable citizens of the state in no way connected with the applicant, certifying to the good moral character and reliability of the applicant, or, if a firm or corporation, of each of the members or officers, and that the applicant is a citizen of the United States, if a natural person; also~~ a surety company bond in the sum of twenty thousand dollars when an employee is required to contribute to the payment of fees, to be approved by the labor commissioner and conditioned to pay any damages that may accrue to any person because of a wrongful act, or violation of law, on the part of the applicant in the conduct of the business. The application must be accompanied by a schedule of fees to be charged for services rendered to patrons, which schedule shall not be changed during the term of license without consent being first given by the labor commissioner.

Sec. 5. Sections 90A.3 and 91A.13, Code 1997, are repealed.

Approved April 18, 1997

CHAPTER 41

PUBLIC ASSISTANCE REVISIONS — FAMILY INVESTMENT AND OTHER PROGRAMS

S.F. 516

AN ACT revising public assistance provisions involving the family investment, job opportunities and basic skills, food stamp, and medical assistance programs administered by the department of human services, amending certain child support provisions, providing for fraudulent practices, and providing effective dates.

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

DIVISION I

Section 1. Section 234.12, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The provisions of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, § 115, shall not apply to an applicant for or recipient of food stamp benefits in this state. However, the department of human services may apply contingent eligibility requirements as provided under state law and allowed under federal law.

Sec. 2. NEW SECTION. 239B.1 DEFINITIONS.

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

1. "Applicant" means a person who files an application for participation in the family investment program under this chapter.
2. "Assistance" means a family investment program payment.
3. "Child" means an unmarried person who is less than eighteen years of age or an unmarried person who is eighteen years of age and is engaged full-time in completing high school graduation or equivalency requirements in a manner which is reasonably expected to result in completion of the requirements prior to the person reaching nineteen years of age.
4. "Department" means the department of human services.
5. "Family" means a family unit that includes at least one child and at least one parent or other specified relative of the child.
6. "Family investment agreement" means the agreement developed with a participant in accordance with section 239B.8.
7. "Family investment program" means the family investment program under this chapter.
8. "Limited benefit plan" means a period of time in which a participant or member of a participant's family is either eligible for reduced assistance only or ineligible for any assistance under the family investment program, in accordance with section 239B.9.
9. "Minor parent" means an applicant or participant parent who is less than eighteen years of age and has never been married.
10. "Participant" means a person who is receiving full or partial family investment program assistance.
11. "PROMISE JOBS program" or "JOBS program" means the promoting independence and self-sufficiency through employment job opportunities and basic skills program created in section 239B.17.
12. "Specified relative" means a person who is or was at any time, one of the following relatives of an applicant or participant child, by means of blood relationship, marriage, or adoption, or is a spouse of one of the following relatives:
    a. Parent.
    b. Grandparent.

c. Great-grandparent.
d. Great-great-grandparent.
e. Stepparent of the child, but not the parent of the stepparent.
f. Sibling.
g. Stepsibling.
h. Sibling by at least the half blood.
i. Uncle or aunt by at least the half blood.
j. Great-uncle or great-aunt.
k. Great-great-uncle or great-great-aunt.
l. First cousin.
m. Nephew or niece.
n. Second cousin.

Sec. 3. NEW SECTION. 239B.2 CONDITIONS OF ELIGIBILITY.

Within available funding, the department shall make assistance available to eligible families under the family investment program. At a minimum, a family shall meet all of the following conditions of eligibility:

1. APPLICATION. An application for the program is made to the department. The application shall be in writing or reduced to writing in the manner and upon the form prescribed by the department. The application shall be made by the specified relative with whom the child resides or will reside, and shall contain the information required on the application form. One application may be made for several children of the same family if the children reside or will reside with the same specified relative.

2. INCOME AND RESOURCES. The family meets income and resource guidelines established by the department to attain or retain financial eligibility. In determining a family's income and resources, the department shall consider the income and resources of the child, the child's parent, the child's stepparent living with the child, or any other specified relative with whom the child resides or will reside available to the family unless specifically exempted as provided in section 239B.7 or by rule or unless otherwise provided by federal law. A family's failure to meet the income or resource guidelines shall result in denial of the family's eligibility for the program.

3. UNEMPLOYMENT. A determination of eligibility for a family with an unemployed parent shall not include consideration of either parent's number of hours of employment except to establish the date assistance would begin in accordance with rules. However, both parents must enter into and participate in a family investment agreement and participate in JOBS program activities unless good cause not to participate is established in accordance with rules. For the purposes of this chapter, an applicant family with a parent who is partially or totally unemployed under any of the following circumstances shall not be considered to be unemployed:

a. The period of unemployment is less than thirty days prior to commencing participation under this chapter.

b. The parent is partially or totally unemployed due to a work stoppage which exists because of a labor dispute at the factory, establishment, or other premises at which the parent is or was last employed.

c. At any time during the thirty-day period prior to commencing participation under this chapter, the parent has not been available for employment, has not actively sought employment, or has without good cause refused any bona fide offer of employment or training for employment. Any of the following reasons for refusing employment or training are not good cause:

(1) Unsuitable or unpleasant work or training, if the parent is able to perform the work or training without unusual danger to the parent's health.

(2) The amount of wages or compensation, unless the wages for employment are below the amount customary for the same work in the community.

d. The parent has not registered for work with the state employment service established

pursuant to section 96.12, or after registration has failed to report at an employment office in accordance with regulations prescribed pursuant to section 96.4, subsection 1.

e. The parent is eligible but refuses to apply for or to draw upon unemployment benefits.

f. The parent or family fails to meet other requirements adopted by the department applicable to the applicant parent or family. The other requirements shall be limited to those necessary to meet federal requirements and may be in addition to or in lieu of the requirements of this subsection, for eligibility under this chapter to children whose parents are partially or totally unemployed.

4. FAMILY INVESTMENT AGREEMENT. Unless exempt as provided in section 239B.8, a family which is eligible for the program shall enter into a family investment agreement with the department. A family must comply with the conditions in the agreement in order to retain eligibility.

5. PROVISION OF INFORMATION. The family provides requested information to the department. The department shall adopt rules specifying the conditions under which an applicant or participant family is denied eligibility for family investment program assistance for failure to provide requested information.

6. COOPERATION WITH CHILD SUPPORT REQUIREMENTS. The department shall provide for prompt notification of the department's child support recovery unit if assistance is provided to a child whose parent is absent from the home. An applicant or participant shall cooperate with the child support recovery unit and the department as provided in 42 U.S.C. § 608(a)(2) unless the applicant or participant qualifies for good cause or other exception as determined by the department in accordance with the best interest of the child and with standards prescribed by rule. If a specified relative with whom a child is residing fails to comply with these cooperation requirements, a sanction shall be imposed as defined by rule in accordance with state and federal law.

7. PERIODIC REVIEWS. As a condition of eligibility, the department may require periodic reports from a participant concerning the participant's income, resources, family composition, and other circumstances. If the participant's circumstances change, the participant's assistance may be continued, renewed, suspended, changed in amount, or entirely withdrawn, as determined in accordance with rule.

8. OUT-OF-STATE ASSISTANCE. Assistance shall be paid to a participant residing temporarily out-of-state if the participant retains residency in this state and remains otherwise eligible for assistance. The department shall periodically redetermine the eligibility of a participant who is temporarily residing out-of-state.

Sec. 4. NEW SECTION. 239B.3 CASH ASSISTANCE.

1. a. Within available funding, the department shall provide an ongoing cash assistance grant under the family investment program to a family eligible under section 239B.2.

b. For an eligibility decision involving an applicant family with a specified relative, within thirty days of the date of an application, the department shall issue a notice of the department's decision to the specified relative.

2. For an applicant or participant family, the department shall calculate and pay the cash assistance grant on a monthly basis, taking into consideration all of the following:

a. The income and resources of the family.

b. Whether the family has entered into a limited benefit plan.

c. The size of the family.

d. Available funding.

3. The department may pay cash assistance and other cash benefits paid under this chapter by warrant, through a direct deposit to a financial institution of a participant, or through an electronic benefits transfer.

4. The department may pay, from funds appropriated for this purpose, a maximum of four hundred dollars toward funeral expenses on the death of a child who is a participant or has been authorized to participate in the family investment program, provided both of the following conditions apply:

a. The decedent does not leave an estate which may be probated with sufficient proceeds to allow for payment of the funeral expenses.

b. Payments which are due the decedent's estate or beneficiary by reason of the liability of a life insurance, death or funeral benefit company, association, or society, or in the form of United States social security, railroad retirement, or veterans' benefits upon the death of the decedent, are deducted from the department's payment under this section.

Sec. 5. NEW SECTION. 239B.4 DEPARTMENTAL ROLE.

1. The department is the state entity designated to administer federal funds received for purposes of the family investment program and the JOBS program under this chapter, including, but not limited to, the funding received under the federal temporary assistance for needy families block grant as authorized under the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and as such is the lead agency in preparing and filing state plans, state plan amendments, and other reports required by federal law.

2. The department is responsible for a management information system, eligibility determination, participant grant calculations and issuance of payments, contracting for services, provision of an appeal or resolution process to applicants and participants, determining the suitability of a family home maintained by a specified relative applicant or participant, and other activities as necessary to administer the family investment program and the JOBS program.

3. The department may adopt rules pursuant to chapter 17A as necessary to administer this chapter.

Sec. 6. NEW SECTION. 239B.5 COMPLIANCE WITH FEDERAL LAW.

1. If, as a condition of receiving federal funds for the family investment program, federal law requires implementation and administration of certain activities during a period when the general assembly is not in session, the department shall proceed to implement and administer those provisions, even if in conflict with other existing state law. However, the period of implementation authorized under this subsection shall end upon the adjournment of the regular session of the general assembly immediately following the commencement of the period of implementation.

2. The department may submit waiver requests to the United States department of health and human services as necessary to implement and administer any provision under this chapter, or to implement any subsequent initiative that requires a waiver from federal law.

3. a. The provisions of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, § 115, shall not apply to an applicant or participant.

b. However, unless exempt for good cause under rules adopted by the department for this purpose, an applicant or participant convicted under federal or state law of a felony offense, which has as an element the possession, use, or distribution of a controlled substance, as defined in 21 U.S.C. § 802(6), shall be required to participate in drug rehabilitation activities or to fulfill other requirements to verify that the applicant or participant does not illegally possess, use, or distribute a controlled substance.

Sec. 7. NEW SECTION. 239B.6 ASSIGNMENT OF SUPPORT RIGHTS OR BENEFITS.

1. An assignment of support rights to the department is created by either of the following:

a. An applicant and other persons covered by an application are deemed to have assigned to the department at the time of application all rights to periodic support payments to the extent of the amount of assistance received by the applicant and by other persons covered by the application.

b. A determination that a child or another person covered by an application is eligible for assistance under this chapter creates an assignment by operation of law to the department of all rights to periodic support payments not to exceed the amount of assistance received by the child and other persons covered by the application.

2. An assignment takes effect upon determination that an applicant or another person covered by an application is eligible for assistance under this chapter, applies to both current and accrued support obligations, and terminates when an applicant or another person covered by an application ceases to receive assistance under this chapter, except with respect to the amount of unpaid support obligations accrued under the assignment. If an applicant or another person covered by an application ceases to receive assistance under this chapter and the applicant or other person covered by the application receives a periodic support payment, subject to limitations under federal law, the department is entitled only to that amount of the periodic support payment above the current periodic support obligation.

3. Assistance paid or payable under this chapter is not transferable or assignable at law or in equity, and none of the assistance paid or payable is subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law.

Sec. 8. NEW SECTION. 239B.7 INCOME AND RESOURCE EXEMPTIONS, DEDUCTIONS, AND DISREGARDS.

In determining a family's income and resources for purposes of the family's initial and continuing eligibility for assistance and for determining grant amounts, the provisions of this section shall apply to the family and individual family members.

1. WORK EXPENSE DEDUCTION. If an individual's earned income is considered by the department, the individual shall be allowed a work expense deduction equal to twenty percent of the earned income. The work expense deduction is intended to include all work-related expenses other than child day care. These expenses shall include but are not limited to all of the following: taxes, transportation, meals, uniforms, and other work-related expenses. However, the work expense deduction shall not be allowed for an individual who is subject to a sanction for failure to comply with family investment program requirements.

2. WORK-AND-EARN INCENTIVE. If an individual's earned income is considered by the department, the individual shall be allowed a work-and-earn incentive. The incentive shall be equal to fifty percent of the amount of earned income remaining after all other deductions are applied. The department shall disregard the incentive amount when considering the earned income available to the individual. The incentive shall not have a time limit. The work-and-earn incentive shall not be withdrawn as a penalty for failure to comply with family investment program requirements.

3. CHILD DAY CARE DEDUCTION. A family shall be allowed a child day care deduction as specified in rules. A family with a stepparent shall be allowed a child day care deduction for any children of the stepparent or the parent, subject to the limits provided in applicable rules.

4. EMPLOYMENT EARNINGS DISREGARD. If an individual begins employment but was unemployed for at least twelve months before beginning employment and timely reports the earnings from the employment, the earnings shall be subject to an income disregard. This income disregard shall apply in determining the individual's eligibility and cash grant levels under the family investment program during the individual's first four months of employment. To be eligible for the income disregard, the employment must commence following the date of the individual's application for the family investment program. The department shall adopt rules defining the term "unemployed" for the purposes of this subsection. The income disregard shall not be withdrawn as a penalty for failure to comply with family investment program requirements.

5. INCOME CONSIDERATION. If an individual has timely reported an absence of income to the department, consideration of the individual's income shall cease beginning in the first month the income is absent. However, this provision shall not apply to an individual who has quit employment without good cause as defined in rules.

6. INTEREST INCOME. Interest income shall be disregarded.

7. INDIVIDUAL DEVELOPMENT ACCOUNT DEPOSITS. The department shall disregard as income any moneys an individual deposits in an individual development account

established pursuant to chapter 541A.

8. MOTOR VEHICLE DISREGARD. The department shall disregard the first three thousand eight hundred eighty-nine dollars in equity value of a motor vehicle. Beginning July 1, 1997, and continuing in succeeding fiscal years, the motor vehicle equity value disregarded by the department shall be increased by the latest increase in the consumer price index for used vehicles during the previous state fiscal year. This disregard shall be applicable to each adult and to each working individual in a family who is nineteen years of age or younger. The amount of a motor vehicle's equity in excess of the amount of the motor vehicle disregard shall apply to the resource limitation established in subsection 10.*

9. RESOURCE LIMITATION.

a. The resource limitation for an applicant family for the family investment program shall be two thousand dollars.

b. The resource limitation for a participant family shall be five thousand dollars.

c. The department shall disregard not more than ten thousand dollars of a self-employed individual's tools of the trade or capital assets in considering the individual's resources.

10. INDIVIDUAL DEVELOPMENT ACCOUNT EARNINGS AND BALANCE. The department shall disregard any earnings and the balance of an individual development account established pursuant to chapter 541A in considering an individual's resources.

Sec. 9. NEW SECTION. 239B.8 FAMILY INVESTMENT AGREEMENTS.

The department shall establish a policy regarding the implementation of family investment agreements which limits the period of eligibility for the family investment program based upon the requirements of a family's plan for self-sufficiency. The policy shall require a family's plan to be specified in a family investment agreement between the family and the department. The department shall adopt rules to administer the policy. The components of the policy shall include but are not limited to all of the following:

1. PARTICIPATION — EXEMPTIONS. A parent living in a home with a child for whom an application for family investment program assistance has been made or for whom the assistance is provided, and all other individual members of the family whose needs are included in the assistance shall be subject to a family investment agreement unless any of the following conditions exists:

a. The individual is completely unable to participate in any agreement option due to disability.

b. The individual is less than sixteen years of age and is not a parent.

c. The individual is sixteen through eighteen years of age, is not a parent, and is attending elementary or secondary school, or the equivalent level of vocational or technical school, on a full-time basis.

2. AGREEMENT OPTIONS. A family investment agreement shall require an individual to participate in one or more of the options enumerated in this subsection. An individual's level of participation in one or more of the options shall be equivalent to the level of commitment required for full-time employment or shall be significant so as to move the individual's level of participation toward that level. The department shall adopt rules for each option defining requirements and establishing assistance provisions for child day care, transportation, and other support services. The options shall include but are not limited to all of the following:

a. Full-time or part-time employment.

b. Active job search.

c. Participation in the JOBS program.

d. Participation in other education or training programming.

e. Participation in a family development and self-sufficiency grant program under section 217.12 or other family development program.

f. Work experience placement.

g. Unpaid community service. Community service shall be authorized in any nonprofit association which has been determined under section 501(c)(3) of the Internal Revenue

* Subsection 9 probably intended

Code to be exempt from taxation or in any government agency. Upon request, the department shall provide a listing of potential community service placements to an individual. However, an individual shall locate the individual's own placement and perform the number of hours required by the agreement. The individual shall file a monthly report with the department which is signed by the director of the community service placement verifying the community service hours performed by the individual during that month. The department shall develop a form for this purpose.

h. Any other arrangement which would strengthen the individual's ability to be a better parent, including but not limited to participation in a parenting education program. Parental leave from employment shall be authorized for a parent of a child who is less than three months of age. An opportunity to participate in a parental education program shall also be authorized for such a parent. An individual who is not a parent who is nineteen years of age or younger or a parent of a child who is less than three months of age shall simultaneously participate in at least one other option enumerated in this subsection.

3. LIMITED BENEFIT PLAN. If a participant fails to comply with the provisions of the participant's family investment agreement during the period of the agreement, the limited benefit plan provisions of section 239B.9 shall apply.

4. COMPLETION OF AGREEMENT.

a. Upon the completion of the terms of the agreement, family investment program assistance to a participant family covered by the agreement shall cease or be reduced in accordance with rules.

b. However, if the period in which a participant family is without cash assistance is one month or less and the participant family has not become exempt from JOBS program participation at the time the participant family reapplies for cash assistance, the participant family's family investment agreement shall be reinstated at the time the participant family reapplies. The reinstated agreement may be revised to accommodate changed circumstances present at the time of reapplication.

c. The department shall adopt rules to administer this subsection and to determine when a family is eligible to reenter the family investment program.

5. CONTRACTS. The department may contract with the department of workforce development, department of economic development, or any other entity to provide services relating to a family investment agreement.

6. CONFIDENTIAL INFORMATION DISCLOSURE. The department may disclose confidential information described in section 217.30, subsection 1, to other state agencies or to any other entity which is not subject to the provisions of chapter 17A and is providing services to a participant family who is subject to a family investment agreement, if necessary in order for the participant family to receive the services. The department shall adopt rules establishing standards for disclosure of confidential information if disclosure is necessary in order for a participant to receive services.

Sec. 10. NEW SECTION. 239B.9 LIMITED BENEFIT PLAN.

1. GENERAL PROVISIONS. If a participant responsible for signing and fulfilling the terms of a family investment agreement, as defined by the director of human services in accordance with section 239B.8, chooses not to sign or fulfill the terms of the agreement, the participant's family, 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 of the limited benefit plan 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 imposition of a limited benefit plan. The elements of a limited benefit plan shall be specified in the department's rules.

2. PLAN APPLIED. 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. PARENT. If the participant responsible for the family investment agreement is a parent or a specified relative, for a first limited benefit plan, the participant's family is eligible for up to three months of reduced assistance based on the needs of the children only. At the end of the three-month period of reduced assistance, the family becomes ineligible for assistance for a six-month period. For a second or subsequent limited benefit plan chosen by the same participant a six-month period of ineligibility applies beginning with the effective date of the limited benefit plan. If the family reapplies for assistance after a 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. NEEDY RELATIVE PAYEE. 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 whose needs are included in the assistance 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 six-month period of ineligibility applies beginning with the effective date of the limited benefit plan.

c. MINOR PARENT LIVING WITH ADULT PARENT OR SPECIFIED RELATIVE. If the participant family includes a minor parent living with the minor parent's adult parent or specified relative who receives family investment program assistance and both individuals are responsible for developing a family investment agreement, each individual is responsible for a separate family investment agreement, and the limited benefit plan shall be applied as follows:

(1) If the adult parent or specified relative chooses the limited benefit plan, the requirements of the limited benefit plan shall apply to the entire participant family, even though the minor parent has not chosen the limited benefit plan. However, the minor parent may reapply for assistance as a minor parent living with self-supporting parents or living independently 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. MINOR PARENT — ONLY CHILD. If the minor parent is the only child in the adult parent or specified relative's home and the minor parent chooses the limited benefit plan, assistance shall not be paid to the adult parent or specified relative in this instance.

e. CHILDREN WHO ARE MANDATORY JOBS PROGRAM PARTICIPANTS. If the participant family 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 family investment agreement applicable to the family and to carry out the responsibilities of that family investment agreement. A limited benefit plan shall be applied as follows:

(1) If the parent or specified relative responsible for a family investment agreement meets the responsibilities of the family investment agreement but a child who is a mandatory JOBS program participant chooses an individual limited benefit plan, the family is eligible for reduced assistance during the child's limited benefit plan. However, the child, as part of the family, 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 participant family, assistance shall not be paid to the adult parent, parents, or specified relative in this instance.

f. EXEMPT PARENT. If a participant family includes a parent, parents, or specified relative 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. TWO PARENTS. If the participant family includes two parents, a limited benefit plan shall be applied as follows:

(1) If only one parent of a child in the family 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 participant family's grant during the three-month reduced assistance 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 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 family are responsible for a family investment agreement, both parents shall 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 family's grant during the three-month reduced assistance 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 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 family 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.

3. PLAN CHOSEN. 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 a 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 assistance, and the beginning and ending dates of the six-month period of ineligibility. If a participant is deemed to have chosen a limited benefit plan, timely and adequate notice provisions, as determined by the director of human services, shall apply.

b. A participant who chooses not to sign the family investment agreement after attending a JOBS program orientation shall enter into a limited benefit plan as described in paragraph "a".

c. A participant who has signed a family investment agreement but then chooses a limited benefit plan under circumstances defined by the director of human services.

4. RECONSIDERATION. 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 assistance 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 assistance shall not begin until the participant signs a family investment agreement during the JOBS program orientation and assessment process, retroactive assistance 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.

5. WELL-BEING VISIT. 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 family'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 family during month two of the period of reduced assistance. 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 family 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 family 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 family during month two of the limited benefit plan.

6. APPEAL. A participant has the right to appeal the establishment of the limited benefit plan only once, except for a first limited benefit plan two opportunities to appeal shall be available. 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 composition of the family, or another worker error, a hearing shall be granted, regardless of the person's limited benefit plan status.

Sec. 11. NEW SECTION. 239B.10 MINOR AND YOUNG PARENTS — OTHER REQUIREMENTS.

1. LIVING ARRANGEMENT. Unless any of the following conditions apply, a minor parent shall be required to live with the minor's 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 participate in the family investment program while living apart from the minor parent's parent or guardian.

2. FAMILY DEVELOPMENT. A minor parent who is a participant and is not required to live with the minor parent's parent or guardian pursuant to subsection 1 shall be required to participate in a family development program identified in rules adopted by the department.

3. PARENTING CLASSES. Participant parents who are nineteen years of age or younger shall be required to attend parenting classes.

4. EDUCATION. 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.

5. EARNINGS DISREGARD. In determining family investment program eligibility and calculating the amount of assistance, the department shall disregard earnings of an applicant or a participant who is nineteen years of age or younger who is engaged full-time in completing high school graduation or equivalency requirements.

6. FAMILY PLANNING. The department shall do all of the following with newly eligible and existing participant parents:

a. Discuss orally and in writing the financial implications of newly born children on the participant's family.

b. Discuss orally and in writing the available family planning resources.

c. Include family planning counseling as an optional component of the JOBS program.

d. Include the participant's family planning objectives in the family investment agreement.

Sec. 12. NEW SECTION. 239B.11 FAMILY INVESTMENT PROGRAM ACCOUNT.

1. An account is established in the state treasury to be known as the family investment program account under control of the department to which shall be credited all funds appropriated by the state for the payment of assistance and JOBS program expenditures. All other moneys received at any time for these purposes, including child support revenues, shall be deposited into the account as provided by law. All assistance and JOBS program expenditures under this chapter shall be paid from the account.

2. A diversion program subaccount is created within the family investment program account. The subaccount may be used to provide incentives to divert applicants' participation in the family investment program if the applicants would otherwise be eligible for assistance. Incentives may be provided in the form of payment or services with a focus on helping applicants to obtain or retain employment. The diversion program subaccount may also be used for payments to participants as necessary to cover the expenses of removing barriers to employment.

Sec. 13. NEW SECTION. 239B.12 IMMUNIZATION.

1. To the extent feasible, the department shall determine the immunization status of children receiving assistance under this chapter. The status shall be determined in accordance with the immunization recommendations adopted by the Iowa department of public health under section 139.9, including the exemption provisions in section 139.9, subsection 4. If the department determines a child is not in compliance with the immunization recommendations, the department shall refer the child's parent or guardian to a local public health agency for immunization services for the child and other members of the child's family.

2. The department of human services shall cooperate with the Iowa department of public health to establish an interagency agreement allowing the sharing of pertinent client data, as permitted under federal law and regulation, for the purposes of determining immunization rates of participants, evaluating family investment program efforts to encourage immunizations, and developing strategies to further encourage immunization of participants.

Sec. 14. NEW SECTION. 239B.13 NEEDY RELATIVE PAYEE — PROTECTIVE PAYEE — VENDOR PAYMENT.

1. The department may provide for a needy relative to act as a payee when the parent of a participant family is in the home but is unable to act as the payee.

2. The department may order the cash assistance under this chapter to be paid to a protective payee if it has been demonstrated that the specified relative with whom the child is residing is unable to manage the assistance in the best interest of the child. Protective payment of cash assistance shall not be made beyond a period of two years. The department may petition the district court sitting in probate to establish, pursuant to chapter 633, a

conservatorship over a participant. If a conservatorship is established, the participant's cash assistance shall be paid to the conservator. In addition to the cash assistance, an amount not to exceed ten dollars per case per month may be allowed for conservatorship or guardianship fees if authorized by court order. The department may pay cash assistance or other cash benefits to a third party if the department determines that a third-party payment is essential to assure the proper use of the assistance or benefits.

Sec. 15. NEW SECTION. 239B.14 FRAUDULENT PRACTICES — RECOVERY.

1. An individual who obtains, or attempts to obtain, or aids or abets an individual to obtain, by means of a willfully false statement or representation, by knowingly failing to disclose a material fact, or by impersonation, or any fraudulent device, any assistance or other benefits under this chapter to which the individual is not entitled, commits a fraudulent practice.

2. An individual who commits a fraudulent practice under this section is personally liable for the amount of assistance or other benefits fraudulently obtained. The amount of the assistance or other benefits may be recovered from the offender or the offender's estate in an action brought or by claim filed in the name of the state and the recovered funds shall be deposited in the family investment program account. The action or claim filed in the name of the state shall not be considered an election of remedies to the exclusion of other remedies.

Sec. 16. NEW SECTION. 239B.15 COUNTY ATTORNEY TO ENFORCE.

Violations of law relating to the family investment program shall be prosecuted by county attorneys. Area prosecutors of the office of the attorney general shall provide prosecution assistance.

Sec. 17. NEW SECTION. 239B.16 APPEAL — JUDICIAL REVIEW.

If an applicant's application is not acted upon within a reasonable time, if it is denied in whole or in part, or if a participant's assistance or other benefits under this chapter are modified, suspended, or canceled under a provision of this chapter, the applicant or participant may appeal to the department of human services which shall request the department of inspections and appeals to conduct a hearing. Upon completion of a hearing, the department of inspections and appeals shall issue a decision which is subject to review by the department of human services. Judicial review of the actions of the department of human services may be sought in accordance with chapter 17A. Upon receipt of a notice of the filing of a petition for judicial review, the department of human services shall furnish the petitioner with a copy of any papers filed in support of the petitioner's position, a transcript of any testimony taken, and a copy of the department's decision.

Sec. 18. NEW SECTION. 239B.17 PROMISE-JOBS PROGRAM.

1. PROGRAM ESTABLISHED. The promoting independence and self-sufficiency through employment — job opportunities and basic skills program is established for applicants and participants of the family investment program. The requirements of the JOBS program shall vary as provided in the family investment agreement applicable to a family. The department of workforce development, department of economic development, department of education, and all other state, county, and public educational agencies and institutions providing vocational rehabilitation, adult education, or vocational or technical training shall assist and cooperate in the JOBS program. The departments, agencies, and institutions shall make agreements and arrangements for maximum cooperation and use of all available resources in the program. By mutual agreement the department of human services may delegate any of the department of human services' powers and duties under this chapter to the department of workforce development or to the department of economic development.

2. PROGRAM ACTIVITIES. The JOBS program shall include, but is not limited to, provision of the following activities:

a. Placing applicants and participants in employment and on-the-job training.

b. Institutional and work experience training for applicants and participants for whom the training is likely to lead to regular employment.

c. Special work projects for applicants and participants for whom a job in the regular economy cannot be found.

d. Incentives, opportunities, services, and other benefits to aid applicants and participants.

Sec. 19. NEW SECTION. 239B.18 JOBS PROGRAM PARTICIPATION.

Except for participants who are exempt from the requirement to enter into a family investment agreement under section 239B.8, a participant in the family investment program shall participate in JOBS program activities as provided in the participant's family investment agreement. A participant who is exempt may voluntarily participate in the JOBS program.

Sec. 20. NEW SECTION. 239B.19 JOBS PROGRAM AVAILABILITY.

1. Within available funding, the department shall make JOBS program services and benefits available to individuals who are participating in the JOBS program.

2. An individual's efforts under the JOBS program to attain a certificate of general educational development, high school diploma, or adult basic literacy where the individual has not previously received the certification shall be optional except as otherwise required by this chapter or by federal law. The department shall provide incentives to encourage optional efforts to attain such certifications.

3. When needed, arrangements shall be made for the care of children during the absence from the home of an individual participating in the JOBS program.

Sec. 21. NEW SECTION. 239B.20 JOBS PROGRAM HEALTH AND SAFETY.

The director shall establish and maintain reasonable standards for health, safety, and other conditions under the JOBS program.

Sec. 22. NEW SECTION. 239B.21 JOBS PROGRAM — WORKERS' COMPENSATION LAW APPLICABLE.

A participant, with respect to employment performed under the JOBS program, shall be covered by the workers' compensation law or shall otherwise be provided with comparable protection.

Sec. 23. NEW SECTION. 239B.22 JOBS PROGRAM — PARTICIPANT NOT STATE EMPLOYEE.

A participant shall not be deemed to be an employee of the state or any of its political subdivisions by reason of participation in the JOBS program. However, this section shall not prevent the participant from having the status of an employee for the purposes of workers' compensation.

Sec. 24. NEW SECTION. 239B.23 CHILD DAY CARE PROVISIONS.

The following provisions involving child day care benefits shall apply to individuals who no longer receive family investment program assistance due to employment:

1. Eligibility for transitional child care benefits for a period of twenty-four months.

2. The department shall automatically determine an individual's eligibility for other child day care benefits if the individual is not eligible for transitional child care or eligibility for transitional child care benefits is exhausted.

Sec. 25. Section 249A.2, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. "Family investment program" means the family investment program eligibility requirements under chapter 239B, except to the extent federal law requires application of the eligibility requirements under chapter 239, Code 1997, as in effect on July 16, 1996.

Sec. 26. Section 249A.3, subsection 1, paragraphs b, e, f, and m, Code 1997, are amended to read as follows:

b. Is ~~a recipient of~~ an individual who is eligible for the family investment program ~~payments under chapter 239~~ or is an individual who would be eligible for unborn child payments under the family investment program, as authorized by Title IV-A of the federal Social Security Act, if the family investment program ~~under chapter 239~~ provided for unborn child payments during the entire pregnancy.

e. Is a pregnant woman whose pregnancy has been medically verified and who qualifies under either of the following:

(1) The woman would be eligible for ~~a~~ cash ~~payment~~ assistance under the family investment program ~~under chapter 239~~, if the child were born and living with the woman in the month of payment.

(2) The woman meets the income and resource requirements of the family investment program ~~under chapter 239~~, provided the unborn child is considered a member of the household, and the woman's family is treated as though deprivation exists.

f. Is a child who is less than seven years of age and who meets the income and resource requirements of the family investment program ~~under chapter 239~~.

m. Is an individual or family who is ineligible for the family investment program ~~under chapter 239~~ because of requirements that do not apply under Title XIX of the federal Social Security Act.

Sec. 27. Section 249A.3, subsection 1, Code 1997, is amended by adding the following new paragraphs:

NEW PARAGRAPH. r. Is an individual who is no longer eligible for the family investment program due to earned income. The department shall provide transitional medical assistance to the individual for the maximum period allowed for federal financial participation under federal law.

NEW PARAGRAPH. s. Is an individual who is no longer eligible for the family investment program due to the receipt of child or spousal support. The department shall provide transitional medical assistance to the individual for the maximum period allowed for federal financial participation under federal law.

Sec. 28. Section 249A.3, subsection 2, paragraph c, Code 1997, is amended to read as follows:

c. Individuals who are receiving care in an institution for mental diseases, and who are under twenty-one years of age and whose income and resources are such that they are eligible for the family investment program ~~under chapter 239~~, or who are sixty-five years of age or older and who meet the conditions for eligibility in paragraph "a" of this subsection.

Sec. 29.

1. Chapters 239 and 249C, Code 1997, are repealed.
2. Section 249A.17, Code 1997, is repealed.

Sec. 30. UNEMPLOYED PARENT PROGRAM. The department of human services shall simplify family investment program eligibility criteria applicable to families with an unemployed parent in order to be consistent with the criteria applicable to other families. The simplification shall reduce from thirty days to seven days the period required before assistance can be granted to a family with an unemployed parent. The department shall apply the provisions of this section effective January 1, 1998.

Sec. 31. FAMILY OR DOMESTIC VIOLENCE. The department of human services shall consider options for implementing special family and domestic violence provisions authorized under the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193. The options considered shall include screening, identification, provision of services, and waiving of program requirements for a family investment program applicant or participant who is or has been a victim of family or domestic violence if the violence is deemed to have impaired the applicant's or participant's ability to participate

in the PROMISE JOBS program. The department shall work with the welfare reform advisory group or an associated work group in considering the options. The department may implement the provisions by adopting administrative rules or may propose implementation legislation for consideration by the general assembly in the 1998 legislative session.

Sec. 32. CODE EDITOR.

1. The Code editor shall revise references in the Code to any section in chapter 239 to instead refer to the appropriate section in chapter 239B. The references revised by the Code editor pursuant to this section shall take effect July 1, 1997. The reference changes considered by the Code editor shall include but are not limited to the following: sections 217.30, 234.6, 239A.1, 239A.3, 252B.3, 252B.4, 252B.5, 252B.20, 252C.1, 252D.8, 252E.1, 422.9, 541A.2, and 598.22A.

2. If the Code editor deems the revisions to be appropriate, the Code editor shall revise references to the "job opportunities and basic skills program" to instead refer to the "promoting independence and self-sufficiency through employment job opportunities and basic skills program" and to comparable references in chapter 239B, as enacted by this Act. The reference revisions shall include but are not limited to the following sections: 84A.6, 217.30, 239A.1, and 541A.2.

3. In lieu of revising a reference under this section, the Code editor may instead submit a coordinating amendment in a Code editor's bill for the 1998 or 1999 legislative session.

Sec. 33. ADMINISTRATIVE RULES. Administrative rules of the department of human services in effect on the effective date of this Act which provide for medical assistance eligibility based upon receipt of assistance under the family investment program shall be deemed to apply the definition of family investment program in section 249A.2, subsection 4A, as enacted by this Act.

Sec. 34. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment. However, the department of human services shall implement the following provisions on or after the date indicated:

1. The department shall include a second cousin as a specified relative as provided in section 239B.1, subsection 12, paragraph "n", as enacted in this Act, beginning July 1, 1997.

2. The department shall phase in the required participation in a family investment agreement for individuals who meet the conditions described in paragraph "a" or "b". The phase-in shall be implemented in a manner so that the required participation applies to all family investment program participants on or before July 1, 1998. The phase-in of the required participation applies to individuals who meet either of the following conditions:

a. The individual is a parent or specified relative of a child who is less than three months of age and began caring for the child before a referral of the individual to the job opportunities and basic skills program.

b. The individual is working thirty hours or more per week and began working before a referral of the individual to the job opportunities and basic skills program.

DIVISION II

Sec. 35. Section 239B.7, subsection 4, as enacted by this Act, is amended by striking the subsection.

Sec. 36. EFFECTIVE DATE AND APPLICABILITY. This division of this Act takes effect October 1, 1997. However, the earnings disregard under section 239B.7, subsection 4, as enacted in this Act, shall remain applicable for the full period of time for those individuals who are eligible for the employment earnings disregard as of September 30, 1997.

Approved April 18, 1997

CHAPTER 42

HEALTH CARE FACILITIES — RECORDS CHECKS — HOME HEALTH SERVICES

S.F. 523

AN ACT relating to health care facilities by requiring employment checks of prospective health care facility employees.

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

Section 1. Section 135C.33, Code 1997, is amended to read as follows:

135C.33 CHILD OR DEPENDENT ADULT ABUSE INFORMATION AND CRIMINAL RECORDS — EVALUATIONS.

1. ~~On or after~~ Beginning July 1, ~~1994~~ 1997, ~~with regard to new applicants for licensure or employment, if a person is being considered for licensure under this chapter, or for employment involving direct responsibility for a resident or with access to a resident when the resident is alone, or if the person considered for licensure or employment under this chapter will reside~~ prior to employment of a person in a facility, the facility ~~may~~ shall request that the department of ~~human services conduct~~ public safety perform criminal ~~and child~~ and dependent adult abuse record checks of the person in this state ~~and in other states, on a random basis~~. In addition, the facility may request that the department of human services perform a child abuse record check in this state. Beginning July 1, ~~1994~~ 1997, a facility shall inform all ~~new applicants for employment~~ persons prior to employment ~~of the possibility of~~ regarding the performance of ~~a record check~~ the records checks and shall obtain, from the ~~applicant~~ persons, a signed acknowledgment of the receipt of the information. Additionally, ~~on or after July 1, 1994,~~ a facility shall include the following inquiry in an application for employment: "Do you have a record of founded child or dependent adult abuse or have you ever been convicted of a crime, in this state or any other state?" If the person has been convicted of a crime under a law of any state or has a record of founded child or dependent adult abuse, the department of human services shall perform an evaluation to determine whether the crime or founded child or dependent adult abuse warrants prohibition of ~~licensure,~~ employment~~, or residence~~ in the facility. The evaluation shall be performed in accordance with procedures adopted for this purpose by the department of human services.

2. If the department of ~~human services~~ public safety determines that a person has committed a crime or has a record of founded ~~child or~~ dependent adult abuse and is ~~licensed,~~ to be employed ~~by~~ in a facility licensed under this chapter, ~~or resides in a licensed facility,~~ the department of public safety shall notify the licensee that an evaluation will be conducted by the department of human services to determine whether prohibition of the person's ~~licensure,~~ employment~~, or residence~~ is warranted. If a department of human services child abuse record check determines the person has a record of founded child abuse, the department shall inform the licensee that an evaluation will be conducted to determine whether prohibition of the person's employment is warranted.

3. In an evaluation, the department of human services shall consider the nature and seriousness of the crime or founded child or dependent adult abuse in relation to the position sought or held, the time elapsed since the commission of the crime or founded child or dependent adult abuse, the circumstances under which the crime or founded child or dependent adult abuse was committed, the degree of rehabilitation, the likelihood that the person will commit the crime or founded child or dependent adult abuse again, and the number of crimes or founded child or dependent adult abuses committed by the person involved. The department of human services has final authority in determining whether prohibition of the person's ~~licensure,~~ employment~~, or residence~~ is warranted.

4. If the department of human services determines that the person has committed a crime or has a record of founded child or dependent adult abuse which warrants prohibition of ~~licensure,~~ employment, ~~or residence,~~ the person shall not be ~~licensed under this chapter and shall not be~~ employed ~~by~~ in a facility ~~or reside in a facility~~ licensed under this chapter.

Sec. 2. Section 235B.6, subsection 2, paragraph e, Code 1997, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (7) The department of public safety for purposes of performing records checks required under section 135C.33.

Sec. 3. HOME HEALTH SERVICES — REGULATORY REQUIREMENTS. The departments of public health and inspections and appeals shall review federal and state requirements applicable to providers of homemaker, home-health aide, home-care aide, hospice, and other in-home services to persons with health problems. The review shall include but is not limited to current and proposed federal requirements for quality assurance, fiscal information concerning the source of regulatory funding, feasibility analysis of requiring criminal and dependent adult abuse record checks of employees of the providers, feasibility analysis of implementing state regulation of the providers, and other information deemed appropriate by the departments. The departments shall submit a report of findings and recommendations on or before December 15, 1997.

Approved April 18, 1997

CHAPTER 43

ELIGIBILITY REQUIREMENTS FOR WORKERS' COMPENSATION

H.F. 167

AN ACT relating to eligibility requirements for workers' compensation.

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

Section 1. Section 85.1, subsection 1, Code 1997, is amended to read as follows:

1. Any employee engaged in any type of service in or about a private dwelling except that after July 1, ~~1974~~ 1997, this chapter shall apply to such persons who earn ~~two hundred~~ one thousand five hundred dollars or more from such employer for whom employed at the time of the injury during the ~~thirteen~~ twelve consecutive ~~weeks~~ months prior to the injury, provided ~~said~~ the employee is not a regular member of the household. For purposes of this subsection, "member of the household" is defined to be the spouse of the employer or relatives of either the employer or spouse residing on the premises of the employer.

Sec. 2. Section 85.1, subsection 2, Code 1997, is amended to read as follows:

2. Persons whose employment is purely casual and not for the purpose of the employer's trade or business, except that after July 1, ~~1974~~ 1997, this chapter shall apply to such employees who earn ~~two hundred~~ one thousand five hundred dollars or more from such employer for whom employed at the time of the injury during the ~~thirteen~~ twelve consecutive ~~weeks~~ months prior to the injury.

Approved April 18, 1997

CHAPTER 44

REGISTRATION OF TRADEMARKS AND SERVICE MARKS

H.F. 275

AN ACT relating to trademarks and service marks registered with the secretary of state.

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

Section 1. Section 548.103, unnumbered paragraph 5, Code 1997, is amended to read as follows:

The application shall be accompanied by ~~three specimens~~ a specimen showing the mark as actually used.

Sec. 2. Section 548.105, unnumbered paragraph 1, Code 1997, is amended to read as follows:

Upon compliance by the applicant with the requirements of this chapter, the secretary shall ~~cause~~ issue and deliver a certificate of registration to ~~be issued and delivered to~~ the applicant. The certificate of registration shall be issued under the signature and seal of the secretary~~, and~~. The certificate of registration shall show the name and business address and, if a corporation, the state of incorporation, or if a partnership, the state in which the partnership is organized and the names of the general partners, as specified by the secretary, of the person claiming ownership of the mark~~;~~. The certificate of registration shall also show the date claimed for the first use of the mark anywhere and the date claimed for the first use of the mark in this state, the class of goods or services and a description of the goods or services on or in connection with which the mark is used, a ~~reproduction~~ description of the mark, the registration date, and the term of the registration.

Approved April 18, 1997

CHAPTER 45

REQUIREMENTS FOR CERTAIN CHILD DAY CARE PROVIDERS

H.F. 313

AN ACT requiring criminal and child abuse record checks of persons receiving state funding for providing child day care, and making a penalty applicable.

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

Section 1. Section 237A.5, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 6. A person who receives public funds for providing child day care and who is not registered or licensed under this chapter and individuals who reside with the person shall be subject to the provisions of subsection 2 as though the person either is being considered for registration or is registered to provide child day care under this chapter. If the person or individual residing with the person would be prohibited from licensure, registration, employment, or residence under subsection 2, the person shall not provide child day care and is not eligible to receive public funds to do so. A person who continues to provide child day care in violation of this subsection is subject to penalty under section 237A.19 and injunction under section 237A.20.

Approved April 18, 1997

CHAPTER 46

CORPORATE INCOME TAX — FOREIGN CORPORATIONS

H.F. 354

AN ACT relating to activities of a foreign corporation which do not constitute doing business in or deriving income from the state for state tax purposes and including effective and retroactive applicability date provisions.

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

Section 1. Section 422.34A, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 7. Training employees or educating employees, or using facilities in Iowa for this purpose.

Sec. 2. This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 1997, for tax years beginning on or after that date.

Approved April 18, 1997

CHAPTER 47

ENTREPRENEURIAL VENTURES ASSISTANCE PROGRAM

H.F. 368

AN ACT relating to the establishment of the entrepreneurial ventures assistance program and allocating funds from the Iowa strategic investment fund for the administration and operation of the program.

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

Section 1. NEW SECTION. 15.338 SHORT TITLE.

This part shall be known and may be cited as the "Entrepreneurial Ventures Assistance Program".

Sec. 2. NEW SECTION. 15.339 ENTREPRENEURIAL VENTURES ASSISTANCE.

1. As used in this section, unless the context otherwise requires, "early-stage industry company" means a company with three years or less of experience in a particular industry.

2. The department shall establish a program to provide financial and technical assistance to early-stage industry companies and entrepreneurs. The purpose of the program is to encourage the development of entrepreneurial venture planning and managerial skills in conjunction with the delivery of a financial assistance program for business start-ups and expansions. An applicant eligible for the program includes an individual who is participating in or has successfully completed a recognized entrepreneurial venture development curriculum, or a business whose principal participants have successfully completed a recognized entrepreneurial venture development curriculum.

3. Each application for financial assistance submitted to the department must include a business plan, a marketing plan, a budget, and a statement of purpose stating how the financial assistance will be used.

4. Unless otherwise authorized by the director, the department shall not provide more than five thousand dollars of technical assistance per project, and shall not provide more than a total of twenty thousand dollars in financial assistance per project.

5. In addition to funds appropriated for the program, the department may allocate resources from the Iowa strategic investment fund under section 15.313 for the administration and operation of the program.

6. The department shall adopt administrative rules pursuant to chapter 17A to administer this section.

Approved April 18, 1997

CHAPTER 48

WORKERS' COMPENSATION FOR PROFESSIONAL ATHLETES

H.F. 370

AN ACT relating to workers' compensation benefits for professional athletes and providing an effective date.

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

Section 1. Section 85.33, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 6. For purposes of this section and section 85.34, subsection 1, "employment substantially similar to the employment in which the employee was engaged at the time of the injury" includes, for purposes of an individual who was injured in the course of performing as a professional athlete, any employment the individual has previously performed.

Sec. 2. Section 85.34, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 6. PROFESSIONAL ATHLETE. For purposes of subsection 2, paragraph "u", a determination of the degree of permanent disability of an individual who was injured in the course of performing as a professional athlete shall not be determined based upon employment as a professional athlete but shall be determined based upon other occupations the individual has previously performed or was reasonably suited to perform at the time of the injury.

Sec. 3. Section 85.36, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 12. In the case of an employee injured in the course of performing as a professional athlete, the basis of compensation for weekly earnings shall be one-fiftieth of total earnings which the employee has earned from all employment for the previous twelve months prior to the injury.

Sec. 4. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 18, 1997

CHAPTER 49

COUNTY ISSUANCE OF MOTOR VEHICLE LICENSES — STUDY

H.F. 372

AN ACT establishing a county issuance of motor vehicle licenses study and providing effective dates.

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

Section 1. There is established a county issuance of motor vehicle licenses study committee to study, make recommendations regarding, and oversee the implementation of a uniform system for the issuance of motor vehicle licenses by county treasurers if a system is implemented. The committee shall consist of thirteen members as follows:

1. Five county treasurers chosen by the Iowa association of county treasurers.
2. The director of the department of transportation or the director's designee.
3. The director of the office of driver services of the state department of transportation or the director's designee.
4. The director of audits for the state department of transportation.
5. The executive director of the Iowa motor truck association or the executive director's designee.
6. The executive director of the American automobile association of Minnesota/Iowa or the executive director's designee.
7. The auditor of state or the auditor's designee.
8. The certified public accountant and the operations research analyst who are members of the county finance committee established under section 333A.2.

The committee shall be staffed by the legislative service bureau.

Sec. 2. The committee shall study the experience of the six counties currently authorized to issue motor vehicle licenses under section 321.179 and take testimony from the department of transportation, customers in the six counties, and other interested parties regarding the implementation of an expanded system of county issuance of motor vehicle licenses, including commercial driver's licenses.

The committee shall also do the following:

1. Make a comparison of the costs related to the issuance of driver's licenses by the department and the six counties and methods for tracking costs of issuance of driver's licenses on a statewide basis, including the length of time necessary to track the costs to ensure the results provide an accurate representation of the costs incurred by the counties and the department. The committee shall also provide an analysis of transition and future costs of operation if statewide county issuance of driver's licenses is recommended.
2. Consider the need for and recommend comprehensive and consistent guidelines for all driver's license activities.
3. Conduct a customer survey in the six counties currently issuing driver's licenses and at selected driver's license stations operated by the department.
4. Make a recommendation on whether the issuance of driver's licenses by county treasurers should be expanded, whether the department should provide more hours of operation at some or all driver's license stations, whether the current law should remain unchanged, or whether other changes should be made. The recommendations shall include an analysis of the potential impact upon the continued quality, consistency, effectiveness, and services provided by current driver's licensing operations for commercial and noncommercial drivers.

Following delivery of its recommendations, the committee shall act in an advisory capacity regarding the implementation of a county issuance program enacted should one be enacted and signed into law. The committee shall report to the general assembly not later than January 1, 1998, and shall be dissolved December 21, 1998.

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

Approved April 18, 1997

CHAPTER 50

BANK REGULATION

H.F. 475

AN ACT relating to the acquisition of a branch of a savings association by a newly chartered bank and providing an effective date.

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

Section 1. Section 524.1213, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. For purposes of subsection 3, a bank that has been chartered solely for the purpose of, and does not open for business prior to, acquiring control of, or acquiring all or substantially all of the assets of, one or more branches owned and operated on January 1, 1997, by a savings association, as defined in 12 U.S.C. § 1813, which association is an affiliate of the bank, is deemed to have been in continuous existence and operation as a bank for the combined periods of continuous existence and operation of the bank and the savings association from which the branch or branches were acquired.

Sec. 2. Section 524.1805, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. For purposes of subsection 1, a bank that has been chartered solely for the purpose of, and does not open for business prior to, acquiring control of, or acquiring all or substantially all of the assets of, one or more branches owned and operated on January 1, 1997, by a savings association, as defined in 12 U.S.C. § 1813, which association is an affiliate of the bank, is deemed to have been in continuous existence and operation as a bank for the combined periods of continuous existence and operation of the bank and the savings association from which the branch or branches were acquired.

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

Approved April 18, 1997

CHAPTER 51

PLACEMENT OF DELINQUENT CHILDREN

H.F. 545

AN ACT relating to the criteria for placement of delinquent children, for whom guardianship has been transferred to the director of human services, in certain facilities.

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

Section 1. Section 232.52, subsection 2, paragraph e, subparagraph (4), Code 1997, is amended to read as follows:

(4) The child has previously been placed in a treatment facility outside the child's home or in a supervised community treatment program established pursuant to section 232.191, subsection 4, as a result of a prior delinquency adjudication.

Approved April 18, 1997

CHAPTER 52

CONTINUED OPERATION OF DEPARTMENT OF HUMAN RIGHTS

H.F. 578

AN ACT providing for the continued operation of the department of human rights and including an effective date.

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

Section 1. Section 216A.5, Code 1997, is repealed.

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

Approved April 18, 1997

CHAPTER 53

WASTE TIRES — FINANCIAL ASSURANCE REQUIREMENTS

H.F. 653

AN ACT relating to financial assurance requirements for waste tire collection and processing sites.

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

Section 1. Section 455D.11A, subsection 5, paragraph c, Code 1997, is amended by striking the paragraph.

Sec. 2. Section 455D.11A, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 8. All requirements for financial assurance provided for in this section shall become effective July 1, 1998.

Approved April 18, 1997

CHAPTER 54

SALES AND USE TAX EXEMPTIONS — PRODUCTS USED IN AGRICULTURAL PRODUCTION

S.F. 30

AN ACT relating to the exemption from sales, services, and use taxes of adjuvants and surfactants used to enhance the application of fertilizers, limestone, herbicides, pesticides, and insecticides in agricultural production and providing effective and retroactive applicability date provisions.

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

Section 1. Section 422.42, subsection 14, Code 1997, is amended to read as follows:

14. "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, including adjuvants, surfactants, and other products directly related to the application enhancement of those products, and 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. 2. Refunds of taxes, interests, or penalties which arise from claims resulting from the enactment of the amendment to section 422.42, subsection 14, in this Act, for sales and uses occurring between April 1, 1990, and June 30, 1997, 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, 1997, notwithstanding any other provision of law. If the amount of refund 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 April 1, 1990, for sales made or uses occurring on or after that date.

Approved April 22, 1997

CHAPTER 55

WATER AND ICE VESSEL ACCIDENT REPORTS

S.F. 95

AN ACT relating to water and ice vessel accident reports filed with the natural resource commission of the department of natural resources and providing for an effective date and the Act's applicability.

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

Section 1. Section 462A.7, subsection 2, Code 1997, is amended to read as follows:

2. Whenever any vessel is involved in a collision, accident or casualty, except one which results only in property damage not exceeding ~~one~~ five hundred dollars, a report thereof shall be filed with the commission. The report shall be filed by the operator of the vessel and shall contain such information as the commission may, by rule, require. ~~Said~~ The report shall be submitted without delay in death or disappearance cases and within five days in all other cases.

Sec. 2. Section 462A.7, subsection 4, Code 1997, is amended to read as follows:

4. a. All reports shall be in writing~~, and the written report shall be without prejudice to the individual so reporting and~~. A vessel operator's report shall be without prejudice to the person making the report and shall be for the confidential use of the ~~commission~~ department. However, upon request the ~~commission~~ department shall disclose the identities of the persons on board the vessels involved in the occurrence and their addresses. Upon request of a person who made and filed a vessel operator's report, the department shall provide a copy of the vessel operator's report to the requestor. A written vessel operator's report filed with the ~~commission~~ department shall not be admissible in or used in evidence in any civil or criminal action arising out of the facts on which the report is based.

b. All written reports filed by law enforcement officers as required under section 462A.7, subsection 3, are confidential to the extent provided in section 22.7, subsection 5, and section 622.11. However, a completed law enforcement officer's report shall be made available by the department or the investigating law enforcement agency to any party to a boating accident, collision, or other casualty, the party's insurance company or its agent, or the party's attorney on written request and payment of a fee.

Sec. 3. EFFECTIVE DATE — APPLICABILITY.

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

2. Section 1 of this Act applies to written reports of accidents involving water and ice vessel accidents occurring on or after the effective date of this Act.

Approved April 22, 1997

CHAPTER 56

FRAUDULENT PRACTICES INVOLVING PUBLIC ASSISTANCE BENEFITS

S.F. 131

AN ACT relating to fraudulent practices involving family investment and medical assistance program benefits and making penalties applicable.

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

Section 1. Section 239.14, Code 1997, is amended to read as follows:

239.14 FRAUDULENT ~~ACTS~~ PRACTICES.

~~Whoever~~ A person who obtains, ~~or~~ attempts to obtain, or aids or abets any person to obtain, by means of a willfully false statement or representation, by knowingly failing to disclose a material fact, or by impersonation, or any fraudulent device, any assistance under this chapter to which the recipient is not entitled, ~~shall be guilty of~~ commits a fraudulent practice.

Sec. 2. Section 239.17, Code 1997, is amended to read as follows:

239.17 RECOVERY OF ASSISTANCE OBTAINED BY FRAUDULENT ~~ACT~~ PRACTICE.

A person who obtains, ~~or~~ attempts to obtain, or aids or abets any person to obtain, by means of a willfully false statement or representation, by knowingly failing to disclose a material fact, or by impersonation or any fraudulent device, assistance to which the recipient is not entitled, is personally liable for the amount of assistance thus obtained. The amount of the assistance may be recovered from the offender or the offender's estate in an action brought or by claim filed in the name of the state and the recovered funds shall be deposited in the family investment program account. The action or claim filed in the name of the state shall not be considered an election of remedies to the exclusion of other remedies.

Sec. 3. Section 249A.7, unnumbered paragraph 1, Code 1997, is amended to read as follows:

A person who obtains assistance or payments for medical assistance under this chapter by ~~misrepresentation or failure, with fraudulent intent, to bring forth all the facts~~ knowingly making or causing to be made, a false statement or a misrepresentation of a material fact or by knowingly failing to disclose a material fact required of an applicant for aid under the provisions of this chapter and a person who knowingly makes or causes to be made, a false

~~statements~~ statement or a misrepresentation of a material fact or knowingly fails to disclose a material fact concerning the applicant's eligibility for aid under this chapter ~~shall be guilty of~~ commits a fraudulent practice.

Sec. 4. Section 249A.8, Code 1997, is amended to read as follows:

249A.8 FRAUDULENT PRACTICE.

A person who knowingly makes or causes to be made false statements or misrepresentations of material facts or knowingly fails to disclose material facts in application for payment of services or merchandise rendered or purportedly rendered by a provider participating in the medical assistance program under this chapter ~~is guilty of~~ commits a fraudulent practice.

Approved April 22, 1997

CHAPTER 57

TRESPASSING OR STRAY LIVESTOCK

S.F. 219

AN ACT relating to trespassing or stray livestock and providing remedies and an effective date.

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

Section 1. NEW SECTION. 169C.1 DEFINITIONS.

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

1. "Aggrieved party" means a landowner or a local authority.
2. "Landowner" means a person who holds an interest in land, including a titleholder or tenant.
3. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine, or porcine species; ostriches, rheas, or emus; farm deer as defined in section 481A.1; or poultry.
4. "Livestock care provider" means a person designated by a local authority to provide care to livestock which is distrained by a local authority.
5. "Livestock owner" means the person who holds title to livestock or who is primarily responsible for the care and feeding of the livestock as provided by the titleholder.
6. "Local authority" means a city as defined in section 362.2 or a county as provided in chapter 331.
7. "Maintenance" means the provision of shelter, food, water, or a nutritional formulation as required pursuant to chapter 717.

Sec. 2. NEW SECTION. 169C.2 CUSTODY AND MAINTENANCE.

A landowner may take custody of livestock if the livestock trespasses upon the landowner's land or strays from the livestock owner's control on a public road which adjoins the landowner's land. A local authority may take custody of the livestock as provided by the local authority. The landowner shall not transfer custody of the livestock to a person other than the livestock owner or a local authority, unless the livestock owner approves of the transfer. A local authority shall not transfer custody of the livestock to a person other than the livestock owner or a livestock care provider.

Sec. 3. NEW SECTION. 169C.3 NOTICE TO LIVESTOCK OWNER.

1. a. If livestock trespasses upon a landowner's land or the landowner takes custody of

the livestock, the landowner shall deliver notice of the trespass or custody to the livestock owner within forty-eight hours following discovery of the trespass or taking custody of livestock which has not trespassed. If a local authority takes custody of the livestock, the local authority shall deliver notice of the custody to the livestock owner within forty-eight hours after taking custody of the livestock. The forty-eight-hour period shall exclude any time that falls on a Sunday or a holiday recognized by the state or the United States. The notice shall be made in writing and delivered by certified mail or personal service to the last known mailing address of the livestock owner.

b. If the aggrieved party does not know the name and address of the livestock owner, the aggrieved party shall make reasonable efforts to determine the identity of the livestock owner. The reasonable efforts shall include obtaining the name and address of the owner of the brand appearing on the livestock from the department of agriculture and land stewardship under chapter 169A. If the name and address of the livestock owner cannot be determined, the aggrieved party shall publish the notice as soon as possible at least once each week for two consecutive weeks in a newspaper having general circulation in the county where the livestock is located.

2. A notice required under this section shall at least provide all of the following:

a. The name and address of the landowner or local authority.

b. A description of the livestock and where it trespassed or strayed.

c. An estimate of the amount of the livestock owner's liability.

Sec. 4. NEW SECTION. 169C.4 LIABILITY.

1. A livestock owner shall be liable to the following persons:

a. To a landowner for damages caused by the livestock owner's livestock which have trespassed on the landowner's land, including but not limited to property damage and costs incurred by a landowner's custody of the livestock including maintenance costs. A livestock owner's liability is not affected by the failure of a landowner to take custody of the livestock. A livestock owner shall not be liable for damages incurred by the landowner if the livestock trespassed through a fence that was not maintained by the landowner as required pursuant to chapter 359A.

b. To a landowner who takes custody of livestock on a public road as provided in section 169C.3 for costs incurred by the landowner in taking custody of the livestock, including maintenance costs.

c. To a local authority which takes custody of livestock for costs incurred by the local authority in taking custody of the livestock, including maintenance costs.

2. An aggrieved party who fails to provide timely notice of a livestock's trespass or custody as required by section 169C.3 shall not be entitled to compensation for damages for the period of time during which the aggrieved party fails to provide timely notice.

3. An aggrieved party is not liable for an injury or death suffered by the livestock in the landowner's custody, unless the landowner caused the injury or death. The landowner is not liable for livestock that strays from the landowner's land. An aggrieved party is not liable for livestock that strays from the control of the aggrieved party.

Sec. 5. NEW SECTION. 169C.5 SATISFACTION FOR DAMAGES.

1. a. After receiving notice by an aggrieved party as required by section 169C.3, the livestock owner shall pay all damages to the aggrieved party for which the livestock owner is liable.

b. The aggrieved party or the livestock owner may bring a civil action in order to determine the livestock owner's liability and the amount of any claim for damages. The aggrieved party or livestock owner must bring the action within thirty days following receipt or publication of the notice as required by section 169C.3. The court may join all other claims arising out of the same facts that are alleged in the claim for damages. The civil action may be heard by a district judge or a district associate judge. The civil action may be heard by the district court sitting in small claims as provided in chapter 631.

c. If the livestock is in the custody of an aggrieved party or livestock care provider, a rebuttable presumption arises that the livestock has trespassed or strayed from the control of the livestock owner. The rebuttable presumption shall not apply if a criminal charge has been filed involving the removal or transfer of the livestock. The burden of proof regarding all other matters of dispute shall be on the aggrieved party.

d. The failure of an aggrieved party to provide notice as required by section 169C.3 shall not bar the aggrieved party from being awarded a judgment, if the court determines that the livestock owner had actual knowledge that the livestock had trespassed or strayed and the name and address of the aggrieved party.

2. If a civil action is brought by the livestock owner or aggrieved party, the matter shall be heard by a court on an expedited basis. The aggrieved party shall provide for the transfer of the livestock to the livestock owner, if the livestock owner posts a bond or other security with the court in the amount of the aggrieved party's claim. If a bond or security is not posted, the aggrieved party or livestock care provider shall keep custody of and provide maintenance to the livestock. However, the livestock owner shall post the bond or other security if the matter is set for hearing more than thirty days from the date that the petition bringing the civil action is filed. The court shall order the immediate disposition of the livestock as provided in chapter 717, if the livestock is permanently distressed by disease or injury to a degree that would result in severe or prolonged suffering.

3. If a civil action is not timely brought as provided in this section, title to the livestock shall transfer to the aggrieved party thirty days following receipt of the notice by the livestock owner or the first date of the notice's publication as required pursuant to section 169C.3, if the parties fail to agree to the amount, terms, or conditions of payment or if the identity of the livestock owner cannot be determined. Title to the livestock shall transfer subject to any applicable security interests or liens.

4. A landowner is liable to the livestock owner for twice the fair market value of livestock that the landowner transfers to a person other than a local authority in violation of section 169C.2.

5. If the aggrieved party is a local authority, the local authority shall reimburse the landowner for the landowner's damages from proceeds received from the sale of the livestock, after satisfying any superior security interests or liens.

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

Approved April 22, 1997

CHAPTER 58

NOTARIAL ACTS — REGISTRARS OF VITAL STATISTICS

S.F. 232

AN ACT relating to notarial acts and providing an effective date.

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

Section 1. Section 9E.10, subsection 1, Code 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. A registrar of vital statistics or a designee of a registrar of vital statistics.

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

Approved April 22, 1997

CHAPTER 59

RESTORATION OF SOIL AND WATER CONSERVATION PRACTICES — DISASTER EMERGENCY

S.F. 235

AN ACT providing authority to soil and water conservation district commissioners to allocate moneys for the emergency restoration of permanent soil and water conservation practices.

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

Section 1. Section 161A.7, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 15. To provide for the restoration of permanent soil and water conservation practices which are damaged or destroyed because of a disaster emergency as provided in section 161A.75.

Sec. 2. NEW SECTION. 161A.75 USE OF MONEYS FOR EMERGENCY REPAIRS.

1. The commissioners of a district may allocate moneys otherwise available for voluntary financial incentive programs as provided in section 161A.73 to provide for the restoration of permanent soil and water conservation practices which are damaged or destroyed because of a disaster emergency. In providing for the restoration, the commissioners may allocate moneys under this section for construction, reconstruction, installation, or repair projects. For each project the commissioners must determine that the allocation is necessary in order to restore permanent soil and water conservation practices in order to prevent erosion in excess of the applicable soil loss limits caused by the disaster emergency.

2. In order to allocate moneys under this section, the disaster emergency must have occurred in an area subject to a state of disaster emergency pursuant to a proclamation made by the governor as provided in section 29C.6. The commissioners shall use the moneys only to the extent that moneys from other sources, including any moneys provided by the state or federal government in response to the disaster emergency, are not adequate. The commissioners are not required to allocate the moneys on a cost-share basis.

3. Following the disaster emergency, the commissioners shall submit a report to the committee providing information regarding restoration projects and moneys allocated under this section for the projects.

Approved April 22, 1997

CHAPTER 60

SAFE DEPOSIT BOXES — PROCEDURE ON DEATH

S.F. 238

AN ACT repealing the procedures for disposition of the contents of a decedent's safe deposit box and providing an effective date.

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

Section 1. Sections 450.86, 524.810, and 533.49A, Code 1997, are repealed.

Sec. 2. EFFECTIVE DATE. This Act takes effect July 1, 1998.

Approved April 22, 1997

CHAPTER 61

LIABILITY FOR DOMESTICATED ANIMAL ACTIVITIES

H.F. 132

AN ACT relating to the liability of persons involved in domesticated animal activities.

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

Section 1. NEW SECTION. 673.1 DEFINITIONS.

1. "Claim" means a claim, counterclaim, cross-claim, complaint, or cause of action recognized by the Iowa rules of civil procedure and brought in court on account of damage to or loss of property or on account of personal injury or death.

2. "Domesticated animal" means an animal commonly referred to as a bovine, swine, sheep, goat, domesticated deer, llama, poultry, rabbit, horse, pony, mule, jenny, donkey, or hinny.

3. "Domesticated animal activity" means any of the following:

a. Riding or driving a domesticated animal.

b. Riding as a passenger on a vehicle powered by a domesticated animal.

c. Teaching or training a person to ride or drive a domesticated animal or a vehicle powered by a domesticated animal.

d. Participating in an activity sponsored by a domesticated animal activity sponsor.

e. Participating or assisting a participant in a domesticated animal event.

f. Managing or assisting in managing a domesticated animal in a domesticated animal event.

g. Inspecting or assisting an inspection of a domesticated animal for the purpose of purchase.

h. Providing hoof care including, but not limited to, horseshoeing.

i. Providing or assisting in providing veterinary care to a domesticated animal.

j. Boarding or keeping a domesticated animal, by the owner of the domesticated animal or on behalf of another person.

k. Loading, hauling, or transporting a domesticated animal.

l. Breeding domesticated animals.

m. Participating in racing.

n. Showing or displaying a domesticated animal.

4. "Domesticated animal activity sponsor" means a person who owns, organizes, manages, or provides facilities for a domesticated animal activity, including, but not limited to, any of the following:

a. Clubs involved in riding, hunting, competing, or performing.

b. Youth clubs, including 4-H clubs.

c. Educational institutions.

d. Owners, operators, instructors, and promoters of a domesticated animal event or domesticated animal facility, including, but not limited to, stables, boarding facilities, clubhouses, rides, fairs, and arenas.

e. Breeding farms.

f. Training farms.

5. "Domesticated animal event" means an event in which a domesticated animal activity occurs, including, but not limited to, any of the following:

a. A fair.

b. A rodeo.

c. An exposition.

d. A show.

e. A competition.

f. A 4-H event.

g. A sporting event.

h. An event involving driving, pulling, or cutting.

i. Hunting.

j. An equine event or discipline including, but not limited to, dressage, a hunter or jumper show, polo, steeplechasing, English or western performance riding, a western game, or trail riding.

6. "Domesticated animal professional" means a person who receives compensation for engaging in a domesticated animal activity by doing one of the following:

a. Instructing a participant.

b. Renting the use of a domesticated animal to a participant for the purposes of riding, driving, or being a passenger on a domesticated animal or a vehicle powered by a domesticated animal.

c. Renting equipment or tack to a participant.

7. "Inherent risks of a domesticated animal activity" means a danger or condition which is an integral part of a domesticated animal activity, including, but not limited to, the following:

a. The propensity of a domesticated animal to behave in a manner that is reasonably foreseeable to result in damages to property, or injury or death to a person.

b. Risks generally associated with an activity which may include injuries caused by bucking, biting, stumbling, rearing, trampling, scratching, pecking, falling, kicking, or butting.

c. The unpredictable reaction by a domesticated animal to unfamiliar conditions, including, but not limited to, a sudden movement; loud noise; an unfamiliar environment; or the introduction of unfamiliar persons, animals, or objects.

d. A collision by the domesticated animal with an object or animal.

e. The failure of a participant to exercise reasonable care, take adequate precautions, or use adequate control when engaging in the activity, including failing to maintain reasonable control or failing to act in a manner consistent with the person's abilities.

8. "Participant" means a person who engages in a domesticated animal activity, regardless of whether the person receives compensation.

9. "Spectator" means a person who is in the vicinity of a domesticated animal activity, but who is not a participant.

Sec. 2. NEW SECTION. 673.2 LIABILITY.

A person, including a domesticated animal professional, domesticated animal activity

sponsor, the owner of the domesticated animal, or a person exhibiting the domesticated animal, is not liable for the damages, injury, or death suffered by a participant or spectator resulting from the inherent risks of a domesticated animal activity. This section shall not apply to the extent that the claim for damages, injury, or death is caused by any of the following:

1. An act committed intentionally, recklessly, or while under the influence of an alcoholic beverage or other drug or a combination of such substances which causes damages, injury, or death.

2. The use of equipment or tack used in the domesticated animal activity which the defendant provided to a participant, if the defendant knew or reasonably should have known that the equipment or tack was faulty or defective.

3. The failure to notify a participant of a dangerous latent condition on real property in which the defendant holds an interest, which is known or should have been known. The notice may be made by posting a clearly visible warning sign on the property.

4. A domesticated animal activity which occurs in a place designated or intended by an animal activity sponsor as a place for persons who are not participants to be present.

5. A domesticated animal activity which causes damages, injury, or death to a spectator who is in a place where a reasonable person who is alert to inherent risks of domestic animal activities would not expect a domesticated animal activity to occur.

Sec. 3. NEW SECTION. 673.3 NOTICE REQUIRED.

A domesticated animal professional shall post and maintain a sign on real property in which the professional holds an interest, if the professional conducts domesticated animal activities on the property. The location of the sign may be near or on a stable, corral, or arena owned or controlled by the domesticated animal professional. The sign must be clearly visible to a participant. This section does not require a sign to be posted on a domesticated animal or a vehicle powered by a domesticated animal. The notice shall appear in black letters a minimum of one inch high and in the following form:

WARNING

UNDER IOWA LAW, A DOMESTICATED ANIMAL PROFESSIONAL IS NOT LIABLE FOR DAMAGES SUFFERED BY, AN INJURY TO, OR THE DEATH OF A PARTICIPANT RESULTING FROM THE INHERENT RISKS OF DOMESTICATED ANIMAL ACTIVITIES, PURSUANT TO IOWA CODE CHAPTER 673. YOU ARE ASSUMING INHERENT RISKS OF PARTICIPATING IN THIS DOMESTICATED ANIMAL ACTIVITY.

If a written contract is executed between a domesticated animal professional and a participant involving domesticated animal activities, the contract shall contain the same notice in clearly readable print. In addition, the contract shall include the following disclaimer:

A number of inherent risks are associated with a domesticated animal activity. A domesticated animal may behave in a manner that results in damages to property or an injury or death to a person. Risks associated with the activity may include injuries caused by bucking, biting, stumbling, rearing, trampling, scratching, pecking, falling, or butting.

The domesticated animal may act unpredictably to conditions, including, but not limited to, a sudden movement; loud noise; an unfamiliar environment; or the introduction of unfamiliar persons, animals, or objects.

The domesticated animal may also react in a dangerous manner when a condition or treatment is considered hazardous to the welfare of the animal; a collision occurs with an object or animal; or a participant fails to exercise reasonable care, take adequate precautions, or use adequate control when engaging in a domesticated animal activity, including failing to maintain reasonable control of the animal or failing to act in a manner consistent with the person's abilities.

Approved April 22, 1997

CHAPTER 62

SANITARY DISTRICTS AND CITY UTILITIES — ACCOUNTS — SEWER CONNECTION FEES

H.F. 178

AN ACT relating to joint billing or collection of combined service accounts for sanitary districts and a city utility or combined utility system and to discontinue service for delinquency, and providing for the establishment of benefited districts and fees from the connection of property to the sanitary facilities of a sanitary district.

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

Section 1. Section 358.20, unnumbered paragraph 1, Code 1997, is amended to read as follows:

Any sanitary district may by ordinance establish just and 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 of the district, 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 produced thereby and its concentration, strength, and pollution qualities. The board of trustees may change the rates, charges, or rentals from time to time 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 board of trustees may also contract pursuant to chapter 28E with one or more city utilities or combined utility systems, including city utilities established pursuant to chapter 388, for joint billing or collection, or both, of combined service accounts for sanitary district services and utility services, and the contracts may provide for the discontinuance of one or more of the sanitary district services or water utility services if a delinquency occurs in the payment of any charges billed under a combined service account. 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.

Sec. 2. Section 358.22, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Subject to the limitations otherwise stated in this section, the board of trustees may establish one or more benefited districts and schedules of fees for the connection of property to the sanitary sewer facilities of a sanitary district. Each person whose property will be connected to the sanitary sewer facilities of a sanitary district shall pay a connection fee to the sanitary district, which may include the equitable cost of extending sanitary sewer service to the benefited district and reasonable interest from the date of construction to the date of payment. In establishing the benefited districts and establishing and implementing the schedules of fees, the board of trustees shall act in accordance with the powers granted to a city in section 384.38, subsection 3, and the procedures in that subsection. However, all fees collected under this paragraph shall be paid to the sanitary district and the moneys collected as fees shall be used only by the sanitary district to finance improvements or extensions to its sanitary sewer facilities, to reimburse the sanitary district for funds disbursed by its board of trustees to finance improvements or extensions to its sanitary sewer facilities, or to pay debt service on obligations issued to finance improvements or extensions to its sanitary sewer facilities. This paragraph does

not apply when a sanitary district annexation plan or petition includes annexation of an area adjoining the district or a petition has not been presented for a sewer connection. Until the annexation becomes effective or the annexation plan or petition is abandoned, the state mandate contained in section 455B.172, subsections 3, 4, and 5, shall not apply unless the property owner requests to be connected to the sanitary district's sewer facilities and voluntarily pays the connection fee.

Sec. 3. Section 384.84, subsection 6, Code 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. One or more city utilities or combined utility systems, including city utilities established pursuant to chapter 388, may contract pursuant to chapter 28E with one or more sanitary districts established pursuant to chapter 358 for joint billing or collection, or both, of combined service accounts from utility services and sanitary district services. The contracts may provide for the discontinuance of one or more of the city water utility services or sanitary district services if a delinquency occurs in the payment of any charges billed under a combined service account.

Approved April 22, 1997

CHAPTER 63

ELECTRIC TRANSMISSION LINES — MAP RELATING TO FRANCHISE EXTENSION

H.F. 229

AN ACT relating to the availability of a map indicating the location of electric transmission lines related to the extension of a franchise.

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

Section 1. Section 478.13, unnumbered paragraph 1, Code 1997, is amended to read as follows:

Any person, firm, or corporation owning a franchise granted under this chapter or previously existing law, desiring to acquire extensions of such franchise, may petition the utilities board in the manner provided for the granting of a franchise and the ~~same~~ proceeding shall be ~~had~~ conducted in the same manner as ~~on~~ an original application, including the assessing of costs provided by section 478.4 ~~except that in the event~~. If the extension of franchise is sought for all lines in a given county or counties, the published notice need not contain a general description of the lands and highways traversed by the lines, but in lieu ~~thereof~~ of containing such description the petitioner may ~~have on file at its offices in the county or counties affected~~ offer to provide to any interested party, free of charge and within ten working days, a current, accurate map showing the location of the lines for which the franchise extension is sought~~, said map to be available for examination by any interested party, and the~~. The public notice shall advise the citizens of the county or counties affected of the ~~location and~~ availability of such map. If this alternate procedure is not followed ~~then~~ the publication of the description of the lands and highways traversed by the lines shall be done in the manner as in an original application for franchise. In any event an extension under this section ~~will~~ shall be granted only for a valid, existing franchise and the lands, roads, or streams covered ~~thereby~~ by the franchise over, through, or upon which electric transmission lines have in fact been erected or constructed and are in use or operation at the

time of the application for the extension of franchise. Such petition shall be accompanied by the written consent of the applicant that the provisions of all laws relating to public utilities, franchises, and transmission lines, or to the regulation, supervision, or control thereof which are then in force or which may be thereafter enacted, shall apply to its existing line or lines, franchises, and rights with the same force and effect as if such franchise had been granted or such lines had been constructed or rights had been obtained under the provisions of this chapter.

Approved April 22, 1997

CHAPTER 64

DEFENDANTS MENTALLY INCAPABLE OF STANDING TRIAL

H.F. 232

AN ACT providing for court-ordered treatment of a criminal defendant judged mentally incapable of standing trial.

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

Section 1. Section 812.4, Code 1997, is amended to read as follows:

812.4 CESSATION OF CRIMINAL PROSECUTION.

If, upon hearing conducted by the court, the accused is found to be incapacitated in the manner described in section 812.3, no further proceedings shall be taken under the complaint or indictment until the accused's capacity is restored, and, if the accused's release will endanger the public peace or safety, the court must order the accused committed for treatment to the custody of the department of human services or to the custody of the department of corrections for placement at the Iowa medical and classification center.

Approved April 22, 1997

CHAPTER 65

COOPERATIVE ASSOCIATIONS — EFFECTIVE DATE OF FILINGS AND MERGERS

H.F. 233

AN ACT relating to cooperative associations, by providing for the filing of documents and providing for the effective date of a merger or consolidation.

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

Section 1. Section 499.44, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. A document required to be filed with the secretary of state pursuant to this chapter is effective at the later of the following times:

a. The time of filing on the date it is filed, as evidenced by the secretary of state's date and time endorsement on the original document.

b. The delayed effective time and date specified in the document. If a delayed effective date but no time is specified in the document, the document is effective at the close of business on that date. A delayed effective date for a document shall not be later than the ninetieth day after the date it is filed.

Sec. 2. Section 499.68, unnumbered paragraph 1, Code 1997, is amended to read as follows:

~~Upon the issuance of~~ A merger or consolidation shall become effective upon the date that the certificate of merger or the certificate of consolidation is issued by the secretary of state, ~~the merger or consolidation shall become effective~~ or the effective date specified in the articles of merger or articles of consolidation, whichever is later.

Approved April 22, 1997

CHAPTER 66

VALUATION OF CERTAIN INDUSTRIAL MACHINERY, EQUIPMENT, AND COMPUTERS

H.F. 495

AN ACT relating to certain machinery, equipment, and computers for purposes of property taxation and providing an applicability date.

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

Section 1. Section 427B.17, subsection 1, Code 1997, is amended by striking the subsection and inserting in lieu thereof the following:

1. For property defined in section 427A.1, subsection 1, paragraphs "e" and "j", 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.

Sec. 2. By July 1, 1997, each county assessor shall report to the department of revenue and finance a revised statement of the total assessed value of property assessed pursuant to section 427B.17, as amended in this Act and assessed as of January 1, 1994.

Sec. 3. This Act applies to claims for reimbursement filed on or after July 1, 1997.

Approved April 22, 1997

CHAPTER 67

REGULATION OF MULTIPLE EMPLOYER WELFARE ARRANGEMENTS

H.F. 550

AN ACT relating to 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. Section 507A.4, subsection 10, Code 1997, is amended to read as follows:

10. a. Transactions involving a multiple employer welfare arrangement, as defined in section 3 of the federal Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1002, paragraph 40, if the multiple employer welfare arrangement meets all of the following conditions:

~~a.~~ (1) The arrangement is administered by an authorized insurer or an authorized third-party administrator.

~~b.~~ (2) The arrangement has been in existence and provided health insurance for at least ~~fifteen~~ five years prior to July 1, ~~1994~~ 1997.

~~c.~~ (3) The arrangement was established by a trade, industry, or professional association of employers that has a constitution or bylaws, and has been organized and maintained in good faith for at least ~~twenty~~ ten continuous years prior to July 1, ~~1994~~ 1997.

(4) The arrangement registers with and obtains a certificate of registration issued by the commissioner of insurance.

(5) The arrangement is subject to the jurisdiction of the commissioner of insurance, including regulatory oversight and solvency standards as established by rules adopted by the commissioner of insurance pursuant to chapter 17A.

b. A multiple employer welfare arrangement registered with the commissioner of insurance which does not meet the solvency standards established by rule adopted by the commissioner of insurance is subject to chapter 507C.

Sec. 2. 1994 Iowa Acts, chapter 1038, section 3, as amended by 1995 Iowa Acts, chapter 33, section 1, and 1996 Iowa Acts, chapter 1024, section 1, is amended to read as follows:

SEC. 3. REPEAL. This Act is repealed effective July 1, ~~1997~~ 1998.

Sec. 3. Section 513A.8, Code 1997, is repealed.

Sec. 4. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 22, 1997

CHAPTER 68

PRACTICE OF RESPIRATORY CARE

H.F. 659

AN ACT relating to the regulation of the practice of respiratory care.

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

Section 1. Section 152B.2, subsection 5, unnumbered paragraph 3, Code 1997, is amended to read as follows:

"Respiratory care protocols" as used in this section means policies and procedures developed by an organized health care system through consultation, when appropriate, with administrators, licensed physicians and surgeons, ~~certified~~ licensed registered nurses, licensed physical therapists, licensed respiratory care practitioners, and other licensed health care practitioners.

Sec. 2. Section 152B.7A, subsection 3, Code 1997, is amended by striking the subsection and inserting in lieu thereof the following:

This chapter is not intended to limit, preclude, or otherwise interfere with the practice of other health care providers not otherwise licensed under this chapter who are licensed and certified by this state to administer respiratory care procedures.

Sec. 3. Section 152B.11, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Except for those licensed by the board, this section does not apply to persons who are licensed to practice a health profession covered by chapter 147, when the licensee's performance of respiratory care practices falls within the scope of practice, as permitted by their respective licensing board.

Approved April 22, 1997

CHAPTER 69

MOTORCYCLE DEALER BUSINESS HOURS

H.F. 685

AN ACT relating to the required business hours of a motorcycle dealer.

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

Section 1. NEW SECTION. 322.36 MOTORCYCLE DEALER BUSINESS HOURS.

A person in the business of selling motorcycles under chapter 322D is not required to maintain regular business hours at the dealer's principal place of business or other place of business.

Approved April 22, 1997

CHAPTER 70

PARKING FOR PERSONS WITH DISABILITIES

H.F. 688

AN ACT relating to handicapped parking permits by changing the term handicapped to the term person with a disability and by providing for nonexpiring removable windshield placards for persons with a lifelong disability, eliminating the requirement that physicians or chiropractors sign removable windshield placards, and eliminating certain identification requirements for persons with disabilities and providing an effective date and applicability provisions.

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

Section 1. Section 15.286, subsection 4, paragraph a, Code 1997, is amended to read as follows:

4. a. The Iowa finance authority shall develop criteria to award assistance based upon the applicant's financial need, the cost-benefit of the project, the accessibility to the project by ~~handicapped~~ persons with disabilities as defined in section 321L.1, percent of private investment, percent leveraged by other programs, assessment of local housing situation, and ability to administer the program.

Sec. 2. Section 321.23, subsection 4, Code 1997, is amended to read as follows:

4. A vehicle which does not meet the equipment requirements of this chapter due to the particular use for which it is designed or intended, may be registered by the department upon payment of appropriate fees and after inspection and certification by the department that the vehicle is not in an unsafe condition. A person is not required to have a certificate of title to register a vehicle under this subsection. If the owner elects to have a certificate of title issued for the vehicle, a fee of ten dollars shall be paid by the person making the application upon issuance of a certificate of title. If the department's inspection reveals that the vehicle may be safely operated only under certain conditions or on certain types of roadways, the department may restrict the registration to limit operation of the vehicle to the appropriate conditions or roadways. This subsection does not apply to snowmobiles as defined in section 321G.1. Section 321.382 does not apply to a vehicle registered under this subsection which is operated exclusively by a ~~handicapped~~ person with a disability who has obtained a ~~handicapped~~ persons with disabilities parking permit as provided in section 321L.2, if the ~~handicapped~~ persons with disabilities parking permit is carried in or on the vehicle and shown to a peace officer on request.

Sec. 3. Section 321.34, subsection 14, Code 1997, is amended to read as follows:

14. ~~HANDICAPPED~~ PERSONS WITH DISABILITIES SPECIAL PLATES. An owner referred to in subsection 12 who is a ~~handicapped~~ person with a disability, or who is the parent or guardian of a child who resides with the parent or guardian owner and who is a ~~handicapped~~ person with a disability, as defined in section 321L.1, may, upon written application to the department, order special registration plates with a ~~handicapped~~ persons with disabilities processed emblem designed by the department bearing the international symbol of accessibility. The special registration plates with a handicapped processed emblem 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~~ disability and such additional information as required by rules adopted by the department, including proof of residency of a child who is a ~~handicapped~~ person with a disability. If the application is approved by the department the special registration plates with a ~~handicapped~~ persons with disabilities processed emblem shall be issued to the applicant. There shall be no fee in addition to the regular annual

registration fee for the special registration plates with a ~~handicapped~~ persons with disabilities processed emblem. The authorization for special registration plates with a ~~handicapped~~ persons with disabilities processed emblem 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 with a disability as defined in section 321L.1. An owner who has a child who is a ~~handicapped~~ person with a disability shall provide satisfactory evidence to the department that the ~~handicapped~~ child with a disability continues to reside with the owner. The registration plates with a ~~handicapped~~ persons with disabilities processed emblem shall be surrendered in exchange for regular registration plates as provided in subsection 12 when the owner of the motor vehicle or the owner's child no longer qualifies as a ~~handicapped~~ person with a disability as defined in section 321L.1 or when the owner's child who is a ~~handicapped~~ person with a disability no longer resides with the owner.

Sec. 4. Section 321.166, subsection 6, Code 1997, is amended to read as follows:

6. Registration plates issued a disabled veteran under the provisions of section 321.105, shall display the alphabetical characters "DV" which shall precede the registration plate number. The plates may also display a ~~handicapped~~ persons with disabilities parking sticker if issued to the disabled veteran by the department under section 321L.2.

Sec. 5. Section 321.179, subsection 1, unnumbered paragraph 1, Code 1997, is amended to read as follows:

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~~ persons with disabilities 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~~ persons with disabilities 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:

Sec. 6. Section 321L.1, subsections 4 through 6, Code 1997, are amended to read as follows:

4. "~~Handicapped~~ Persons with disabilities parking permit" means a permit bearing the international symbol of accessibility issued by the department which allows the holder to park in a ~~handicapped~~ persons with disabilities parking space, and includes the following:

a. A ~~handicapped~~ persons with disabilities registration plate issued to or for a ~~handicapped~~ person with a disability under section 321.34, subsection 7.

b. A ~~handicapped~~ persons with disabilities parking sticker affixed to a registration plate issued to a disabled veteran under section 321.166, subsection 6, or to an operator under section 321.34.

c. A ~~handicapped~~ persons with disabilities removable windshield placard which is a two-sided placard for hanging from the rearview mirror when the motor vehicle is parked in a ~~handicapped~~ persons with disabilities parking space.

5. "~~Handicapped~~ Persons with disabilities parking sign" means a sign which bears the international symbol of accessibility that meets the requirements under section 321L.6.

6. "~~Handicapped~~ Persons with disabilities parking space" means a parking space, including the access aisle, designated for use by only motor vehicles displaying a ~~handicapped~~ persons with disabilities parking permit that meets the requirements of sections 321L.5 and 321L.6.

Sec. 7. Section 321L.1, subsection 7, unnumbered paragraph 1, Code 1997, is amended to read as follows:

"~~Handicapped person~~ Person with a disability" means a person with a disability that limits or impairs the person's ability to walk. A person shall be considered ~~handicapped~~ a person with a disability for purposes of this chapter under the following circumstances:

Sec. 8. Section 321L.1, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 8. "Lifelong disability" means a disability described under subsection 7 which has been determined to be permanent by a person authorized to provide the statement of disability required by section 321L.2.

Sec. 9. Section 321L.2, subsection 1, paragraph a, unnumbered paragraphs 1 and 2, Code 1997, are amended to read as follows:

A ~~handicapped~~ resident of the state with a disability desiring a ~~handicapped~~ persons with disabilities parking permit shall apply to the department upon an application form furnished by the department providing the applicant's name, address, date of birth, and social security number and shall also provide a statement from a physician licensed under chapter 148, 149, 150, or 150A, or a chiropractor licensed under chapter 151, or a physician or chiropractor licensed to practice in a contiguous state, written on the physician's or chiropractor's stationery, stating the nature of the applicant's ~~handicap~~ disability and such additional information as required by rules adopted by the department under section 321L.8. If the person is applying for a temporary ~~handicapped~~ persons with disabilities parking permit, the physician's or chiropractor's statement shall state the period of time during which the person is expected to be ~~handicapped~~ disabled and the period of time for which the permit should be issued, not to exceed six months.

A ~~handicapped~~ person with a disability may apply for one of the following ~~handicapped~~ persons with disabilities parking permits:

Sec. 10. Section 321L.2, subsection 1, paragraph a, subparagraph (3), Code 1997, is amended to read as follows:

(3) Removable windshield placard. A ~~handicapped~~ person with a disability may apply for a temporary removable windshield placard which shall be valid for a period of up to six months~~, as determined by the physician's or chiropractor's statement under this subsection~~ or a nonexpiring removable windshield placard ~~which shall be valid for a period of four years from the date of issuance~~, as determined by the physician's or chiropractor's statement under this subsection. A temporary removable windshield placard shall be renewed within thirty days of the date of expiration. ~~To renew the placard, the person shall comply with the requirements for initial issuance of the placard under this section.~~ Persons seeking temporary removable windshield placards shall be required to furnish evidence upon initial application that they ~~are temporarily handicapped~~ have a temporary disability and, in addition, furnish evidence at subsequent intervals that they remain temporarily ~~handicapped~~ disabled. Temporary removable windshield placards shall be of a distinctively different color from nonexpiring removable windshield placards. A nonexpiring removable windshield placard shall state on the face of the placard that it is a nonexpiring placard. The department shall issue one additional removable windshield placard upon the request of a ~~handicapped~~ person with a disability.

Sec. 11. Section 321L.2, subsection 1, paragraph b, Code 1997, is amended to read as follows:

b. The department may issue expiring removable windshield placards to the following:

(1) An organization which has a program for transporting ~~the handicapped or elderly~~ persons with disabilities or elderly persons.

(2) A person in the business of transporting ~~the handicapped or elderly~~ persons with disabilities or elderly persons.

One expiring removable windshield placard may be issued for each vehicle used by the organization or person for transporting ~~the handicapped or elderly~~ persons with disabilities

or elderly persons. A placard issued under this paragraph shall be renewed every four years from the date of issuance and shall be surrendered to the department if the organization or person is no longer providing the service for which the placard was issued. Notwithstanding section 321L.4, a person transporting ~~handicapped or elderly~~ persons with disabilities or elderly persons in a motor vehicle for which a placard has been issued under this paragraph may display the placard in the motor vehicle and may use a ~~handicapped~~ persons with disabilities parking space while the motor vehicle is displaying the placard. A placard issued under this paragraph shall be of a distinctively different color from a placard issued under paragraph "a". ~~An organization issued a removable windshield placard and a handicapped person being transported under this subsection are exempt from the handicapped designation requirement under section 321L.4.~~

Sec. 12. Section 321L.2, subsection 3, paragraph b, subparagraph (3), Code 1997, is amended to read as follows:

(3) The signature of the person who has been issued the placard ~~and the signature of the physician or chiropractor who made the determination that the person was handicapped for purposes of issuance of the placard~~.

Sec. 13. Section 321L.2, subsection 5, Code 1997, is amended by striking the subsection.

Sec. 14. Section 321L.4, subsection 2, Code 1997, is amended to read as follows:

2. The use of a ~~handicapped~~ persons with disabilities parking space, located on either public or private property as provided in sections 321L.5 and 321L.6, by an operator of a motor vehicle not displaying a ~~handicapped~~ persons with disabilities parking permit; by an operator of a motor vehicle displaying a ~~handicapped~~ persons with disabilities parking permit but not being used by ~~a person in possession of a motor vehicle license with a handicapped designation or a nonoperator's identification card with a handicapped designation, other than~~ a person issued a permit or being transported in accordance with section 321L.2, subsection 1, paragraph "b"; or by a motor vehicle in violation of the rules adopted by the department under section 321L.8, constitutes improper use of a ~~handicapped~~ persons with disabilities parking permit, which is a misdemeanor for which a fine shall be imposed upon the owner, operator, or lessee of the motor vehicle or the person to whom the ~~handicapped~~ persons with disabilities parking permit is issued. The fine for each violation shall be one hundred dollars. Proof of conviction of two or more violations involving improper use of a ~~handicapped~~ persons with disabilities parking permit is grounds for revocation by the court or the department of the holder's privilege to possess or use the ~~handicapped~~ persons with disabilities parking permit.

Sec. 15. AMENDMENTS CHANGING TERMINOLOGY — DIRECTIVES TO CODE EDITOR.

1. The Code editor shall substitute the words "persons with disabilities" for the word "handicapped" wherever the word "handicapped" is used in the terms "handicapped parking permit", "handicapped parking permits", "handicapped parking space", "handicapped parking spaces", "handicapped designation", "handicapped designations", "handicapped identification designation", "handicapped identification designations", "handicapped parking space", "handicapped parking spaces", "handicapped parking", "handicapped parking review committee", "handicapped parking sign", "handicapped parking signs", "handicapped parking sticker", "handicapped parking stickers", "handicapped registration plate", "handicapped registration plates", "handicapped identification device", and "handicapped identification devices".

2. The Code editor shall substitute the word "disability" for "handicap" where there appears to be no doubt as to the intent to refer to a disability.

3. The Code editor shall substitute the words "person with a disability" for the words "handicapped person" and the words "persons with disabilities" for the words "handicapped persons" where there appears to be no doubt as to the intent to refer to a person with a disability or persons with disabilities.

Sec. 16. Section 321L.6, subsection 3, Code 1997, is amended by striking the subsection.

Sec. 17. EFFECTIVE AND APPLICABILITY DATE PROVISIONS. This Act, being deemed of immediate importance, takes effect upon enactment. However, state agencies, political subdivisions of the state, and other persons which currently have signs or windshield placards, stickers, or other devices which bear the word "handicapped" or the statement required by section 321L.6, subsection 3, Code 1997, may continue to use the placards, stickers, or devices until they would be replaced in the normal course of business.

Approved April 22, 1997

CHAPTER 71

POLICE BICYCLES

S.F. 80

AN ACT relating to police bicycles.

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

Section 1. Section 321.231, subsection 3, Code 1997, is amended to read as follows:

3. The driver of a fire department vehicle, police vehicle, or ambulance, or a peace officer riding a police bicycle in the line of duty may do any of the following:

a. Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation.

b. Exceed the maximum speed limits so long as the driver does not endanger life or property.

Sec. 2. Section 321.234, subsection 2, Code 1997, is amended to read as follows:

2. A person, including a peace officer, riding a bicycle on the highway is subject to the provisions of this chapter and has all the rights and duties under this chapter applicable to the driver of a vehicle, except those provisions of this chapter which by their nature can have no application or those provisions for which specific exceptions have been set forth regarding police bicycles.

Sec. 3. Section 321.397, Code 1997, is amended to read as follows:

321.397 LAMPS ON BICYCLES.

Every bicycle shall be equipped with a lamp on the front exhibiting a white light, at the times specified in section 321.384 visible from a distance of at least three hundred feet to the front and with a lamp on the rear exhibiting a red light visible from a distance of three hundred feet to the rear; except that a red reflector meeting the requirements of this chapter may be used in lieu of a rear light. A peace officer riding a police bicycle is not required to use either front or rear lamps if duty so requires.

Sec. 4. Section 321.434, Code 1997, is amended to read as follows:

321.434 BICYCLE SIRENS OR WHISTLES.

~~No~~ A bicycle shall not be equipped with ~~nor shall any~~ and a person shall not use upon a bicycle any siren or whistle. This section shall not apply to bicycles ridden by peace officers in the line of duty.

Approved April 23, 1997

CHAPTER 72

REPORTING OF MOTOR VEHICLE ACCIDENTS

S.F. 293

AN ACT increasing the property damage limit for mandatory reporting of motor vehicle accidents.

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

Section 1. Section 321.266, subsection 2, Code 1997, is amended to read as follows:

2. The driver of a vehicle involved in an accident resulting in injury to or death of any person, or total property damage to an apparent extent of ~~five hundred~~ one thousand dollars or more shall also, within seventy-two hours after the accident, forward a written report of the accident to the department.

Sec. 2. Section 321A.5, subsection 1, Code 1997, is amended to read as follows:

1. The department shall, immediately or within sixty days after the receipt of a report of a motor vehicle accident within this state which has resulted in bodily injury or death or damage to the property of any one person in excess of ~~five hundred~~ one thousand dollars, suspend the license of each operator and all registrations of each owner of a motor vehicle in any manner involved in the accident, and if the operator is a nonresident the privilege of operating a motor vehicle within this state, and if the owner is a nonresident the privilege of the use within this state of any motor vehicle owned by the owner, unless the operator or owner or both shall deposit security in a sum which shall be sufficient in the judgment of the department to satisfy any judgment or judgments for damages resulting from the accident as may be recovered against the operator or owner; provided notice of the suspension shall be sent by the department to the operator and owner not less than ten days prior to the effective date of the suspension and shall state the amount required as security.

Approved April 23, 1997

CHAPTER 73

AGRICULTURAL EXTENSION COUNCIL TREASURERS

S.F. 417

AN ACT providing for the amount of a surety bond required to be executed by a treasurer of an extension council.

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

Section 1. Section 176A.14, subsection 4, unnumbered paragraph 2, Code 1997, is amended to read as follows:

5. Each of the officers of the extension council shall perform and carry out the officer's duties ~~herein~~ as provided in this section ~~imposed upon them~~ and shall perform and carry out ~~such~~ any other duties as ~~shall be imposed upon them in the~~ required by rules adopted by the extension council ~~from time to time~~ as authorized in this chapter ~~authorized~~. ~~The members~~ A member of the extension council, within fifteen days after ~~their~~ the member's election ~~as such~~, shall take and sign the usual oath of public officers ~~and the same~~ which shall be filed in the office of the county auditor of the county of the extension district. The treasurer of the extension council, within ten days after ~~the election as treasurer~~ being elected and before

entering upon the duties of the office ~~as treasurer~~, shall execute to the extension council a corporate surety bond ~~of one hundred twenty-five percent of the~~ for an amount~~, as near as can be ascertained, that shall be in the hands of the treasurer at any one time~~ not less than twenty thousand dollars. ~~All such bonds~~ The bond shall be continued ~~to the faithful discharge of~~ until the treasurer faithfully discharges the duties of the office ~~of treasurer~~. The ~~amount and sufficiency of all bonds shall be determined by the county treasurer of the county of the extension district and upon the treasurer's approval endorsed on the~~ bond shall be filed with the county auditor of the county of the extension district ~~who~~. The county auditor shall notify the chairperson of the extension council of the approval by the county treasurer and of the bond's filing ~~thereof~~ in the auditor's office. The cost of ~~any corporate~~ the surety bond ~~so furnished by a treasurer~~ shall be paid for by the extension council.

Approved April 23, 1997

CHAPTER 74

TOBACCO VIOLATIONS BY UNDERAGE PERSONS — AGE IDENTIFICATION ON LICENSES

S.F. 499

AN ACT relating to privileges and prohibitions for certain persons including those relating to motor vehicle licenses and to the regulation of tobacco, tobacco products, or cigarettes, and providing penalties.

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

Section 1. Section 321.189, subsection 6, Code 1997, is amended to read as follows:

6. LICENSES ISSUED TO MINORS. A motor vehicle license issued to a person under ~~twenty-one~~ eighteen years of age shall be identical in form to any other motor vehicle license except that the words "under ~~twenty-one~~ eighteen" shall appear prominently on the face of the license. A motor vehicle license issued to a person eighteen years of age or older but less than twenty-one years of age shall be identical in form to any other motor vehicle license except that the words "under twenty-one" shall appear prominently on the face of the license. Upon attaining the age of eighteen or upon attaining the age of twenty-one, and upon payment of a one dollar fee, the person shall be entitled to a new motor vehicle license or nonoperator's identification card for the unexpired months of the motor vehicle license or card.

Sec. 2. Section 321.190, subsection 1, paragraph b, Code 1997, is amended to read as follows:

b. The department shall not issue a card to a person holding a motor vehicle license. However, a card may be issued to a person holding a temporary permit under section 321.181. The card shall be identical in form to a driver's license issued under section 321.189 except the word "nonoperator" shall appear prominently on the face of the card. A nonoperator's identification card issued to a person under ~~twenty-one~~ eighteen years of age shall ~~include the word "minor"~~ be identical in form to any other nonoperator's identification card except that the words "under eighteen" shall appear prominently on the face of the card. A nonoperator's identification card issued to a person eighteen years of age or older but under twenty-one years of age shall be identical in form to any other nonoperator's identification card except that the words "under twenty-one" shall appear prominently on the face of the card.

Sec. 3. Section 453A.3, Code 1997, is amended to read as follows:

453A.3 PENALTY.

1. A person who violates section 453A.2, subsection 1, or section 453A.39 is guilty of a simple misdemeanor.

2. A person who violates section 453A.2, subsection 2, shall pay a civil penalty pursuant to section 805.8, subsection 11. Failure to pay the civil penalty imposed for a violation of section 453A.2, subsection 2, is a simple misdemeanor punishable as a scheduled violation under section 805.8, subsection 11. Notwithstanding section 602.8106 or any other provision to the contrary, any civil penalty or fine paid under this subsection shall be retained by the city or county enforcing the violation to be used for enforcement of section 453A.2.

Sec. 4. Section 805.8, subsection 11, Code 1997, is amended to read as follows:

11. SMOKING VIOLATIONS.

a. For violations of section 142B.6 ~~or 453A.2, subsection 2~~, the scheduled fine is twenty-five dollars, and is a civil penalty, and the criminal penalty surcharge under section 911.2 shall not be added to the penalty, and the court costs pursuant to section 805.9, subsection 6, shall not be imposed. If the civil penalty assessed for a violation of section 142B.6 is not paid in a timely manner, a citation shall be issued for the violation in the manner provided in section 804.1. However, a person under age eighteen shall not be detained in a secure facility for failure to pay the civil penalty. The complainant shall not be charged a filing fee.

b. (1) For violations of section 453A.2, subsection 2, the scheduled fine is as follows and is a civil penalty, and the criminal penalty surcharge under section 911.2 shall not be added to the penalty, and the court costs pursuant to section 805.9, subsection 6, shall not be imposed:

(a) If the violation is a first offense, the scheduled fine is twenty-five dollars.

(b) If the violation is a second offense, the scheduled fine is fifty dollars.

(c) If the violation is a third or subsequent offense, the scheduled fine is one hundred dollars.

(2) For failing to pay the civil penalty under section 453A.2, subsection 2, the scheduled fine is twenty-five dollars if the violation is a first offense, fifty dollars if the violation is a second offense, and one hundred dollars if the violation is a third or subsequent offense. Failure to pay the scheduled fine shall not result in the person being detained in a secure facility. The complainant shall not be charged a filing fee.

Approved April 23, 1997

CHAPTER 75

LEGAL SETTLEMENT

S.F. 522

AN ACT relating to legal settlement regarding providers of treatment or services.

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

Section 1. Section 252.16, subsection 8, Code 1997, is amended to read as follows:

8. A person receiving treatment or support services from any ~~community based~~ provider ~~of~~, whether organized for pecuniary profit or not or whether supported by charitable or public or private funds, that provides treatment or services for mental retardation, developmental disabilities, mental health, brain injury, or substance abuse does not acquire legal settlement in the ~~host~~ county in which the site of the provider is located unless the person

continuously resides in ~~the host~~ that county for one year from the date of the last treatment or support service received by the person.

Approved April 23, 1997

CHAPTER 76

HIGHWAY INFORMATION CENTERS AND REST AREAS

H.F. 383

AN ACT relating to information centers and rest areas on interstate or primary highways and providing effective and retroactive applicability dates.

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

Section 1. Section 306C.21, Code 1997, is amended to read as follows:

306C.21 INFORMATION CENTERS AND REST AREAS.

The department may establish or enter into agreements with private persons, firms, or corporations for the establishment of information centers in rest areas on the interstate, freeway primary, and primary highways, subject to the approval of the appropriate authority of the federal government. After January 1, 1997, private persons, firms, or corporations entering into an agreement with the department under this section shall not develop, establish, or own any commercial business located on land adjacent to the rest area which is subject to the agreement. An interstate rest area shall be located entirely on the interstate right-of-way, including, but not limited to, all entrance and exit ramps, all rest area buildings including information centers, and all parking facilities. Department money and resources shall not be used for any other type of interstate rest area. Whenever an interstate rest area is reconstructed, the area available for parking shall be equal to or more than the area available for parking prior to the reconstruction.

Sec. 2. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES. This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 1997.

Approved April 23, 1997

CHAPTER 77

CONTROLLED SUBSTANCES — EPHEDRINE

H.F. 384

AN ACT to include certain products containing ephedrine as schedule V controlled substances.

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

Section 1. Section 124.212, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 5. EPHEDRINE. Unless specifically excepted in paragraph "b" or listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substance, including its salts, optical isomers, and salts of such optical isomers:

a. Ephedrine.

b. The following drug products containing ephedrine, its salts, optical isomers, and salts of such optical isomers are excepted from this schedule, if they may lawfully be sold over the counter without a prescription under the federal Food, Drug and Cosmetic Act; are labeled and marketed in a manner consistent with the pertinent over-the-counter tentative final or final monograph; are manufactured and distributed for legitimate medicinal use in a manner that reduces or eliminates the likelihood of abuse; and are not marketed, advertised, or labeled for the indication of stimulation, mental alertness, weight loss, muscle enhancement, appetite control, or energy:

(1) Solid oral dosage forms, including soft gelatin capsules, that combine active ingredients in the following range for each dosage unit of not less than twelve and five-tenths milligrams but not more than twenty-five milligrams of ephedrine and not less than four hundred milligrams of guaifenesin packaged in blister packs of not more than two tablets per blister.

(2) Anorectal preparations containing less than five percent ephedrine.

Approved April 23, 1997

CHAPTER 78

SEXUAL ABUSE — CONTROLLED SUBSTANCE PREVENTING CONSENT

H.F. 449

AN ACT to prohibit sex acts when one participant was prevented from consenting by a controlled substance including flunitrazepam, and providing penalties.

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

Section 1. Section 709.4, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The act is performed while the other participant is under the influence of a controlled substance, which may include but is not limited to flunitrazepam, and all of the following are true:

a. The controlled substance which may include but is not limited to flunitrazepam, has been consumed by or administered to the other participant without the other participant's knowledge.

b. The controlled substance, which may include but is not limited to flunitrazepam, prevents the other participant from consenting to the act.

c. The person performing the act knows or reasonably should have known that the other participant was under the influence of the controlled substance, which may include but is not limited to flunitrazepam.

Approved April 23, 1997

CHAPTER 79

ASSAULTS ON JAIL AND CORRECTIONAL EMPLOYEES

H.F. 542

AN ACT to prohibit acts by inmates of jails or correctional institutions which result in contact with certain bodily fluids or secretions or the casting or expelling of certain bodily fluids or secretions on jail and correctional employees, and providing penalties.

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

Section 1. NEW SECTION. 708.3B INMATE ASSAULTS — BODILY FLUIDS OR SECRETIONS.

A person who, while confined in a jail or in an institution or facility under the control of the department of corrections, commits any of the following acts commits a class "D" felony:

1. An assault, as defined under section 708.1, upon an employee of the jail or institution or facility under the control of the department of corrections, which results in the employee's contact with blood, seminal fluid, urine, or feces.

2. An act which is intended to cause pain or injury or be insulting or offensive and which results in blood, seminal fluid, urine, or feces being cast or expelled upon an employee of the jail or institution or facility under the control of the department of corrections.

Approved April 23, 1997

CHAPTER 80

CONTINUING EDUCATION OF REAL ESTATE APPRAISERS

H.F. 577

AN ACT relating to continuing education requirements of real estate appraisers.

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

Section 1. Section 543D.16, subsection 2, Code 1997, is amended to read as follows:

2. The basic continuing education requirement for renewal of certification shall be the completion, ~~during the immediately preceding term~~ before June 30 of the year in which the appraiser's certificate expires, of the number of ~~classroom~~ hours of instruction required by the board in courses or seminars which have received the ~~approval~~ preapproval of the board. Instructional hours by correspondence and home study courses claimed by an appraiser shall not exceed fifty percent of the required hours of instruction necessary for renewal.

Approved April 23, 1997

CHAPTER 81

REGULATION OF MUNICIPAL TELECOMMUNICATIONS UTILITIES

H.F. 596

AN ACT authorizing the utilities board to issue certificates of public convenience and necessity to municipal telecommunications utilities, regulating certain municipal utilities as competitive local exchange service providers, and including effective date and retroactive applicability provisions.

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

Section 1. Section 476.1B, subsection 1, unnumbered paragraph 1, Code 1997, is amended to read as follows:

Unless otherwise specifically provided by statute, a municipally owned utility furnishing gas or electricity is not subject to regulation by the board under this chapter, except for regulatory action pertaining to:

Sec. 2. Section 476.1B, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Unless otherwise specifically provided by statute, a municipally owned utility providing local exchange services is not subject to regulation by the board under this chapter except for regulatory action pertaining to the enforcement of sections 476.11, 476.29, 476.95, 476.96, 476.101, and 476.102.

Sec. 3. Section 476.29, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 16. Notwithstanding other provisions of this section, approval by the voters of a city pursuant to section 388.2 of a proposal to establish or acquire a public utility providing communications services is conclusive evidence of the fact that the city has the technical, financial, and managerial ability to provide such service. Following the notice and opportunity for hearing in subsection 2, an applicant shall not be denied a certificate if the board finds the proposed service is consistent with the public interest.

Sec. 4. Section 476.96, subsection 3, Code 1997, is amended to read as follows:

3. "Competitive local exchange service provider" means any person, including a municipal utility, 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.

Sec. 5. APPLICABILITY. A city that has made application to the board for issuance of a certificate of public convenience and necessity prior to the effective date of this Act shall not be deemed to be in violation of this Act for failure to comply with the provisions of chapter 476. The original application for a certificate shall be deemed refiled as of the effective date of the Act for purposes of issuance of the certificate in accordance with this Act.

Sec. 6. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY. This Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to October 18, 1994.

Approved April 23, 1997

CHAPTER 82

DISCLOSURES BY REAL ESTATE LICENSEES

H.F. 644

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

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

Section 1. Section 543B.57, subsections 1 and 2, Code 1997, are amended to read as follows:

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~~ a 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, or eliciting or accepting information involving a proposed or preliminary offer associated with specific real estate. "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.

c. A written disclosure is required to be made prior to an offer being made or accepted by any party to a transaction. The written disclosure shall be acknowledged by separate signatures of all parties to the transaction prior to any offer being made or accepted by any party to a transaction.

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

Approved April 23, 1997

CHAPTER 83

ELECTIONS IN SPECIAL LAND USE DISTRICTS

S.F. 193

AN ACT relating to the election of trustees for special land use districts.

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

Section 1. Section 303.49, subsections 2, 3, and 4, Code 1997, are amended to read as follows:

2. Following the initial special election, an annual election shall be held ~~on the second Tuesday of each September~~ at a single polling place within the district* designated by the

* The words "at a single polling place within the district" erroneously underscored

county auditor for the purpose of electing a trustee to replace a trustee whose term will expire. The board of trustees, in consultation with the county auditor, shall select the election date. The county auditor shall perform all other acts with reference to the election and conduct it in like manner, as nearly as may be, as provided in chapters 45 and 49. Each registered voter at the election may vote for one person whom the voter desires as a trustee for each expiring term. The term of office for each trustee elected shall be three years.

3. Vacancies in the office of trustee of a land use district ~~shall~~ may be filled by the remaining members of the board of trustees for the period extending to the ~~second Tuesday in September~~ next annual election at which time the registered voters of the district shall elect a new trustee to fill the vacancy for the unexpired term. Expenses incurred in carrying out the annual elections of trustees shall be paid for by the land use district.

4. When the initial board of trustees is elected under this section the trustees shall be ranked in the order of votes received from highest to lowest. Any ties shall be resolved by a random method. The last ranked trustee shall receive an initial term expiring at the next annual election for trustees ~~in September~~, the sixth and fifth ranked trustees receive an initial term expiring one year later, the fourth ranked trustee receives an initial term expiring two years after that election, the third and second ranked trustees receive initial terms expiring three years after that election, and the first ranked trustee shall receive an initial term expiring four years after that election.

Approved April 29, 1997

CHAPTER 84

STUDENT SEARCHES

H.F. 331

AN ACT relating to the authorization of school officials to conduct searches of students, student protected areas, lockers, desks, and other facilities and spaces and including effective and applicability provisions.

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

Section 1. Section 808A.1, subsection 1, paragraph d, Code 1997, is amended by striking the paragraph.

Sec. 2. Section 808A.1, subsection 5, Code 1997, is amended to read as follows:

5. "Student search rule" means a rule established by the school board of a public school, pursuant to section 279.8 or 279.9, or the authorities in charge of a nonpublic school controlling the manner of the searching of students or protected student areas and school lockers, desks, and other facilities or spaces owned by the school. A student search rule, to be valid for purposes of this chapter, ~~must~~ shall require that all searches of students or protected student areas be ~~reasonable~~ reasonably related in scope to the circumstances which gave rise to the need for the search and ~~shall be~~ based upon consideration of relevant factors which include, but are not limited to, the following:

a. The ~~seriousness~~ nature of the violation for which ~~a~~ the search ~~may be~~ is being instituted.

b. The age or ages and gender of the students ~~which~~ who may be searched pursuant to the rule.

c. The ~~information or suspicion which must exist to warrant the institution of a~~ objectives to be accomplished by the search.

Sec. 3. Section 808A.2, subsection 1, Code 1997, is amended by striking the subsection and inserting in lieu thereof the following:

1. The school board of each public school and the authorities in charge of each nonpublic school shall establish and may search a student or protected student area pursuant to a student search rule. The student search rule shall be published in each public school's and each nonpublic school's student handbook. A school official may search individual students and individual protected student areas if both of the following apply:

a. The official has reasonable grounds for suspecting that the search will produce evidence that a student has violated or is violating either the law or a school rule or regulation.

b. The search is conducted in a manner which is reasonably related to the objectives of the search and which is not excessively intrusive in light of the age and gender of the student and the nature of the infraction.

Sec. 4. Section 808A.2, subsection 2, Code 1997, is amended to read as follows:

2. ~~Notwithstanding subsection 1, paragraphs "a" through "c", as they apply to searches of protected student areas, school~~ School officials may conduct periodic inspections of all, or a randomly selected number of, school lockers, desks, and other facilities or spaces owned by the school and provided as a courtesy to a student. The furnishing of a school locker, desk, or other facility or space owned by the school and provided as a courtesy to a student shall not create a protected student area, and shall not give rise to an expectation of privacy on a student's part with respect to that locker, desk, facility, or space. Allowing students to use a separate lock on a locker, desk, or other facility or space owned by the school and provided to the student shall also not give rise to an expectation of privacy on a student's part with respect to that locker, desk, facility, or space. However, each year when school begins, the school district shall provide written notice to ~~each student, and the adult who enrolls the student at the school,~~ all students and the students' parents, guardians, or legal custodians, that school officials may conduct periodic inspections of ~~all~~ school lockers, desks, and other facilities or spaces owned by the school and provided as a courtesy to a student without prior notice. An inspection under this subsection shall either occur in the presence of the students whose lockers are being inspected or the inspection shall be conducted in the presence of at least one other person.

Sec. 5. Section 808A.2, subsection 5, Code 1997, is amended by striking the subsection and inserting in lieu thereof the following:

5. If a student is not or will not be present at the time a search of a student protected area is conducted pursuant to subsection 1, the student shall be informed of the search either prior to or as soon as is reasonably practicable after the search is conducted.

Sec. 6. EFFECTIVE DATE — APPLICABILITY. This Act, being deemed of immediate importance, takes effect upon enactment. Notwithstanding the timing of the notice requirements in section 4 of this Act, a school district may conduct periodic inspection of school lockers, desks, or other facilities or spaces if the school district sends a notice to all students and the students' parents, guardians, or legal custodians prior to commencing any inspections.

Approved April 29, 1997

CHAPTER 85

CHILD SEXUAL ABUSE REPORTING

S.F. 176

AN ACT relating to child sexual abuse reporting.

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

Section 1. Section 232.69, subsection 1, unnumbered paragraph 1, Code 1997, is amended to read as follows:

The ~~following~~ classes of persons enumerated in this subsection shall make a report within twenty-four hours and as provided in section 232.70, of cases of child abuse~~:~~. In addition, the classes of persons enumerated in this subsection shall make a report of abuse of a child who is under twelve years of age and may make a report of abuse of a child who is twelve years of age or older, which would be defined as child abuse under section 232.68, subsection 2, paragraph "c" or "e", except that the abuse resulted from the acts or omissions of a person other than a person responsible for the care of the child.

*Sec. 2. Section 232.71, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. If a report would be determined to constitute an allegation of child abuse as defined under section 232.68, subsection 2, paragraph "c" or "e", except that the suspected abuse resulted from the acts or omissions of a person other than a person responsible for the care of the child, the department shall refer the report to the appropriate law enforcement agency having jurisdiction to investigate the allegation. The department shall refer the report orally as soon as practicable and in writing within seventy-two hours of receiving the report.

Approved April 30, 1997

CHAPTER 86

REGULATION AND LOCATION OF MODULAR OR MANUFACTURED HOUSING

S.F. 433

AN ACT relating to regulation and location of a land-leased community or a modular or manufactured home and providing an effective date.

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

Section 1. Section 335.30, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A county shall not adopt or enforce construction, building, or design ordinances, regulations, requirements, or restrictions which would mandate width standards greater than twenty-four feet, roof pitch, or other design standards for manufactured housing if the housing otherwise complies with 42 U.S.C. § 5403. A county shall not adopt or enforce zoning or subdivision regulations or other ordinances which mandate width standards for a single modular or manufactured home which is sited upon land otherwise zoned as agricultural land. However, this paragraph shall not prohibit a county from adopting and enforcing zoning regulations related to transportation, water, sewerage, or other land development.

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* See chapter 176, §17 herein

Sec. 2. NEW SECTION. 335.30A LAND-LEASED COMMUNITIES.

A county shall not adopt or enforce zoning or subdivision regulations or other ordinances which disallow the plans and specifications of land-leased communities solely because the housing within the land-leased community will be modular or manufactured housing.

"Land-leased community" means any site, lot, field, or tract of land under common ownership upon which ten or more occupied manufactured homes or modular homes are harbored, either free of charge or for revenue purposes, and shall include any building, structure, or enclosure used or intended for use as part of the equipment of the land-leased community. The term "land-leased community" shall not be construed to include homes, buildings, or other structures temporarily maintained by any individual, educational institution, or company on their own premises and used exclusively to house their own labor or students.

Sec. 3. Section 414.28, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A city shall not adopt or enforce construction, building, or design ordinances, regulations, requirements, or restrictions which would mandate width standards greater than twenty-four feet, roof pitch, or other design standards for manufactured housing if the housing otherwise complies with 42 U.S.C. § 5403. However, this paragraph shall not prohibit a city from adopting and enforcing zoning regulations related to transportation, water, sewerage, or other land development.

Sec. 4. NEW SECTION. 414.28A LAND-LEASED COMMUNITIES.

A city shall not adopt or enforce zoning or subdivision regulations or other ordinances which disallow the plans and specifications of land-leased communities solely because the housing within the land-leased community will be modular or manufactured housing.

"Land-leased community" means any site, lot, field, or tract of land under common ownership upon which ten or more occupied manufactured homes or modular homes are harbored, either free of charge or for revenue purposes, and shall include any building, structure, or enclosure used or intended for use as part of the equipment of the land-leased community. The term "land-leased community" shall not be construed to include homes, buildings, or other structures temporarily maintained by any individual, educational institution, or company on their own premises and used exclusively to house their own labor or students.

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

Approved April 30, 1997

CHAPTER 87

SALES AND USE TAX EXEMPTIONS — COMPUTERS, MACHINERY, EQUIPMENT, AND FUEL

H.F. 126

AN ACT relating to the state sales and use tax exemption on certain computers, machinery, equipment, and fuel.

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

Section 1. Section 422.45, subsection 27, Code 1997, is amended by striking the subsection and inserting in lieu thereof the following:

27. a. The gross receipts from the sale or rental of computers, machinery, and equipment, including replacement parts, and materials used to construct or self-construct computers, machinery, and equipment if such items are any of the following:

(1) Directly and primarily used in processing by a manufacturer.

(2) Directly and primarily used to maintain the integrity of the product or to maintain unique environmental conditions required for either the product or the computers, machinery, and equipment used in processing by a manufacturer, including test equipment used to control quality and specifications of the product.

(3) Directly and primarily used in research and development of new products or processes of processing.

(4) Computers used in processing or storage of data or information by an insurance company, financial institution, or commercial enterprise.

(5) Directly and primarily used in recycling or reprocessing of waste products.

(6) Pollution control equipment used by a manufacturer, including but not limited to that required or certified by an agency of this state or of the United States government.

b. The gross receipts from the sale of fuel used in creating heat, power, steam, or for generating electrical current, or from the sale of electricity, directly and primarily used in processing by a manufacturer.

c. However, the gross receipts from the sale or rental of the following shall not be exempt from the tax imposed by this division:

(1) Hand tools.

(2) Point-of-sale equipment and computers.

(3) Industrial machinery, equipment and computers, including pollution control equipment, within the scope of section 427A.1, subsection 1, paragraphs "h" and "i".

d. As used in this subsection:

(1) "Commercial enterprise" includes businesses and manufacturers conducted for profit and includes centers for data processing services to insurance companies, financial institutions, businesses, and manufacturers but excludes professions and occupations and nonprofit organizations.

(2) "Financial institution" means as defined in section 527.2.

(3) "Insurance company" means an insurer organized or operating under chapter 508, 514, 515, 518, 518A, 519, or 520, or authorized to do business in Iowa as an insurer or a licensed insurance agent under chapter 522.

(4) "Manufacturer" means as defined in section 428.20, but also includes contract manufacturers. A contract manufacturer is a manufacturer that otherwise falls within the definition of manufacturer under section 428.20, except that a contract manufacturer does not sell the tangible personal property the contract manufacturer processes on behalf of other manufacturers.

(5) "Processing" means a series of operations in which materials are manufactured, refined, purified, created, combined, or transformed by a manufacturer, ultimately into tangible personal property. Processing encompasses all activities commencing with the receipt or producing of raw materials by the manufacturer and ending at the point products are delivered for shipment or transferred from the manufacturer. Processing includes but is not limited to refinement or purification of materials; treatment of materials to change their form, context, or condition; maintenance of the quality or integrity of materials, components, or products; maintenance of environmental conditions necessary for materials, components, or products; quality control activities; and construction of packaging and shipping devices, placement into shipping containers or any type of shipping devices or medium, and the movement of materials, components, or products until shipment from the processor.

Approved April 30, 1997

CHAPTER 88

HEALTH BENEFIT PLANS — POINT OF SERVICE OPTIONS

H.F. 133

AN ACT relating to the offering of point of service plan options in certain health benefit plans.

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

Section 1. NEW SECTION. 514C.13 GROUP MANAGED CARE HEALTH PLANS — ALTERNATIVE OFFERS.

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

a. "Carrier" means an entity that provides health benefit plans in this state. "Carrier" includes an insurance company, group hospital or medical service corporation, health maintenance organization, multiple employer welfare arrangement, and any other person providing health benefit plans in this state subject to regulation by the commissioner of insurance.

b. "Health benefit plan" means a policy, certificate, or contract providing hospital or medical coverage, benefits, or services rendered by a health care provider. "Health benefit plan" does not include a group conversion plan, accident-only, specific-disease, short-term hospital or medical hospital confinement indemnity, credit, dental, vision, 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.

c. "Health care provider" means a hospital licensed pursuant to chapter 135B, a person licensed under chapter 148, 148C, 149, 150, 150A, 151, or 154, or a person licensed as an advanced registered nurse practitioner under chapter 152.

d. "Indemnity plan" means a hospital or medical expense-incurred policy, certificate, or contract, major medical expense insurance, or hospital or medical service plan contract.

e. "Large employer" means a person actively engaged in business who, during at least fifty percent of the employer's working days during the preceding calendar year, employed more than fifty full-time equivalent employees.

f. "Limited provider network plan" means a managed care health plan which limits access to or coverage for services to selected health care providers who are under contract with the managed care health plan.

g. "Managed care health plan" means a health benefit plan that selects and contracts with health care providers; manages and coordinates health care delivery; monitors necessity, appropriateness, and quality of health care delivered by health care providers; and performs utilization review and cost control.

h. "Organized delivery system" means an organized delivery system as defined in section 513C.3.

i. "Point of service plan option" means a provision in a managed care health plan that permits insureds, enrollees, or subscribers access to health care from health care providers who have not contracted with the managed care health plan.

j. "Small employer" means a person actively engaged in business who, during at least fifty percent of the employer's working days during the preceding calendar year, employed not less than two and not more than fifty full-time equivalent employees.

2. A carrier or organized delivery system which offers to a small employer a limited provider network plan to provide health care services or benefits to the small employer's employees shall also offer to the small employer a point of service option to the limited provider network plan.

3. A carrier or organized delivery system which offers to a large employer a limited provider network plan to provide health care services or benefits to the large employer's employees shall also offer to the large employer one or more of the following:

a. A point of service plan option to the limited provider network plan. The price of the point of service plan option shall be actuarially determined.

b. A managed care health plan that is not a limited provider network plan.

c. An indemnity plan.

4. A large employer that offers a limited provider network plan to its employees shall also offer to its employees one or more of the following:

a. A point of service plan option to the limited provider network plan.

b. A managed care health plan that is not a limited provider network plan.

c. An indemnity plan.

Approved April 30, 1997

CHAPTER 89

NONPERPETUAL CARE CEMETERIES

S.F. 21

AN ACT eliminating the requirement that a nonperpetual care cemetery post a sign indicating the cemetery is a nonperpetual care cemetery.

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

Section 1. Section 566A.5, subsection 1, Code 1997, is amended by striking the subsection.

Sec. 2. Section 566A.5, subsection 2, Code 1997, is amended to read as follows:

~~2.~~ 1. 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.

Approved May 1, 1997

CHAPTER 90

RUNAWAY CHILDREN

S.F. 123

AN ACT relating to runaway children, by defining when a child is a chronic runaway, authorizing county runaway treatment plans, and providing for assessment and treatment procedures for chronic runaways.

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

Section 1. Section 232.2, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. "Chronic runaway" means a child who is reported to law enforcement as a runaway more than once in any month or three or more times in any year.

Sec. 2. Section 232.19, subsection 1, paragraph c, Code 1997, is amended to read as follows:

c. By a peace officer ~~for the purpose of reuniting a child with the child's family or removing the child to a shelter care facility~~, when the peace officer has reasonable grounds to believe the child has run away from the child's parents, guardian, or custodian, for the purposes of determining whether the child shall be reunited with the child's parents, guardian, or custodian, placed in shelter care, or, if the child is a chronic runaway and the county has an approved county runaway treatment plan, placed in a runaway assessment and counseling center under section 232.196.

Sec. 3. NEW SECTION. 232.195 RUNAWAY TREATMENT PLAN.

A county may develop a runaway treatment plan to address problems with chronic runaway children in the county. The plan shall identify the problems with chronic runaway children in the county and specific solutions to be implemented by the county, including the development of a runaway assessment and counseling center.

Sec. 4. NEW SECTION. 232.196 RUNAWAY ASSESSMENT AND COUNSELING CENTER.

1. As part of a county runaway treatment plan under section 232.195, a county may establish a runaway assessment and treatment center or other plan. The center or other plan, if established, shall provide services to assess a child who is referred to the center or plan for being a chronic runaway and intensive family counseling services designed to address any problem causing the child to run away. A center shall at least meet the requirements established for providing child foster care under chapter 237.

2. a. If not sent home with the child's parent, guardian, or custodian, a chronic runaway may be placed in a runaway assessment and treatment center by the peace officer who takes the child into custody under section 232.19, if the officer believes it to be in the child's best interest after consulting with the child's parent, guardian, or custodian. A chronic runaway shall not be placed in a runaway assessment and treatment center for more than forty-eight hours.

b. If a runaway is placed in a treatment center according to a county plan, the runaway shall be assessed within twenty-four hours of being placed in the center by a center counselor to determine the following:

(1) The reasons why the child is a runaway.

(2) Whether the initiation or continuation of child in need of assistance or family in need of assistance proceedings is appropriate.

c. As soon as practicable following the assessment, the child and the child's parents, guardian, or custodian shall be provided the opportunity for a counseling session to identify the underlying causes of the runaway behavior and develop a plan to address those causes.

d. A child shall be released from a runaway assessment and treatment center, established pursuant to the county plan, to the child's parents, guardian, or custodian not later than forty-eight hours after being placed in the center unless the child is placed in shelter care under section 232.21 or an order is entered under section 232.78. A child whose parents, guardian, or custodian failed to attend counseling at the center or who fails to take custody of the child at the end of placement in the center may be the subject of a child in need of assistance petition or such other order as the juvenile court finds to be in the child's best interest.

Approved May 1, 1997

CHAPTER 91

MOTORBOATS ON ARTIFICIAL LAKES

S.F. 174

AN ACT relating to the operation of motorboats on artificial lakes and providing an effective date.

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

Section 1. Section 462A.31, subsection 1, paragraph b, Code 1997, is amended to read as follows:

b. A motorboat equipped with any power unit mounted or carried aboard the vessel may be operated at a no-wake speed on all artificial lakes of more than one hundred acres in size under the custody of the department. However, on ~~Big Creek lake and~~ lake Macbride, a motorboat with a power unit exceeding ten horsepower may be operated only when permitted by rule and the rule shall not authorize such use during the period beginning on the Friday before Memorial Day and ending on Labor Day inclusively. This paragraph does not limit motorboat horsepower on natural lakes under the custody of the department or limit the department's authority to establish special speed zoning regulations.

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

Approved May 1, 1997

CHAPTER 92

MOTOR VEHICLE LICENSES FOR UNDERCOVER OFFICERS

S.F. 229

AN ACT relating to the issuance of motor vehicle licenses for certain law enforcement officers and providing penalties, and providing an effective date.

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

Section 1. Section 22.7, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 37. Records of a law enforcement agency or the state department of transportation regarding the issuance of a motor vehicle license under section 321.189A.

Sec. 2. NEW SECTION. 321.189A MOTOR VEHICLE LICENSE FOR UNDERCOVER LAW ENFORCEMENT OFFICERS — FEE — PENALTIES.

1. The department may issue undercover motor vehicle licenses to certified peace officers employed by a local authority or by the state or federal law enforcement officers for use in the line of duty when a fictitious identity is necessary. The department, in cooperation with the commissioner of public safety, shall adopt rules pursuant to chapter 17A regarding the issuance, use, and cancellation of licenses issued pursuant to this section.

2. A license issued pursuant to this section shall only be issued to a certified peace officer or federal law enforcement officer, who is qualified to obtain the class of license sought, at the request of the law enforcement agency employing the officer for official use when the officer is involved in duty in which a fictitious identity is necessary. An officer issued a license pursuant to this section shall surrender the license when the license is no longer needed.

3. a. A license issued pursuant to this section shall only be used in the line of duty when it is necessary for the officer holding the license to assume a fictitious identity. An officer issued a license pursuant to this section shall report as soon as practical to the law enforcement agency employing the officer any traffic citation issued to the officer while using the officer's fictitious identity.

b. An officer using a license issued under this section shall not be prosecuted for a public offense under this chapter if the offense was committed in the line of duty and was necessary to protect the identity of the officer. However, this paragraph shall not apply to a violation of subsection 4, paragraph "a".

4. a. An officer who provides the department false information for the purposes of obtaining a license under this section commits a class "D" felony.

b. An officer who displays or uses a license issued pursuant to this section during the commission or attempted commission of a public offense other than a public offense referred to in subsection 3 or who knowingly permits another person to use the license issued under this section commits a class "D" felony.

c. An officer who displays or uses a license issued pursuant to this section in any manner which is not a public offense but which is not authorized under this section or who knowingly fails or refuses to surrender the license upon demand by the department commits an aggravated misdemeanor.

5. The fee for issuing a license under this section shall be the same as for licenses issued pursuant to section 321.189.

6. The department shall keep as confidential public records under section 22.7, all records regarding licenses issued under this section.

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

Approved May 1, 1997

CHAPTER 93

HEALTH FACILITIES AND SERVICES — CERTIFICATE OF NEED PROGRAM

S.F. 236

AN ACT relating to the certificate of need program.

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

Section 1. Section 135.61, subsection 14, Code 1997, is amended to read as follows:

14. "Institutional health facility" means any of the following, without regard to whether the facilities referred to are publicly or privately owned or are organized for profit or not or whether the facilities are part of or sponsored by a health maintenance organization:

a. A hospital.

b. A health care facility.

~~c. A kidney disease treatment center, including any freestanding hemodialysis unit but not including any home hemodialysis unit.~~

~~d~~ c. An organized outpatient health facility.

~~e~~ d. An outpatient surgical facility.

~~f~~ e. A community mental health facility.

~~g~~ f. A birth center.

Sec. 2. Section 135.61, subsection 18, paragraphs c, e, and g through m, Code 1997, are amended to read as follows:

c. Any capital expenditure, lease, or donation by or on behalf of an institutional health facility in excess of ~~eight~~ one million five hundred thousand dollars within a twelve-month period.

e. Any expenditure in excess of ~~three~~ five hundred thousand dollars by or on behalf of an institutional health facility for health services which are or will be offered in or through an institutional health facility at a specific time but which were not offered on a regular basis in or through that institutional health facility within the twelve-month period prior to that time.

g. Any acquisition by or on behalf of a health care provider or a group of health care providers of any piece of replacement equipment with a value in excess of ~~four~~ one million five hundred thousand dollars, whether acquired by purchase, lease, or donation.

h. Any acquisition by or on behalf of a health care provider or group of health care providers of any piece of equipment with a value in excess of ~~three~~ one million five hundred thousand dollars, whether acquired by purchase, lease, or donation, which results in the offering or development of a health service not previously provided. A mobile service provided on a contract basis is not considered to have been previously provided by a health care provider or group of health care providers.

i. Any acquisition by or on behalf of an institutional health facility or a health maintenance organization of any piece of replacement equipment with a value in excess of ~~four~~ one million five hundred thousand dollars, whether acquired by purchase, lease, or donation.

j. Any acquisition by or on behalf of an institutional health facility or health maintenance organization of any piece of equipment with a value in excess of ~~three~~ one million five hundred thousand dollars, whether acquired by purchase, lease, or donation, which results in the offering or development of a health service not previously provided. A mobile service provided on a contract basis is not considered to have been previously provided by an institutional health facility.

k. Any air transportation ~~system~~ service for transportation of patients or medical personnel offered through an institutional health facility at a specific time but which was not offered on a regular basis in or through that institutional health facility within the twelve-month period prior to the specific time.

l. Any mobile health service with a value in excess of ~~three~~ one million five hundred thousand dollars.

m. Any of the following:

(1) Cardiac catheterization service.

(2) Open heart surgical service.

(3) Organ transplantation service.

(4) Radiation therapy service applying ionizing radiation for the treatment of malignant disease using megavoltage external beam equipment.

Sec. 3. Section 135.62, subsection 2, paragraph c, Code 1997, is amended to read as follows:

c. MEETINGS. The council shall hold an organizational meeting in July of each odd-numbered year, or as soon thereafter as the new appointee or appointees are confirmed and have qualified. Other meetings shall be held ~~at least once each month, and may be held more frequently if~~ as necessary to enable the council to expeditiously discharge its duties. Meeting dates shall be set upon adjournment or by call of the chairperson upon five days' notice to the other members. Each member of the council shall receive a per diem as specified in section 7E.6 and reimbursement for actual expenses while engaged in official duties.

Sec. 4. Section 135.63, subsection 1, Code 1997, is amended to read as follows:

1. A new institutional health service or changed institutional health service shall not be offered or developed in this state without prior application to the department for and receipt

of a certificate of need, pursuant to this division. The application shall be made upon forms furnished or prescribed by the department and shall contain such information as the department may require under this division. The application shall be accompanied by a fee equivalent to three-tenths of one percent of the anticipated cost of the project with a minimum fee of six hundred dollars and a maximum fee of twenty-one thousand dollars. The fee shall be remitted by the department to the treasurer of state, who shall place it in the general fund of the state. If an application is voluntarily withdrawn within thirty calendar days after submission, seventy-five percent of the application fee shall be refunded; if the application is voluntarily withdrawn more than thirty but within sixty days after submission, fifty percent of the application fee shall be refunded; if the application is withdrawn voluntarily more than sixty days after submission, twenty-five percent of the application fee shall be refunded. Notwithstanding the required payment of an application fee under this subsection, an applicant for a new institutional health service or a changed institutional health service offered or developed by an intermediate care facility for persons with mental retardation or an intermediate care facility for persons with mental illness as defined pursuant to section 135C.1 is exempt from payment of the application fee.

Sec. 5. Section 135.63, subsection 2, paragraph a, Code 1997, is amended to read as follows:

a. Private offices and private clinics of an individual physician, dentist, or other practitioner or group of health care providers, except as provided by section 135.61, subsection 18, paragraphs "g", ~~and~~ "h", and "m", and subsections 20 and 21.

Sec. 6. Section 135.63, subsection 2, Code 1997, is amended by adding the following new paragraphs:

NEW PARAGRAPH. j. The construction, modification, or replacement of nonpatient care services, including parking facilities, heating, ventilation and air conditioning systems, computers, telephone systems, medical office buildings, and other projects of a similar nature, notwithstanding any provision in this division to the contrary.

NEW PARAGRAPH. k. The redistribution of beds by a hospital within the acute care category of bed usage, notwithstanding any provision in this division to the contrary, if all of the following conditions exist:

(1) The hospital reports to the department the number and type of beds to be redistributed on a form prescribed by the department at least thirty days before the redistribution.

(2) The hospital reports the new distribution of beds on its next annual report to the department.

If these conditions are not met, the redistribution of beds by the hospital is subject to review as a new institutional health service or changed institutional health service pursuant to section 135.61, subsection 18, paragraph "d", and is subject to sanctions under section 135.73.

NEW PARAGRAPH. l. The replacement or modernization of any institutional health facility if the replacement or modernization does not add new health services or additional bed capacity for existing health services, notwithstanding any provision in this division to the contrary.

NEW PARAGRAPH. m. Hemodialysis services provided by a hospital or freestanding facility, notwithstanding any provision in this division to the contrary.

NEW PARAGRAPH. n. Hospice services provided by a hospital, notwithstanding any provision in this division to the contrary.

NEW PARAGRAPH. o. The change in ownership, licensure, organizational structure, or designation of the type of institutional health facility if the health services offered by the successor institutional health facility are unchanged.

NEW PARAGRAPH. p. The conversion of an existing number of beds by an intermediate care facility for persons with mental retardation to a smaller facility environment, including but not limited to a community-based environment which does not result in an increased

number of beds, notwithstanding any provision in this division to the contrary, including subsection 4, if all of the following conditions exist:

(1) The intermediate care facility for persons with mental retardation reports the number and type of beds to be converted on a form prescribed by the department at least thirty days before the conversion.

(2) The intermediate care facility for persons with mental retardation reports the conversion of beds on its next annual report to the department.

Sec. 7. Section 135.63, subsection 4, unnumbered paragraph 1, Code 1997, is amended to read as follows:

For the period beginning July 1, 1995, and ending June 30, ~~1997~~ 1998, 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 persons with mental retardation except as provided in this subsection.

Sec. 8. Section 135.63, subsection 4, paragraph a, unnumbered paragraph 1, Code 1997, is amended to read as follows:

For the period beginning July 1, 1995, and ending June 30, ~~1997~~ 1998, the department and council shall process applications and consider applications if either of the following conditions are met:

Sec. 9. Section 135.65, subsection 1, Code 1997, is amended to read as follows:

1. Before applying for a certificate of need, the sponsor of a proposed new institutional health service or changed institutional health service shall submit to the department a letter of intent to offer or develop a service requiring a certificate of need. The letter shall be submitted as soon as possible after initiation of the applicant's planning process, and in any case not less than ~~sixty~~ thirty days before applying for a certificate of need and before substantial expenditures to offer or develop the service are made. The letter shall include a brief description of the proposed new or changed service, its location, and its estimated cost.

Sec. 10. Section 135.71, unnumbered paragraph 1, Code 1997, is amended to read as follows:

A certificate of need shall be valid for a maximum of one year from the date of issuance. Upon the expiration of the certificate, or at any earlier time while the certificate is valid the holder thereof shall provide the department such information on the development of the project covered by the certificate as the department may request. The council shall determine at the end of the certification period whether sufficient progress is being made on the development of the project ~~and whether there has been compliance with any conditions on which issuance of the certificate was premised~~. The certificate of need may be extended by the council for additional periods of time as are reasonably necessary to expeditiously complete the project, but may be revoked by the council at the end of the first or any subsequent certification period for insufficient progress in developing the project ~~or noncompliance with any conditions on which issuance of the certificate was premised~~.

Sec. 11. REVIEW OF CERTIFICATE OF NEED PROGRAM.

1. a. The Iowa department of public health shall complete a comprehensive review of the certificate of need program and shall submit a written report of the findings and recommendations as to the continued relevance of the program to the general assembly by January 15, 2000.

b. Four members of the general assembly shall be appointed to assist the Iowa department of public health in completing the review. The terms of the legislative members shall be for one year beginning and ending as provided in section 69.19 or until their successors are appointed. Appointments shall comply with sections 69.16 and 69.16A. Vacancies shall be filled in the same manner as the original appointment. Each legislative member shall receive compensation pursuant to section 2.10. The legislative members shall be

appointed as follows:

(1) Two members of the senate appointed by the majority leader of the senate after consultation with the minority leader of the senate.

(2) Two members of the house of representatives appointed by the speaker of the house after consultation with the majority leader and the minority leader of the house.

2. The Iowa department of public health, the department of human services, and the department of inspections and appeals shall conduct a review of the regulation of psychiatric medical institutions for children and intermediate care facilities for persons with mental retardation. The review shall include a review of the moratorium language in section 135.63, subsection 4, relating to intermediate care facilities for persons with mental retardation. The departments shall submit jointly to the general assembly by January 15, 1998, a written report with recommendations to eliminate duplicative regulation of these institutional programs.

Approved May 1, 1997

CHAPTER 94

MILK AND MILK PRODUCTS

S.F. 451

AN ACT relating to milk and milk products, providing for the issuance of licenses and permits, fees, and providing penalties.

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

Section 1. NEW SECTION. 192.101A DEFINITIONS.

As used in this chapter, all terms shall have the same meaning as defined in the "Grade A Pasteurized Milk Ordinance, 1995 Revision". However, notwithstanding the ordinance, the following definitions shall apply:

1. "Bulk milk tanker" means a mobile bulk container used to transport milk or fluid milk products from a dairy farm to a milk plant or from a milk plant to another milk plant, including an over-the-road semitanker or a tanker that is permanently mounted on a motor vehicle.

2. "Milk grader" means a person, including dairy industry milk intake personnel, other than a milk hauler, who collects a milk sample from a bulk tank or a bulk milk tanker.

3. "Milk hauler" means a person who takes farm samples or transports raw milk or raw milk products to or from a milk plant, receiving station, or transfer station, including a dairy industry milk field person. However, a milk hauler does not include a person who drives a bulk milk tanker, if the person does not take a milk sample or handle raw milk or raw milk products.

Sec. 2. Section 192.104, Code 1997, is amended to read as follows:

192.104 COLORING REJECTED MILK.

~~It shall be the duty of the~~ A milk hauler or ~~cream~~ a milk grader ~~to thoroughly~~ may mix ~~with all rejected milk or cream,~~ a harmless coloring matter ~~as will~~ in rejected milk to prevent ~~all such~~ the rejected milk from being offered for sale.

Sec. 3. Section 192.108, Code 1997, is amended to read as follows:

192.108 ADMINISTRATION OF THE CHAPTER — INSPECTIONS REQUIRED.

The department shall administer this chapter and rules adopted pursuant to this chapter.

The department is responsible for the inspection of a dairy farm, milk plant, transfer station, or receiving station to ensure compliance with this chapter and chapters 190 and 191. ~~Whenever practical, the~~ The department ~~shall~~ may enter into an inspection contract with a person qualified to perform inspection services if the agreement for the services is cost-effective and the quality of inspection ensures compliance with state and federal law. A person entering into an inspection contract with the department for the purpose of inspecting premises, taking samples, or testing samples, shall be deemed to be an agent of the department, and shall have the same authority under this chapter provided to the department, unless the contract specifies otherwise. The department shall review inspection services performed by a person under an inspection contract to ensure quality cost-effective inspections. If a person is acting in a manner which is inconsistent with the provisions of the applicable chapter or contract, the department may revoke the inspection contract after notice and hearing, in the manner described for permit revocation in section 192.107 and perform such acts as are necessary to enforce this chapter. Except as provided in this chapter or chapter 194, a person shall not charge a milk plant, receiving station, or transfer station a fee for inspection relating to milk or milk products.

Sec. 4. Section 192.110, subsection 1, Code 1997, is amended to read as follows:

1. The person has a pasteurized milk and milk products sanitation compliance rating of ninety percent or more as calculated according to the rating system as contained in the federal public health service publications, "Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program for Certification of Interstate Milk Shippers ~~1989~~ 1995" and "Method of Making Sanitation Ratings of Milk Supplies, ~~1987~~ 1995 Revision". The applicable provisions of these publications are incorporated into this section by this reference. A copy of each publication shall be on file with the department or in the office of the person subject to an inspection contract as provided in section 192.108.

Sec. 5. Section 192.111, Code 1997, is amended to read as follows:

192.111 INSPECTION FEES — DEPOSIT IN GENERAL FUND — APPROPRIATION.

1. Except as otherwise provided in this section, ~~a~~ all of the following shall apply:

a. The following persons must receive a permit or license from the department and pay the following fees:

(1) A milk plant which is not a receiving station ~~shall~~ must obtain a permit and pay ~~an inspection~~ a permit fee not greater than one thousand dollars per year.

(2) A transfer station ~~shall~~ must obtain a permit and pay ~~an inspection~~ a permit fee not greater than two hundred dollars per year.

(3) A receiving station which is not a milk plant must obtain a permit and pay a permit fee of not greater than two hundred dollars per year.

(4) A milk hauler ~~shall~~ must obtain a license and pay ~~an inspection~~ a license fee not greater than ~~twenty-five~~ ten dollars per year.

(5) A milk grader must obtain a license and pay a license fee of not greater than ten dollars per year.

b. Each bulk milk tanker shall be licensed by the department and pay a license fee not greater than twenty-five dollars per year. However, a license fee shall not be required for a vehicle used for the collection of milk for manufacturing dairy products which has paid a license fee for the same period pursuant to section 194.19.

The secretary shall ~~fix~~ establish the fees provided in this subsection annually. The fees shall be paid on July 1 of each year.

2. A purchaser of milk from a grade "A" milk producer shall pay an inspection fee not greater than one point five cents per hundredweight. The fee shall be payable monthly to the ~~secretary~~ department in a manner prescribed by the secretary.

3. a. Fees collected under this section and sections 192.133, 194.14, 194.19, and 194.20~~, and 195.9~~ shall be deposited in the general fund of the state. All moneys deposited under

this section are appropriated to the department for the costs of inspection, sampling, analysis, and other expenses necessary for the administration of this chapter and ~~chapters~~ chapter 194 ~~and 195~~, and shall be subject to the requirements of section 8.60.

b. In each fiscal year, the secretary shall calculate the balance of funds deposited under this section by subtracting all moneys expended for the costs of inspection, sampling, analysis and other expenses necessary for the administration of this chapter and ~~chapters~~ chapter 194 ~~and 195~~. If the calculation shows a balance of funds deposited under this section on June 30 of any fiscal year equal to or exceeding one hundred fifty thousand dollars, the secretary shall reduce the fees provided for in subsection 2 of this section and section 194.20 for the next fiscal year in an amount which will result in an ending estimated balance of such funds for June 30 of the next fiscal year of one hundred fifty thousand dollars.

Sec. 6. NEW SECTION. 192.112 REGULATION — MILK HAULERS, MILK GRADERS, AND BULK MILK TANKERS.

1. The department shall adopt rules pursuant to chapter 17A which provide for licensing milk haulers, milk graders, and bulk milk tankers as provided in section 192.111. The department shall establish standards of operation for milk haulers, milk graders, and bulk milk tankers. The standards shall include, but need not be limited to, all of the following:

a. The construction of bulk milk tankers.

b. The cleaning, maintenance, and sanitization of bulk milk tankers.

c. Recordkeeping relating to the use and cleaning of bulk milk tankers.

d. Supplies needed to perform the duties of milk hauling and milk grading.

e. Proper milk hauling and milk grading procedures, including but not limited to sanitation, the examination and measurement of milk, the handling of milk, and the taking and handling of milk samples.

f. Recordkeeping required for milk haulers and milk graders.

g. Ongoing training requirements, if any, for milk haulers and milk graders.

Sec. 7. NEW SECTION. 192.113 PENALTIES.

1. a. A person shall not act as a milk hauler unless the person is licensed as a milk hauler pursuant to section 192.111. A person shall not solicit another person to act as a milk hauler or procure or obtain the services of a person to act as a milk hauler unless the person solicited or from whom the services are procured or obtained is licensed as a milk hauler pursuant to section 192.11.*

b. A person shall not act as a milk grader unless the person is licensed as a milk grader pursuant to section 192.111. A person shall not solicit another person to act as a milk grader or procure or obtain the services of a person to act as a milk grader, unless the person solicited or from whom the services are procured or obtained is licensed as a milk grader pursuant to section 192.11.*

c. A person shall not operate a bulk milk tanker unless the bulk milk tanker is licensed pursuant to section 192.111. A person shall not solicit another person to operate a bulk milk tanker or procure or obtain the services of a person to operate a bulk milk tanker, unless the bulk milk tanker is licensed pursuant to section 192.11.*

2. A person who violates this section is subject to a civil penalty of at least one hundred dollars but not more than one thousand dollars for each violation. Each day that a violation continues shall constitute a new violation. However, a person shall not be subject to a civil penalty of more than ten thousand dollars for a continuing violation. Civil penalties shall be deposited in the general fund of the state.

Sec. 8. Section 192.118, Code 1997, is amended to read as follows:

192.118 CERTIFIED LABORATORIES.

To insure uniformity in the tests and reporting, an employee certified by the United States public health service of the bacteriological laboratory of the department shall annually certify, in accordance with the United States food and drug administration publication

* Section 192.111 probably intended

"Evaluation of Milk Laboratories" (~~1985~~ 1995 revision), all laboratories doing work in the sanitary quality of milk and dairy products for public report. The approval by the department shall be based on the evaluation of these laboratories as to personnel training, laboratory methods used, and reporting. The results on tests made by approved laboratories shall be reported to the department on request, on forms prescribed by the secretary of agriculture, and such reports may be used by the department.

The department shall annually certify, in accordance with the United States food and drug administration publication "Evaluation of Milk Laboratories" (~~1985~~ 1995 revision), every laboratory in the state doing work in the sanitary quality of milk and dairy products for public report. The certifying officer may enter any such place at any reasonable hour to make the survey. The management of the laboratory shall afford free access to every part of the premises and render all aid and assistance necessary to enable the certifying officer to make a thorough and complete examination.

Sec. 9. Section 194.18, Code 1997, is amended to read as follows:

194.18 COLORING UNLAWFUL MILK.

~~It shall be the duty of each licensed~~ A milk hauler or milk grader ~~of milk to~~ licensed pursuant to section 192.112 may mix ~~with any unlawful milk, whenever observed by the grader,~~ a harmless coloring matter ~~that will~~ in unlawful milk as provided in section 194.9 to prevent the unlawful milk ~~to be~~ from being processed and used in any form for human consumption.

Sec. 10. Chapters 193 and 195, Code 1997, are repealed.

Approved May 1, 1997

CHAPTER 95

POSSESSION OR DISTRIBUTION OF GAMMA-HYDROXYBUTYRIC ACID

S.F. 497

AN ACT prohibiting the possession or distribution of gamma-hydroxybutyric acid under certain circumstances, and providing a penalty.

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

Section 1. NEW SECTION. 126.27 GAMMA-HYDROXYBUTYRATE.

1. UNLAWFUL POSSESSION. Any person who possesses gamma-hydroxybutyrate (also known as gamma-hydroxybutyric acid, or GHB), or any substance containing gamma-hydroxybutyrate commits an aggravated misdemeanor. This subsection shall not apply to any person who obtains or possesses gamma-hydroxybutyrate or any material containing gamma-hydroxybutyrate pursuant to a lawful order of a physician or other authorized prescriber for the legitimate treatment of disease.

2. UNLAWFUL DISTRIBUTION. Any person who distributes gamma-hydroxybutyrate, or possesses gamma-hydroxybutyrate with the intent to distribute to any other person, commits an aggravated misdemeanor if the person intends to promote or allow the unlawful use of the substance or if the person knows that the other person will use the substance for unlawful purposes.

Approved May 1, 1997

CHAPTER 96

HUNTER SAFETY AND ETHICS EDUCATION

H.F. 81

AN ACT relating to the qualifications for the successful completion of an approved hunter safety and ethics education course.

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

Section 1. Section 483A.27, subsection 1, Code 1997, is amended by striking the subsection and inserting in lieu thereof the following:

1. A person born after January 1, 1967, shall not obtain a hunting license unless the person has satisfactorily completed a hunter safety and ethics education course approved by the commission. A person who is eleven years of age or more may enroll in an approved hunter safety and ethics education course, but a person who is eleven years of age and who has successfully completed the course shall be issued a certificate of completion which becomes valid on the person's twelfth birthday. A certificate of completion from an approved hunter safety and ethics education course issued in this state since 1960, by another state, or by a foreign nation, is valid for the requirements of this section.

Sec. 2. Section 483A.27, subsection 2, Code 1997, is amended by striking the subsection and inserting in lieu thereof the following:

2. A certificate of completion shall not be issued to a person who has not satisfactorily completed a minimum of ten hours of training in an approved hunter safety and ethics education course. The department shall establish the curriculum for the first ten hours of an approved hunter safety and ethics education course offered in this state. Upon completion of the ten-hour curriculum, each person shall pass an individual oral test or a written test provided by the department. The department shall establish the criteria for successfully passing the tests. Based on the results of the test and demonstrated safe handling of a firearm, the instructor shall determine the persons who shall be issued a certificate of completion.

Approved May 1, 1997

CHAPTER 97

RECOVERY OF MERCHANDISE OR DAMAGES

H.F. 307

AN ACT relating to the definition of an owner of a mercantile establishment for purposes of recovery of merchandise or damages.

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

Section 1. Section 645.1, subsection 3, Code 1997, is amended to read as follows:

3. "Owner" means an owner of a mercantile establishment and includes ~~an owner's employee acting on behalf~~ a designated representative of the owner.

Approved May 1, 1997

CHAPTER 98

JOB TRAINING WITHHOLDING PAYMENTS

H.F. 367

AN ACT relating to the transfer of job training withholding payments to the workforce development fund account, making an appropriation, and providing effective and retroactive applicability date provisions.

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

Section 1. Section 422.16A, Code 1997, is amended to read as follows:

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, including a certificate of participation repaid in whole or in part by the supplemental new jobs credit from withholding under section 15A.7, 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 last twelve months of withholding collections.~~ Upon the completion by a business of its repayment obligation for a training project funded under chapter 260E, including a job training project funded under chapter 260E repaid in whole or in part by the supplemental new jobs credit from withholding under section 15A.7, the sponsoring community college shall report to the department of economic development the amount of withholding paid by the business to the community college during the final twelve months of withholding payments. 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 account established in section 15.342A 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 account. The maximum amount from all employers which shall be transferred to the workforce development fund account in any year is ten million dollars.

Sec. 2. All businesses that were part of a multiple issue certificate under chapter 260E and that have met their repayment obligation for a training project under that certificate between July 1, 1996, and the effective date of this Act, shall be identified by the appropriate sponsoring community college. The appropriate sponsoring community college shall report to the department of economic development the amount of diversion that would have been made to the workforce development fund account for each applicable business had this Act been effective beginning July 1, 1996. The appropriate sponsoring community college shall also specify the date that this diversion would have been effective. The department of economic development shall notify the department of revenue and finance of the total amount reported by all sponsoring community colleges. There is appropriated and the department of revenue and finance shall make a one-time credit from the general fund to the workforce development fund account for that amount.

Sec. 3. EFFECTIVE AND APPLICABILITY DATES. This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 1996, to include any final twelve months of withholding payments beginning on or after that date.

Approved May 1, 1997

CHAPTER 99

CHILD WELFARE — DISPOSITIONAL ORDERS, HEARINGS, AND PLACEMENTS

H.F. 376

AN ACT relating to child welfare provisions involving juvenile justice dispositional orders, hearings, and placements and providing an effective date.

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

Section 1. Section 232.50, subsection 2, Code 1997, is amended to read as follows:

2. The court shall hold a periodic dispositional review hearing for each child in placement pursuant to section 232.52, subsection 2, paragraph "d" or "e", to determine the future disposition status of the child. The hearings shall not be waived or continued beyond ~~eighteen~~ twelve months after the last dispositional hearing or dispositional review hearing.

Sec. 2. Section 232.52, subsection 7, Code 1997, is amended to read as follows:

7. If the court orders the transfer of the custody of the child to the department of human services or to another agency for placement in foster group care, the department or agency shall make every reasonable effort to place the child within the state, in the least restrictive, most family-like, and most appropriate setting available and in close proximity to the parents' home, consistent with the child's best interests and special needs, and shall consider the placement's proximity to the school in which the child is enrolled at the time of placement.

Sec. 3. Section 232.89, subsection 1, Code 1997, is amended to read as follows:

1. Upon the filing of a petition the parent, guardian, or custodian identified in the petition shall have the right to counsel in connection with all subsequent hearings and proceedings. If that person desires but is financially unable to employ counsel, the court shall appoint counsel. ~~However, an incarcerated parent without legal custody shall not have the right to counsel.~~

Sec. 4. Section 232.101, subsection 2, Code 1997, is amended to read as follows:

2. The duration of any period of supervision or other terms or conditions shall be for an initial period of no more than ~~eighteen~~ twelve months and the court, at the expiration of that period, upon a hearing and for good cause shown, may make not more than two successive extensions of such supervision or other terms or conditions of up to twelve months each.

Sec. 5. Section 232.102, subsection 7, Code 1997, is amended to read as follows:

7. In any order transferring custody to the department or an agency, or in orders pursuant to a custody order, the court shall specify the nature and category of disposition which will serve the best interests of the child, and shall prescribe the means by which the placement shall be monitored by the court. If the court orders the transfer of the custody of the child to the department of human services or other agency for placement, the department or agency shall submit a case permanency plan to the court and shall make every reasonable effort to return the child to the child's home as quickly as possible consistent with the best interest of the child. When the child is not returned to the child's home and if the child has been previously placed in a licensed foster care facility, the department or agency shall consider placing the child in the same licensed foster care facility. If the court orders the transfer of custody to a relative or other suitable person, the court may direct the department or other agency to provide services to the child's parent, guardian, or custodian in order to enable them to resume custody of the child. If the court orders the transfer of custody to the department of human services or to another agency for placement in foster group care, the department or agency shall make every reasonable effort to place the child within Iowa, in the least restrictive, most family-like, and most appropriate setting available, and in close proximity to the parents' home, consistent with the child's best interests and special needs, and shall

consider the placement's proximity to the school in which the child is enrolled at the time of placement.

Sec. 6. Section 232.163, Code 1997, is amended to read as follows:

232.163 VISITATION, INSPECTION OR SUPERVISION.

1. Any requirements for visitation, inspection, or supervision of children, homes, institutions, or other agencies in another party state which may apply under the provisions of this chapter shall be deemed to be met if performed pursuant to an agreement entered into by appropriate officers or agencies of this state or a subdivision ~~thereof~~ of this state as contemplated by paragraph "b" of article V of the interstate compact on the placement of children.

2. If a child is placed outside the residency state of the child's parent, the placement agency shall provide for a designee to visit the child at least once every twelve months and to submit a written report to the court concerning the child and the visit.

Sec. 7. Section 232.175, Code 1997, is amended to read as follows:

232.175 PLACEMENT OVERSIGHT.

Placement oversight shall be provided pursuant to this division when the parent, guardian, or custodian of a child with mental retardation or other developmental disability requests placement of the child for a period of more than thirty days. The oversight shall be provided through review of the placement every six months by the department's foster care review committees or by a local citizen foster care review board. Court oversight shall be provided prior to the initial placement and at periodic intervals which shall not exceed ~~eighteen~~ twelve months. It is the purpose and policy of this division to assure the existence of oversight safeguards as required by the federal Child Welfare Act of 1980, Pub. L. No. 96-272, as codified in 42 U.S.C. § 671(a)(16), 627(a)(2)(B), and 675(1),(5), while maintaining parental decision-making authority.

Sec. 8. Section 232.183, subsection 2, Code 1997, is amended to read as follows:

2. The dispositional hearing shall be held within ~~eighteen~~ twelve months of the date the child was placed in foster care.

Sec. 9. Section 232.183, subsection 6, Code 1997, is amended to read as follows:

6. With respect to each child whose placement was approved pursuant to subsection 5, the court shall continue to hold periodic dispositional hearings. The hearings shall not be waived or continued beyond ~~eighteen~~ twelve months following the last dispositional hearing. After a dispositional hearing, the court shall enter one of the dispositional orders authorized under subsection 5.

Sec. 10. Section 238.30, Code 1997, is repealed.

Sec. 11. EFFECTIVE DATE. Code section 232.89, as amended by this Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 1, 1997

CHAPTER 100

TRUCKS AND OTHER LARGE MOTOR VEHICLES

H.F. 416

AN ACT relating to regulation of trucks and certain other large motor vehicles, including maximum vehicle weights, defining terms, providing effective dates, and making penalties applicable.

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

Section 1. Section 321.1, Code 1997, is amended by adding the following new subsections:

NEW SUBSECTION. 15A. "Crane" means a machine for raising, shifting, and lowering heavy weights by means of a projecting swinging arm.

NEW SUBSECTION. 63A. "Retractable axle" means an axle designed with the capability of manipulation or adjustment of the weight on the axle.

Sec. 2. Section 321.440, subsection 7, Code 1997, is amended to read as follows:

7. Been regrooved or recut below the original tread design depth, excepting special tires which have extra under tread rubber and are identified as such, or if a pneumatic tire was originally designed without grooves or tread~~, the safety standards therefor shall be established by the director~~.

Sec. 3. Section 321.440, Code 1997, is amended by adding the following new unnumbered paragraph after subsection 7:

NEW UNNUMBERED PARAGRAPH. A vehicle, except an implement of husbandry, equipped with either solid rubber or pneumatic tires shall not be operated where the weight per inch of tire width is greater than five hundred seventy-five pounds per inch of tire width based on the tire width rating, except on a steering axle, in which case six hundred pounds per inch of tire width is permitted based on the tire width rating.

Sec. 4. Section 321.456, Code 1997, is amended to read as follows:

321.456 HEIGHT OF VEHICLES — PERMITS — EXEMPTION.

A vehicle unladen or with load shall not exceed a height of thirteen feet, six inches, except by permit as provided in this section. However, a vehicle or combination of vehicles coupled together used exclusively for the transportation of passenger vehicles, light delivery trucks, panel delivery trucks, pickup trucks, or recreational vehicle chassis may operate without a permit provided that the height of the vehicle or vehicles coupled together does not exceed fourteen feet. This section shall not be construed to require any railroad or public authorities to provide sufficient vertical clearance to permit the operation of such vehicle upon the highways of this state. Any damage to highways, highway or railroad structures or underpasses caused by the height of any vehicle provided for by this section shall be borne by the operator or owner of the vehicle. Vehicles unladen or with load exceeding a height of thirteen feet, six inches but not exceeding fourteen feet may be operated with a permit issued by the department or jurisdictional local authorities. The permits shall be issued annually for a fee of twenty-five dollars and subject to rules adopted by the department. The state or a political subdivision shall not be liable for damage to any vehicle or its cargo if changes in vertical clearance of a structure are made subsequent to the issuance of a permit during the term of the permit.

Sec. 5. Section 321.463, Code 1997, is amended to read as follows:

321.463 MAXIMUM GROSS WEIGHT — EXCEPTIONS — PENALTIES.

1. An axle may be divided into two or more parts, except that all parts in the same vertical transverse plane shall be considered as one axle.

2. The gross weight on any one axle of a vehicle, or of a combination of vehicles, operated

on the highways of this state, shall not exceed twenty thousand pounds on an axle equipped with pneumatic tires, and shall not exceed fourteen thousand pounds on an axle equipped with solid rubber tires. The gross weight on any tandem axle of a vehicle, or any combination of vehicles, shall not exceed thirty-four thousand pounds on an axle equipped with pneumatic tires. This subsection does not apply to implements of husbandry.

3. 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.

~~A group of two or more consecutive axles of any vehicle or combination of vehicles, shall not carry a load in pounds in excess of the overall gross weight determined by application of the following formula: W equals 500 (LN/N-1 + 12N + 36). W equals the overall gross weight on any group of two or more consecutive axles to the nearest five hundred pounds, L equals the distance in feet, rounded to the nearest whole foot, between the extreme of any group of two or more consecutive axles, and N equals the number of axles in the group under consideration. The following are exceptions to application of the formula:~~

~~1. Two consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds each providing the overall distance between the first and last axles of the consecutive sets of tandem axles is thirty-six feet or more.~~

~~2. On highways not part of the interstate system, a vehicle or combination of vehicles having:~~

~~a. Four axles where the extreme axles are eighteen feet apart may carry a gross load of fifty-three thousand pounds.~~

~~b. Five axles where the extreme axles are thirty-two feet apart may carry a gross load of sixty-seven thousand five hundred pounds.~~

~~c. Six or more axles where the extreme axles are forty-one feet apart may carry a gross load of seventy-eight thousand pounds. For every foot of distance between extreme axles less than the above axle spacings, the overall gross weight of the vehicle or combination of vehicles shall be determined by deducting one thousand pounds from the gross loads specified in paragraphs "a", "b" and "c". All measurements between extreme axles shall be rounded to the nearest whole foot.~~

~~The maximum gross weight shall not exceed eighty thousand pounds.~~

4. a. The maximum gross weight allowed to be carried on a vehicle or combination of vehicles on highways which are part of the interstate system is as follows:

MAXIMUM GROSS WEIGHT TABLE
INTERSTATE HIGHWAYS

Distance in feet	2 Axles	3 Axles	4 Axles	5 Axles	6 Axles	7 Axles
4	34,000					
5	34,000					
6	34,000					
7	34,000	34,000				
8	34,000	34,000				
8'1"	38,000	42,000				
9	39,000	42,500				
10	40,000	43,500	48,500			
11		44,000	49,500			
12		45,000	50,000			
13		45,500	50,500	56,000		
14		46,500	51,500	57,000		
15		47,000	52,000	57,500		
16		48,000	52,500	58,000		
17		48,500	53,500	58,500	64,000	
18		49,500	54,000	59,000	65,000	
19		50,000	54,500	60,000	65,500	

20	51,000	55,500	60,500	66,000	71,500
21	51,500	56,000	61,000	66,500	72,500
22	52,500	56,500	61,500	67,000	73,000
23	53,000	57,500	62,500	68,000	73,500
24	54,000	58,000	63,000	68,500	74,000
25	54,500	58,500	63,500	69,000	74,500
26	55,500	59,500	64,000	69,500	75,000
27	56,000	60,000	65,000	70,000	76,000
28	57,000	60,500	65,500	71,000	76,500
29	57,500	61,500	66,000	71,500	77,000
30	58,500	62,000	66,500	72,000	77,500
31	59,000	62,500	67,500	72,500	78,000
32	60,000	63,500	68,000	73,000	78,500
33		64,000	68,500	74,000	79,500
34		64,500	69,500	74,500	80,000
35		65,500	70,000	75,000	
36		68,000	70,500	75,500	
37		68,000	71,000	76,000	
38		68,000	72,000	77,000	
39		68,000	72,500	77,500	
40		68,500	73,000	78,000	
41		69,500	73,500	78,500	
42		70,000	74,000	79,000	
43		70,500	75,000	80,000	
44		71,500	75,500		
45		72,000	76,000		
46		72,500	76,500		
47		73,500	77,500		
48		74,000	78,000		
49		74,500	78,500		
50		75,500	79,000		
51		76,000	80,000		
52		76,500			
53		77,500			
54		78,000			
55		78,500			
56		79,500			
57		80,000			

b. The maximum gross weight allowed to be carried on a vehicle or combination of vehicles on noninterstate highways is as follows:

NONINTERSTATE HIGHWAYS
MAXIMUM GROSS WEIGHT TABLE

Distance in feet	2 Axles	3 Axles	4 Axles	5 Axles	6 Axles	7 Axles
4	34,000					
5	34,000					
6	34,000					
7	34,000	34,000				
8	34,000	34,000				
8'1"	38,000	42,000				
9	39,000	42,500				
10	40,000	43,500	45,000			
11		44,000	46,000			
12		45,000	47,000			

13	45,500	48,000	48,500		
14	46,500	49,000	49,500		
15	47,000	50,000	50,500		
16	48,000	51,000	51,500		
17	48,500	52,000	52,500	54,000	
18	49,500	53,000	53,500	55,000	
19	50,000	54,500	54,500	56,000	
20	51,000	55,500	55,500	57,000	
21	51,500	56,000	56,500	58,000	
22	52,500	56,500	57,500	59,000	
23	53,000	57,500	58,500	60,000	
24	54,000	58,000	59,500	61,000	
25	54,500	58,500	60,500	62,000	
26	55,500	59,500	61,500	63,000	
27	56,000	60,000	62,500	64,000	
28	57,000	60,500	63,500	65,000	
29	57,500	61,500	64,500	66,000	
30	58,500	62,000	65,500	67,000	
31	59,000	62,500	66,500	68,000	
32	60,000	63,500	67,500	69,000	
33		64,000	68,500	70,000	
34		64,500	69,500	71,000	
35		65,500	70,000	72,000	
36		68,000	70,500	73,000	
37		68,000	71,000	74,000	
38		68,000	72,000	75,000	
39		68,000	72,500	76,000	
40		68,500	73,000	77,000	
41		69,500	73,500	78,000	78,000
42		70,000	74,000	79,000	79,000
43		70,500	75,000	80,000	80,000
44		71,500	75,500		
45		72,000	76,000		
46		72,500	76,500		
47		73,500	77,500		
48		74,000	78,000		
49		74,500	78,500		
50		75,500	79,000		
51		76,000	80,000		
52		76,500			
53		77,500			
54		78,000			
55		78,500			
56		79,500			
57		80,000			

c. The maximum gross weight allowed to be carried on a livestock or construction vehicle on noninterstate highways is as follows:

NONINTERSTATE HIGHWAYS
MAXIMUM GROSS WEIGHT TABLE
LIVESTOCK OR CONSTRUCTION VEHICLE

Distance in feet	6 Axles	7 Axles
44	80,500	80,500
45	81,000	81,500

46	81,500	82,500
47	82,000	83,500
48	83,000	84,000
49	83,500	85,000
50	84,000	86,000
51	84,500	87,000
52	85,000	88,000
53	86,000	88,500
54	86,500	89,500
55	87,000	90,500
56	87,500	91,500
57	88,000	92,000
58	89,000	93,000
59	89,500	94,000
60	90,000	95,000
61		95,500
62		96,000

5. The weight on any one axle, including a tandem axle, of a vehicle which is transporting livestock on highways not part of the interstate system may exceed the legal maximum weight given in this chapter providing that the gross weight on any particular group of axles on such vehicle does not exceed the gross weight allowable under this chapter for such groups of axles.

6. In addition, the weight on any one axle, including a tandem axle, of a vehicle which is transporting raw materials from a designated borrow site to a construction project or transporting raw materials from a construction project, may exceed the legal maximum weight otherwise allowed under this chapter by ten percent if the gross weight on any particular group of axles on the vehicle does not exceed the gross weight allowed under this chapter for that group of axles. However, if the vehicle exceeds the ten percent tolerance allowed for any one axle or tandem axle under this paragraph the fine to be assessed for the axle or tandem axle shall be computed on the difference between the actual weight and the ten percent tolerance weight allowed for the axle or tandem axle under this paragraph. This paragraph applies only to vehicles operating along a route of travel approved by the department.

7. A vehicle or combination of vehicles transporting materials to or from a construction project or commercial plant site ~~shall comply with the formula under this section which is used for travel on highways that are part of the interstate system. This paragraph applies only to a vehicle or combination of vehicles operating~~ along a route of travel approved by the department or appropriate local authority shall comply with subsection 4, paragraph "a".

8. A vehicle designed to tow wrecked or disabled vehicles shall be exempt from the weight limitations in this section while the vehicle is towing a wrecked or disabled vehicle.

9. a. A person who operates a vehicle in violation of the provisions of this section, and an owner, or any other person, employing or otherwise directing the operator of a vehicle, who requires or knowingly permits the operation of a vehicle in violation of the provisions of this section shall be fined according to the following schedule:

AXLE, TANDEM AXLE,
AND GROUP OF AXLES
WEIGHT VIOLATIONS

Pounds Overloaded	Amount of Fine
Up to and including 1,000 pounds	$10 plus one-half cent per pound
Over 1,000 pounds to and including 2,000 pounds	$15 plus one-half cent per pound
Over 2,000 pounds to and including 3,000 pounds	$80 plus three cents per pound

Over 3,000 pounds to and including 4,000 pounds	$100 plus four cents per pound
Over 4,000 pounds to and including 5,000 pounds	$150 plus five cents per pound
Over 5,000 pounds to and including 6,000 pounds	$200 plus seven cents per pound
Over 6,000 pounds	$200 plus ten cents per pound

b. Fines for gross weight violations for vehicles or combinations of vehicles shall be assessed at one-half of the fine rate schedule for axle, tandem axle, and groups of axles weight violations.

c. Except as otherwise provided, the amount of the fine to be assessed shall be computed on the difference between the actual weight and the maximum legal weight specified in this section by applying the appropriate rate in the preceding schedule for the total amount of overload.

d. The schedule of fines may be assessed in addition to any other penalties provided for in this chapter.

10. Overloads on axles and tandem axles and overloads on groups of axles or on an entire vehicle or combination of vehicles shall be considered as separate violations of the provisions of this section.

11. A person who issues or executes, or causes to be issued or executed, a bill of lading, manifest, or shipping document of any kind which states a false weight of the cargo set forth on such bill, manifest, or document, which is less than the actual weight of the cargo, shall, upon conviction, be guilty of a simple misdemeanor.

Sec. 6. NEW SECTION. 321.467 RETRACTABLE AXLES.

A vehicle which is a model year 1999 or later vehicle shall not operate on a highway of this state with a retractable axle unless the weight on the retractable axle can only be adjusted by means of a manual device located on the vehicle that is not accessible to the operator of the vehicle during operation of the vehicle. However, the controls for raising and lowering the retractable axle may be accessible to the operator of the vehicle while the vehicle is in operation.

Sec. 7. Section 321E.7, subsection 1, Code 1997, is amended to read as follows:

1. The gross weight on any axle of any vehicle or combination of vehicles traveling under a permit issued in accordance with the provisions of this chapter shall not exceed the maximum axle load prescribed in section 321.463; except that, cranes being temporarily moved on streets, roads, or highways may have a gross weight of twenty-four thousand pounds on any single axle; and construction machinery being temporarily moved on streets, roads, or highways may have a gross weight of thirty-six thousand pounds on any single axle equipped with a minimum size twenty-six point five-inch by twenty-five-inch flotation pneumatic tires and a maximum gross weight of twenty thousand pounds on any single axle equipped with minimum size eighteen-inch by twenty-five-inch flotation pneumatic tires, with the department authorized to adopt rules to permit the use of tire sizes and weights within the minimum and maximum specifications provided in this section, provided that the total gross weight of the vehicle or a combination of vehicles does not exceed a maximum of one hundred twenty-six thousand pounds; and except that a manufacturer of machinery or equipment manufactured or assembled in Iowa may be granted a permit for the movement of such machinery or equipment mounted on pneumatic tires with axle loads exceeding the maximum axle load prescribed in section 321.463 for distances not to exceed twenty-five miles at a speed not greater than twenty miles per hour. The movement of such machinery or equipment shall be over a specified route between the place of assembly or manufacture and a storage area, shipping point, proving ground, experimental area, weighing station, or another manufacturing plant.

Sec. 8. Section 321E.8, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. Vehicles with indivisible loads having an overall width not to exceed twelve feet five inches or mobile homes, including appurtenances, having an overall width not to exceed twelve feet five inches and an overall length not to exceed one hundred feet zero inches may be moved on highways specified by the permitting authority for unlimited distances if the height of the vehicle and load does not exceed fourteen feet zero inches and the total gross weight of the vehicle does not exceed one hundred thirty-six thousand pounds. The vehicle owner or operator shall verify with the permitting authority prior to movement of the load that highway conditions have not changed so as to prohibit movement of the vehicle. Any cost to repair damage to highways or highway structures shall be borne by the owner or operator of the vehicle causing the damage. Permitted vehicles under this subsection shall not be allowed to travel on any portion of the interstate highway system.

Sec. 9. Section 321E.9, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Cranes, exceeding the maximum gross weight on any axle as prescribed in section 321.463, but not exceeding twenty-four thousand pounds, may be moved in accordance with rules adopted pursuant to chapter 17A.

Sec. 10. Section 321E.9A, subsection 1, Code 1997, is amended to read as follows:

1. Vehicles with indivisible loads having an overall length not to exceed one hundred twenty feet, an overall width not to exceed ~~eleven~~ sixteen feet, and ~~an overall~~ of any height ~~not to exceed fourteen feet, four inches,~~ may be moved on highways specified by the permitting authority, provided the gross weight on any one axle shall not exceed the maximum prescribed in section 321.463 and the total gross weight is not greater than one hundred fifty-six thousand pounds.

Sec. 11. Section 321E.14, unnumbered paragraph 1, Code 1997, is amended to read as follows:

The department or local authorities issuing permits shall charge a fee of twenty-five dollars for an annual permit issued under section 321E.8, subsection 1, 2, or 3, a fee of ~~one~~ three hundred dollars for an annual permit issued under section 321E.8, subsection 1A, a fee of two hundred dollars for a multi-trip permit, and a fee of ten dollars for a single-trip permit, and shall determine charges for special permits issued pursuant to section 321E.29 by rules adopted pursuant to chapter 17A. Fees for the movement of buildings, parts of buildings, or unusual vehicles or loads may be increased to cover the costs of inspections by the issuing authority. A fee not to exceed two hundred fifty dollars per day or a prorated fraction of that fee per person and car for escort service may be charged when requested or when required under this chapter. Proration of escort fees between state and local authorities when more than one governmental authority provides or is required to provide escort for a movement during the period of a day shall be determined by rule under section 321E.15. The department and local authorities may charge a permit applicant for the cost of trimming trees and removal and replacement of natural obstructions or official signs and signals or other public or private property required to be removed during the movement of a vehicle and load. In addition to the fees provided in this section, the annual fee for a permit for special mobile equipment, as defined in section 321.1, subsection 75, operated pursuant to section 321E.7, subsection 2, with a combined gross weight up to and including eighty thousand pounds shall be twenty-five dollars and for a combined gross weight exceeding eighty thousand pounds, fifty dollars.

Sec. 12. EFFECTIVE DATES.

1. Section 3 of this Act takes effect July 1, 1999.

2. The maximum gross vehicle weight provisions in section 321.463, subsection 4, paragraph "c", take effect for vehicles operating on the primary road system on July 1, 1997, and take effect for vehicles operating on the urban and secondary road system on December 31, 1998. However, prior to December 31, 1998, routes of travel on the urban and

secondary system by vehicles weighing ninety-six thousand pounds may be approved by local authorities.

Approved May 1, 1997

CHAPTER 101

REPOSITORY FOR LICENSING, REGISTRY, AND CRIMINAL HISTORY INFORMATION

H.F. 439

AN ACT relating to the development of a repository for criminal history, abuse and sex offender registries, and nurse aide and other health profession certification and licensing information.

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

Section 1. SINGLE CONTACT REPOSITORY.

1. The department of inspections and appeals shall lead a joint effort with the departments of human services, public health, elder affairs, and public safety to plan the development of a single contact repository to permit employers, political subdivisions, and state agencies to obtain the following information with one contact:

a. Health professional licensing.
b. Nurse aide registry.
c. Child abuse registry.
d. Dependent adult abuse registry.
e. Criminal history data.
f. Sex offender registry.

2. The department of inspections and appeals, in cooperation with the other departments listed in subsection 1, shall report to the general assembly on or before January 15, 1998, concerning progress in planning for the development of the repository. The report shall address any statutory changes and funding necessary for implementation of the repository, accessibility requirements, and a proposed implementation schedule.

Approved May 1, 1997

CHAPTER 102

ELECTION OF MAYORS IN CERTAIN CITIES

H.F. 680

AN ACT relating to election of mayors in certain cities and providing an immediate effective date.

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

Section 1. MAYORS — STAGGERED TERMS FOR 1997 AND 1999 CITY ELECTIONS. Any city which has changed the term of council members or mayor under section

376.2 may, by resolution adopted by the council and filed in the office of city clerk on or before August 20, 1997, choose to change the term of mayor as follows:

1. An office of mayor scheduled to be filled at the regular city election in November 1997, shall be for a two-year term, beginning in January 1998, and the office shall next be filled at the regular city election in November 1999, and every four years thereafter.

2. An office of mayor on the ballot in the regular city election in November 1995 and scheduled to be filled at the regular city election in November 1999, shall be for a two-year term, beginning in January 2000, and the office shall next be filled at the regular city election in November 2001, and every four years thereafter.

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

Approved May 1, 1997

CHAPTER 103

HEALTH CARE COVERAGE — PORTABILITY AND CONTINUITY

H.F. 701

AN ACT relating to the requirements for portability and continuity of health care coverage for individuals among certain types of health care coverage, and related matters.

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

Section 1. Section 509.3, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. In addition to the provisions required in subsections 1 through 8, the commissioner shall require provisions through the adoption of rules implementing the federal Health Insurance Portability and Accountability Act, Pub. L. No. 104-191.

Sec. 2. Section 513B.2, subsection 1, Code 1997, is amended to read as follows:

1. "Actuarial certification" means a written statement by a member of the American academy of actuaries or other individual acceptable to the commissioner that a small employer carrier is in compliance with the provisions of section 513B.4, based upon the person's examination, including a review of the appropriate records and of the actuarial assumptions and methods utilized by the small employer carrier in establishing premium rates for applicable health ~~benefit plans~~ insurance coverages.

Sec. 3. Section 513B.2, subsection 4, Code 1997, is amended by striking the subsection and inserting in lieu thereof the following:

4. "Carrier" means an entity subject to the insurance laws and regulations of this state, or subject to the jurisdiction of the commissioner, that contracts or offers to contract to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services, including an insurance company offering sickness and accident plans, a health maintenance organization, a nonprofit health service corporation, or any other entity providing a plan of health insurance, health benefits, or health services.

Sec. 4. Section 513B.2, subsection 6, paragraph a, Code 1997, is amended to read as follows:

a. A distinct grouping may only be established by the small employer carrier on the basis that the applicable health ~~benefit plans~~ insurance coverages meet one or more of the following requirements:

(1) The ~~plans~~ coverages are marketed and sold through individuals and organizations which are not participating in the marketing or sales of other distinct groupings of small employers for the small employer carrier.

(2) The ~~plans~~ coverages have been acquired from another small employer carrier as a distinct grouping of plans.

(3) The ~~plans~~ coverages are provided through an association with membership of not less than fifty small employers which has been formed for purposes other than obtaining insurance.

Sec. 5. Section 513B.2, subsection 9, Code 1997, is amended to read as follows:

9. "Eligible employee" means an employee who works on a full-time basis and has a normal work week of thirty or more hours. The term includes a sole proprietor, a partner of a partnership, and an independent contractor, if the sole proprietor, partner, or independent contractor is included as an employee under ~~a health benefit plan~~ health insurance coverage of a small employer, but does not include an employee who works on a part-time, temporary, or substitute basis.

Sec. 6. Section 513B.2, subsection 10, Code 1997, is amended by striking the subsection and inserting in lieu thereof the following:

10. a. "Health insurance coverage" means benefits consisting of health care provided directly, through insurance or reimbursement, or otherwise and including items and services paid for as health care under a hospital or health service policy or certificate, hospital or health service plan contract, or health maintenance organization contract offered by a carrier.

b. "Health insurance coverage" does not include any of the following:

(1) Coverage for accident-only, or disability income insurance.

(2) Coverage issued as a supplement to liability insurance.

(3) Liability insurance, including general liability insurance and automobile liability insurance.

(4) Workers' compensation or similar insurance.

(5) Automobile medical-payment insurance.

(6) Credit-only insurance.

(7) Coverage for on-site medical clinic care.

(8) Other similar insurance coverage, specified in federal regulations, under which benefits for medical care are secondary or incidental to other insurance coverage or benefits.

c. "Health insurance coverage" does not include benefits provided under a separate policy as follows:

(1) Limited scope dental or vision benefits.

(2) Benefits for long-term care, nursing home care, home health care, or community-based care.

(3) Any other similar limited benefits as provided by rule of the commissioner.

d. "Health insurance coverage" does not include benefits offered as independent noncoordinated benefits as follows:

(1) Coverage only for a specified disease or illness.

(2) A hospital indemnity or other fixed indemnity insurance.

e. "Health insurance coverage" does not include Medicare supplemental health insurance as defined under § 1882(g)(1) of the federal Social Security Act, coverage supplemental to the coverage provided under 10 U.S.C. ch. 55, and similar supplemental coverage provided to coverage under group health insurance coverage.

f. "Group health insurance coverage" means health insurance coverage offered in connection with a group health plan.

Sec. 7. Section 513B.2, subsection 12, paragraphs a, b, and c, Code 1997, are amended to read as follows:

a. The individual meets all of the following:

(1) The individual was covered under ~~qualifying previous~~ creditable coverage at the time of the initial enrollment.

(2) The individual lost creditable coverage ~~under qualifying previous coverage~~ as a result of termination of the individual's employment or eligibility, the involuntary termination of the ~~qualifying previous~~ creditable coverage, death of the individual's spouse, or the individual's divorce.

(3) The individual requests enrollment within thirty days after termination of the ~~qualifying previous~~ creditable coverage.

b. The individual is employed by an employer that offers multiple health ~~benefit plans~~ insurance coverages and the individual elects a different ~~plan~~ coverage during an open enrollment period.

c. A court has ordered that coverage be provided for a spouse or minor or dependent child under a covered employee's health ~~benefit plan~~ insurance coverage and the request for enrollment is made within thirty days after issuance of the court order.

Sec. 8. Section 513B.2, subsection 12, Code 1997, is amended by adding the following new paragraphs:

NEW PARAGRAPH. d. The individual changes status and becomes an eligible employee and requests enrollment within sixty-three days after the date of the change in status.

NEW PARAGRAPH. e. The individual was covered under a mandated continuation of group health plan or group health insurance coverage plan until the coverage under that plan was exhausted.

Sec. 9. Section 513B.2, subsection 13, Code 1997, is amended to read as follows:

13. "New business premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or offered by the small employer carrier to small employers with similar case characteristics for newly issued health ~~benefit plans~~ insurance coverages with the same or similar coverage.

Sec. 10. Section 513B.2, Code 1997, is amended by adding the following new subsections:

NEW SUBSECTION. 7A. "Creditable coverage" means health benefits or coverage provided to an individual under any of the following:

a. A group health plan.

b. Health insurance coverage.

c. Part A or Part B Medicare pursuant to Title XVIII of the federal Social Security Act.

d. Medicaid pursuant to Title XIX of the federal Social Security Act, other than coverage consisting solely of benefits under section 1928 of that Act.

e. 10 U.S.C. ch. 55.

f. A health or medical care program provided through the Indian health service or a tribal organization.

g. A state health benefits risk pool.

h. A health plan offered under 5 U.S.C. ch. 89.

i. A public health plan as defined under federal regulations.

j. A health benefit plan under section 5(e) of the federal Peace Corps Act, 22 U.S.C. § 2504(e).

k. An organized delivery system licensed by the director of public health.

NEW SUBSECTION. 9A. a. "Group health plan" means an employee welfare benefit plan as defined in section 3(1) of the federal Employee Retirement Income Security Act of 1974, to the extent that the plan provides medical care including items and services paid for as medical care to employees or their dependents as defined under the terms of the plan directly or through insurance, reimbursement, or otherwise.

b. For purposes of this subsection, "medical care" means amounts paid for any of the following:

(1) The diagnosis, cure, mitigation, treatment, or prevention of disease, or amounts paid for the purpose of affecting a structure or function of the body.

(2) Transportation primarily for and essential to medical care referred to in subparagraph (1).

(3) Insurance covering medical care referred to in subparagraph (1) or (2).

c. For purposes of this subsection, a partnership which establishes and maintains a plan, fund, or program to provide medical care to present or former partners in the partnership or to their dependents directly or through insurance, reimbursement, or other method, which would not be an employee benefit welfare plan but for this paragraph, shall be treated as an employee benefit welfare plan which is a group health plan.

(1) For purposes of a group health plan, an employer includes the partnership in relation to any partner.

(2) For purposes of a group health plan, the term "participant" also includes both of the following:

(a) An individual who is a partner in relation to a partnership which maintains a group health plan.

(b) An individual who is a self-employed individual in connection with a group health plan maintained by the self-employed individual where one or more employees are participants, if the individual is or may become eligible to receive a benefit under the plan or the individual's beneficiaries may be eligible to receive a benefit.

NEW SUBSECTION. 13A. "Preexisting conditions exclusion" means, with respect to health insurance coverage, a limitation or exclusion of benefits relating to a condition based on the fact that the condition was present before the date of enrollment for such coverage, whether or not any medical advice, diagnosis, care, or treatment was recommended or received before such date.

Sec. 11. Section 513B.2, subsection 14, Code 1997, is amended by striking the subsection.

Sec. 12. Section 513B.3, subsection 3, Code 1997, is amended to read as follows:

3. The health ~~benefit plan~~ insurance coverage is treated by the employer or any of the eligible employees or dependents as part of a ~~plan~~ coverage or program for the purposes of section 106, 125, or 162 of the Internal Revenue Code as defined in section 422.3.

Sec. 13. Section 513B.3, subsection 4, paragraphs a and c, Code 1997, are amended to read as follows:

a. Except as provided in paragraph "b", for purposes of this subchapter, 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 subchapter shall apply as if all health ~~benefit plans~~ insurance coverages delivered or issued for delivery to small employers in this state by such carriers were issued by one carrier.

c. Unless otherwise authorized by the commissioner, a small employer carrier shall not enter into one or more ceding arrangements with respect to health ~~benefit plans~~ insurance coverages delivered or issued for delivery to small employers in this state if the arrangements would result in less than fifty percent of the insurance obligation or risk for such health ~~benefit plans~~ insurance coverages being retained by the ceding carrier.

Sec. 14. Section 513B.4, subsection 1, paragraph c, subparagraph (1), Code 1997, is amended to read as follows:

(1) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a class of business for which the small employer carrier is not issuing new policies, the small employer carrier shall use the percentage change in the base premium rate, provided that

the change does not exceed, on a percentage basis, the change in the new business premium rate for the most similar health ~~benefit plan~~ insurance coverage into which the small employer carrier is actively enrolling new insureds who are small employers.

Sec. 15. Section 513B.4, subsection 1, paragraph d, Code 1997, is amended to read as follows:

d. In the case of health ~~benefit plans~~ insurance coverages issued prior to July 1, 1991, a premium rate for a rating period may exceed the ranges described in subsection 1, paragraph "a" or "b", for a period of three years following July 1, 1992. In such case, the percentage increase in the premium rate charged to a small employer in such a class of business for a new rating period may not exceed the sum of the following:

(1) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a class of business for which the small employer carrier is not issuing new policies, the small employer carrier shall use the percentage change in the base premium rate, provided that the change does not exceed, on a percentage basis, the change in the new business premium rate for the most similar health ~~benefit plan~~ insurance coverage into which the small employer carrier is actively enrolling new insureds who are small employers.

(2) Any adjustment due to change in coverage or change in the case characteristics of the small employer as determined from the small employer carrier's rate manual for the class of business.

Sec. 16. Section 513B.4, subsection 3, unnumbered paragraph 3, Code 1997, is amended to read as follows:

Rating factors shall produce premiums for identical groups which differ only by amounts attributable to ~~plan~~ coverage design and do not reflect differences due to the nature of the groups assumed to select particular health benefit plans. A small employer carrier shall treat all health ~~benefit plans~~ insurance coverages issued or renewed in the same calendar month as having the same rating period.

Sec. 17. Section 513B.4, subsection 4, Code 1997, is amended to read as follows:

4. For purposes of this section, a health ~~benefit plan~~ insurance coverage that contains a restricted network provision shall not be considered similar coverage to a health ~~benefit plan~~ insurance coverage that does not contain such a provision, if the restriction of benefits to network providers results in substantial differences in claims costs.

Sec. 18. Section 513B.4A, Code 1997, is amended to read as follows:

513B.4A EXEMPTION FROM PREMIUM RATE RESTRICTIONS.

A Taft-Hartley trust or a carrier with the written authorization of such a trust may make a written request to the commissioner for an exemption from the application of any provisions of section 513B.4 with respect to ~~a health benefit plan~~ health insurance coverage provided to such a trust. The commissioner may grant an exemption if the commissioner finds that application of section 513B.4 with respect to the trust would have a substantial adverse effect on the participants and beneficiaries of such trust, and would require significant modifications to one or more collective bargaining arrangements under which the trust is established or maintained. An exemption granted under this section shall not apply to an individual if the individual participates in a trust as an associate member of an employee organization.

Sec. 19. Section 513B.5, Code 1997, is amended by striking the section and inserting in lieu thereof the following:

513B.5 PROVISIONS ON RENEWABILITY OF COVERAGE.

1. Health insurance coverage subject to this chapter is renewable with respect to all eligible employees or their dependents, at the option of the small employer, except for one or more of the following reasons:

a. The health insurance coverage sponsor fails to pay, or to make timely payment of, premiums or contributions pursuant to the terms of the health insurance coverage.

b. The health insurance coverage sponsor performs an act or practice constituting fraud or makes an intentional misrepresentation of a material fact under the terms of the coverage.

c. Noncompliance with the carrier's or organized delivery system's minimum participation requirements.

d. Noncompliance with the carrier's or organized delivery system's employer contribution requirements.

e. A decision by the carrier or organized delivery system to discontinue offering a particular type of health insurance coverage in the state's small employer market. Health insurance coverage may be discontinued by the carrier or organized delivery system in that market only if the carrier or organized delivery system does all of the following:

(1) Provides advance notice of its decision to discontinue such plan to the commissioner or director of public health. Notice to the commissioner or director, at a minimum, shall be no less than three days prior to the notice provided for in subparagraph (2) to affected small employers, participants, and beneficiaries.

(2) Provides notice of its decision not to renew such plan to all affected small employers, participants, and beneficiaries no less than ninety days prior to the nonrenewal of the plan.

(3) Offers to each plan sponsor of the discontinued coverage, the option to purchase any other coverage currently offered by the carrier or organized delivery system to other employers in this state.

(4) Acts uniformly, in opting to discontinue the coverage and in offering the option under subparagraph (3), without regard to the claims experience of the sponsors under the discontinued coverage or to a health status-related factor relating to any participants or beneficiaries covered or new participants or beneficiaries who may become eligible for the coverage.

f. A decision by the carrier or organized delivery system to discontinue offering and to cease to renew all of its health insurance coverage delivered or issued for delivery to small employers in this state. A carrier or organized delivery system making such decision shall do all of the following:

(1) Provide advance notice of its decision to discontinue such coverage to the commissioner or director of public health. Notice to the commissioner or director, at a minimum, shall be no less than three days prior to the notice provided for in subparagraph (2) to affected small employers, participants, and beneficiaries.

(2) Provide notice of its decision not to renew such coverage to all affected small employers, participants, and beneficiaries no less than one hundred eighty days prior to the nonrenewal of the coverage.

(3) Discontinue all health insurance coverage issued or delivered for issuance to small employers in this state and cease renewal of such coverage.

g. The membership of an employer in an association, which is the basis for the coverage which is provided through such association, ceases, but only if the termination of coverage under this paragraph occurs uniformly without regard to any health status-related factor relating to any covered individual.

h. The commissioner or director of public health finds that the continuation of the coverage is not in the best interests of the policyholders or certificate holders, or would impair the carrier's or organized delivery system's ability to meet its contractual obligations.

i. At the time of coverage renewal, a carrier or organized delivery system may modify the health insurance coverage for a product offered under group health insurance coverage in the small group market, for coverage that is available in such market other than only through one or more bona fide associations, if such modification is consistent with the laws of this state, and is effective on a uniform basis among group health insurance coverage with that product.

2. A carrier or organized delivery system that elects not to renew health insurance coverage under subsection 1, paragraph "f", shall not write any new business in the small employer market in this state for a period of five years after the date of notice to the commissioner or director of public health.

3. This section, with respect to a carrier or organized delivery system doing business in one established geographic service area of the state, applies only to such carrier's or organized delivery system's operations in that service area.

Sec. 20. Section 513B.6, unnumbered paragraph 1, Code 1997, is amended to read as follows:

A small employer carrier or organized delivery system shall make reasonable disclosure in solicitation and sales materials provided to small employers of all of the following:

Sec. 21. Section 513B.6, subsection 2, Code 1997, is amended to read as follows:

2. The provisions concerning the small employer carrier's or organized delivery system's right to change premium rates and factors, including case characteristics, which affect changes in premium rates.

Sec. 22. Section 513B.7, Code 1997, is amended to read as follows:

513B.7 MAINTENANCE OF RECORDS.

1. A small employer carrier or organized delivery system shall maintain at its principal place of business a complete and detailed description of its rating practices and renewal underwriting practices, including information and documentation which demonstrate that its rating methods and practices are based upon commonly accepted actuarial assumptions and are in accordance with sound actuarial principles.

2. A small employer carrier or organized delivery system shall file each March 1 with the commissioner or director an actuarial certification that the small employer carrier or organized delivery system is in compliance with this section and that the rating methods of the small employer carrier or organized delivery system are actuarially sound. A copy of the certification shall be retained by the small employer carrier or organized delivery system at its principal place of business.

3. A small employer carrier or organized delivery system shall make the information and documentation described in subsection 1 available to the commissioner or organized delivery system upon request. The information is not a public record or otherwise subject to disclosure under chapter 22, and is considered proprietary and trade secret information and is not subject to disclosure by the commissioner or director to persons outside of the division or department except as agreed to by the small employer carrier or organized delivery system or as ordered by a court of competent jurisdiction.

Sec. 23. NEW SECTION. 513B.9A ELIGIBILITY TO ENROLL.

A carrier or organized delivery system offering group health insurance coverage shall not establish rules for eligibility, including continued eligibility, of an individual to enroll under the terms of the coverage based on any of the following health status-related factors in relation to the individual or a dependent of the individual:

a. Health status.
b. Medical condition, including both physical and mental conditions.
c. Claims experience.
d. Receipt of health care.
e. Medical history.
f. Genetic information.
g. Evidence of insurability, including conditions arising out of acts of domestic violence.
h. Disability.

2. Subsection 1 does not require group health insurance coverage to provide particular benefits other than those provided under the terms of the coverage, and does not prevent a coverage from establishing limitations or restrictions on the amount, level, extent, or nature of the benefits or coverage for similarly situated individuals enrolled in the coverage.

3. Rules for eligibility to enroll under group health insurance coverage include rules defining any applicable waiting periods for such enrollment.

4. a. A carrier or organized delivery system offering health insurance coverage shall not require an individual, as a condition of enrollment or continued enrollment under the coverage, to pay a premium or contribution which is greater than a premium or contribution for a similarly situated individual enrolled in the coverage on the basis of a health status-related factor in relation to the individual or to a dependent of an individual enrolled under the coverage.

b. Paragraph "a" shall not be construed to do either of the following:

(1) Restrict the amount that an employer may be charged for health insurance coverage.

(2) Prevent a carrier or organized delivery system offering group health insurance coverage from establishing premium discounts or rebates or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

Sec. 24. Section 513B.10, Code 1997, is amended by striking the section and inserting in lieu thereof the following:

513B.10 AVAILABILITY OF COVERAGE.

1. a. A carrier or an organized delivery system that offers health insurance coverage in the small group market shall accept every small employer that applies for health insurance coverage and shall accept for enrollment under such coverage every eligible individual who applies for enrollment during the period in which the individual first becomes eligible to enroll under the terms of the health insurance coverage and shall not place any restriction which is inconsistent with eligibility rules established under this chapter. A carrier or organized delivery system shall offer health insurance coverage which constitutes a basic health benefit plan and which constitutes a standard health benefit plan.

b. A carrier or organized delivery system that offers health insurance coverage in the small group market through a network plan may do either of the following:

(1) Limit employers that may apply for such coverage to those with eligible individuals who live, work, or reside in the service area for such network plan.

(2) Deny such coverage to such employers within the service area of such plan if the carrier or organized delivery system has demonstrated to the applicable state authority, both of the following:

(a) The carrier or organized delivery system will not have the capacity to deliver services adequately to enrollees of any additional groups because of its obligations to existing group contract holders and enrollees.

(b) The carrier or organized delivery system is applying this subparagraph uniformly to all employers without regard to the claims experience of those employers and their employees and their dependents, or any health status-related factor relating to such employees or dependents.

c. A carrier or organized delivery system, upon denying health insurance coverage in any service area pursuant to paragraph "b", subparagraph (2), shall not offer coverage in the small group market within such service area for a period of one hundred eighty days after the date such coverage is denied.

d. A carrier or organized delivery system may deny health insurance coverage in the small group market if the issuer has demonstrated to the commissioner or director of public health both of the following:

(1) The carrier or organized delivery system does not have the financial reserves necessary to underwrite additional coverage.

(2) The carrier or organized delivery system is applying the provisions of this subparagraph uniformly to all employers in the small group market in this state consistent with state law and without regard to the claims experience of those employers and the employees and dependents of such employers, or any health status-related factor relating to such employees and their dependents.

e. A carrier or organized delivery system, upon denying health insurance coverage pursuant to paragraph "d", shall not offer coverage in connection with health insurance coverages in the small group market in this state for a period of one hundred eighty days after the date such coverage is denied or until the carrier or organized delivery system has demonstrated to the commissioner or director of public health that the carrier or organized delivery system has sufficient financial reserves to underwrite additional coverage, whichever is later. The commissioner or director may provide for the application of this paragraph on a service area-specific basis.

f. Paragraph "a" shall not be construed to preclude a carrier or organized delivery system from establishing employer contribution rules or group participation rules for the offering of health insurance coverage in the small group market.

2. A carrier or organized delivery system, subject to subsection 1, shall issue health insurance coverage to an eligible small employer that applies for the coverage and agrees to make the required premium payments and satisfy the other reasonable provisions of the health insurance coverage not inconsistent with this chapter. A carrier or organized delivery system is not required to issue health insurance coverage to a self-employed individual who is covered by, or is eligible for coverage under, health insurance coverage offered by an employer.

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

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

4. Health insurance coverage for small employers shall satisfy all of the following:

a. A carrier or organized delivery system offering group health insurance coverage, with respect to a participant or beneficiary, may impose a preexisting condition exclusion only as follows:

(1) The exclusion relates to a condition, whether physical or mental, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the six-month period ending on the enrollment date. However, genetic information shall not be treated as a condition under this subparagraph in the absence of a diagnosis of the condition related to such information.

(2) The exclusion extends for a period of not more than twelve months, or eighteen months in the case of a late enrollee, after the enrollment date.

(3) The period of any such preexisting condition exclusion is reduced by the aggregate of the periods of creditable coverage applicable to the participant or beneficiary as of the enrollment date.

b. A carrier or organized delivery system offering group health insurance coverage shall not impose any preexisting condition as follows:

(1) In the case of a child who is adopted or placed for adoption before attaining eighteen years of age and who, as of the last day of the thirty-day period beginning on the date of the adoption or placement for adoption, is covered under creditable coverage. This subparagraph shall not apply to coverage before the date of such adoption or placement for adoption.

(2) In the case of an individual who, as of the last day of the thirty-day period beginning with the date of birth, is covered under creditable coverage.

(3) Relating to pregnancy as a preexisting condition.

c. A carrier or organized delivery system shall waive any waiting period applicable to a

preexisting condition exclusion or limitation period with respect to particular services under health insurance coverage for the period of time an individual was covered by creditable coverage, provided that the creditable coverage was continuous to a date not more than sixty-three days prior to the effective date of the new coverage. Any period that an individual is in a waiting period for any coverage under group health insurance coverage, or is in an affiliation period, shall not be taken into account in determining the period of continuous coverage. A health maintenance organization that does not use preexisting condition limitations in any of its health insurance coverage may impose an affiliation period. For purposes of this section, "affiliation period" means a period of time not to exceed sixty days for new entrants and not to exceed ninety days for late enrollees during which no premium shall be collected and coverage issued is not effective, so long as the affiliation period is applied uniformly, without regard to any health status-related factors. This paragraph does not preclude application of a waiting period applicable to all new enrollees under the health insurance coverage, provided that any carrier or organized delivery system-imposed waiting period is no longer than sixty days and is used in lieu of a preexisting condition exclusion.

d. Health insurance coverage may exclude coverage for late enrollees for preexisting conditions for a period not to exceed eighteen months.

e. (1) Requirements used by a carrier or organized delivery system in determining whether to provide coverage to a small employer shall be applied uniformly among all small employers applying for coverage or receiving coverage from the carrier or organized delivery system.

(2) In applying minimum participation requirements with respect to a small employer, a carrier or organized delivery system shall not consider employees or dependents who have other creditable coverage in determining whether the applicable percentage of participation is met.

(3) A carrier or organized delivery system shall not increase any requirement for minimum employee participation or modify any requirement for minimum employer contribution applicable to a small employer at any time after the small employer has been accepted for coverage.

f. (1) If a carrier or organized delivery system offers coverage to a small employer, the carrier or organized delivery system shall offer coverage to all eligible employees of the small employer and the employees' dependents. A carrier or organized delivery system shall not offer coverage to only certain individuals or dependents in a small employer group or to only part of the group.

(2) Except as provided under paragraphs "a" and "d", a carrier or organized delivery system shall not modify health insurance coverage with respect to a small employer or any eligible employee or dependent through riders, endorsements, or other means, to restrict or exclude coverage or benefits for certain diseases, medical conditions, or services otherwise covered by the health insurance coverage.

g. A carrier or organized delivery system offering coverage through a network plan shall not be required to offer coverage or accept applications pursuant to subsection 1 with respect to a small employer where any of the following apply:

(1) The small employer does not have eligible individuals who live, work, or reside in the service area for the network plan.

(2) The small employer does have eligible individuals who live, work, or reside in the service area for the network plan, but the carrier or organized delivery system, if required, has demonstrated to the commissioner or the director of public health that it will not have the capacity to deliver services adequately to enrollees of any additional groups because of its obligations to existing group contract holders and enrollees and that it is applying the requirements of this lettered paragraph uniformly to all employers without regard to the claims experience of those employers and their employees and the employees' dependents, or any health status-related factor relating to such employees and dependents.

(3) A carrier or organized delivery system, upon denying health insurance coverage in a service area pursuant to subparagraph (2), shall not offer coverage in the small employer market within such service area for a period of one hundred eighty days after the coverage is denied.

5. A carrier or organized delivery system shall not be required to offer coverage to small employers pursuant to subsection 1 for any period of time where the commissioner or director of public health determines that the acceptance of the offers by small employers in accordance with subsection 1 would place the carrier or organized delivery system in a financially impaired condition.

6. A carrier or organized delivery system shall not be required to provide coverage to small employers pursuant to subsection 1 if the carrier or organized delivery system elects not to offer new coverage to small employers in this state. However, a carrier or organized delivery system that elects not to offer new coverage to small employers under this subsection shall be allowed to maintain its existing policies in the state, subject to the requirements of section 513B.5.

7. A carrier or organized delivery system that elects not to offer new coverage to small employers pursuant to subsection 6 shall provide notice to the commissioner or director of public health and is prohibited from writing new business in the small employer market in this state for a period of five years from the date of notice to the commissioner or director.

Sec. 25. Section 513B.11, subsection 2, Code 1997, is amended to read as follows:

2. A reinsuring carrier that applies and is approved to operate as a risk-assuming carrier shall not be permitted to continue to reinsure any health ~~benefit plan~~ insurance coverage with the program. The carrier shall pay a prorated assessment based upon business issued as a reinsuring carrier for any portion of the year that the business was reinsured.

Sec. 26. Section 513B.13, subsection 7, unnumbered paragraph 1, Code 1997, is amended to read as follows:

The same general powers and authority granted under the laws of this state to insurance companies and health maintenance organizations licensed to transact business in this state may be exercised by the board under the program, except the power to issue health ~~benefit plans~~ insurance coverages directly to either groups or individuals. Additionally, the board is granted the specific authority to do all or any of the following:

Sec. 27. Section 513B.13, subsection 7, paragraph d, Code 1997, is amended to read as follows:

d. Define the health ~~benefit plans~~ insurance coverages for which reinsurance will be provided, and issue reinsurance policies, pursuant to this subchapter.

Sec. 28. Section 513B.13, subsection 8, paragraph b, Code 1997, is amended to read as follows:

b. A small employer carrier may reinsure an entire employer group within sixty days of the commencement of the group's coverage under ~~a health benefit plan~~ health insurance coverage.

Sec. 29. Section 513B.13, subsection 9, paragraph a, Code 1997, is amended to read as follows:

a. The board, as part of the plan of operation, shall establish a methodology for determining premium rates to be charged by the program for reinsuring small employers and individuals pursuant to this section. The methodology shall include a system for classification of small employers that reflects the types of case characteristics commonly used by small employer carriers in the state. The methodology shall provide for the development of base reinsurance premium rates, which shall be multiplied by the factors set forth in paragraph "b" to determine the premium rates for the program. The base reinsurance premium rates shall be established by the board, subject to the approval of the commis-

sioner, and shall be set at levels which reasonably approximate gross premiums charged to small employers by small employer carriers for health ~~benefit plans~~ insurance coverages with benefits similar to the standard health benefit plan.

Sec. 30. Section 513B.13, subsection 10, Code 1997, is amended to read as follows:

10. If ~~a health benefit plan~~ health insurance coverage for a small employer is entirely or partially reinsured with the program, the premium charged to the small employer for any rating period for the coverage issued shall meet the requirements relating to premium rates set forth in section 513B.4.

Sec. 31. Section 513B.13, subsection 11, paragraph b, subparagraphs (1), (2), and (3), Code 1997, are amended to read as follows:

(1) The board shall establish, as part of the plan of operation, a formula by which to make assessments against reinsuring carriers. The assessment formula shall be based on both of the following:

(a) Each reinsuring carrier's share of the total premiums earned in the preceding calendar year from health ~~benefit plans~~ insurance coverages delivered or issued for delivery to small employers in this state by reinsuring carriers.

(b) Each reinsuring carrier's share of the premiums earned in the preceding calendar year from newly issued health ~~benefit plans~~ insurance coverages delivered or issued for delivery during such calendar year to small employers in this state by reinsuring carriers.

(2) The formula established pursuant to subparagraph (1) shall not result in any reinsuring carrier having an assessment share that is less than fifty percent nor more than one hundred fifty percent of an amount which is based on the proportion of the reinsuring carrier's total premiums earned in the preceding calendar year from health ~~benefit plans~~ insurance coverages delivered or issued for delivery to small employers in this state by reinsuring carriers to total premiums earned in the preceding calendar year from health ~~benefit plans~~ insurance coverages delivered or issued for delivery to small employers in this state by all reinsuring carriers.

(3) The board, with approval of the commissioner, may change the assessment formula established pursuant to subparagraph (1) from time to time as appropriate. The board may provide for the shares of the assessment base attributable to premiums from all health ~~benefit plans~~ insurance coverages and to premiums from newly issued health ~~benefit plans~~ insurance coverages to vary during a transition period.

Sec. 32. Section 513B.13, subsection 11, paragraph c, subparagraph (3), Code 1997, is amended to read as follows:

(3) For any calendar year, the amount specified in this subparagraph is five percent of total premiums earned in the previous year from health ~~benefit plans~~ insurance coverages delivered or issued for delivery to small employers in this state by reinsuring carriers.

Sec. 33. Section 513B.15, Code 1997, is amended to read as follows:

513B.15 PERIODIC MARKET EVALUATION.

The board shall study and report at least every three years to the commissioner on the effectiveness of this subchapter. The report shall analyze the effectiveness of the subchapter in promoting rate stability, product availability, and coverage affordability. The report may contain recommendations for actions to improve the overall effectiveness, efficiency, and fairness of the small group health insurance marketplace. The report shall address whether carriers and producers are fairly and actively marketing or issuing health ~~benefit plans~~ insurance coverages to small employers in fulfillment of the purposes of this subchapter. The report may contain recommendations for market conduct or other regulatory standards or action.

Sec. 34. Section 513B.17, subsection 3, Code 1997, is amended to read as follows:

3. The commissioner may adopt, by rule or order, transition provisions to facilitate ~~the~~

~~orderly and coordinated implementation of 1992 Iowa Acts, chapter 1167~~ the implementation and administration of this chapter.

Sec. 35. Section 513B.17A, Code 1997, is amended to read as follows:

513B.17A RESTORATION OF TERMINATED COVERAGE.

The commissioner may adopt rules to require small employer carriers, as a condition of transacting business with small employers in this state after July 1, 1993, to reissue ~~a health benefit plan~~ health insurance coverage to any small employer whose health ~~benefit plan~~ insurance coverage is terminated or not renewed by a carrier after January 1, 1993, unless the carrier's termination is pursuant to section 513B.5. The commissioner may prescribe such terms for the reissuance of coverage as the commissioner finds are reasonable and necessary to provide continuity of coverage to such employers.

Sec. 36. Section 513C.6, Code 1997, is amended by striking the section and inserting in lieu thereof the following:

513C.6 PROVISIONS ON RENEWABILITY OF COVERAGE.

1. An individual health benefit plan subject to this chapter is renewable with respect to an eligible individual or dependents, at the option of the individual, except for one or more of the following reasons:

a. The individual fails to pay, or to make timely payment of, premiums or contributions pursuant to the terms of the individual health benefit plan.

b. The individual performs an act or practice constituting fraud or makes an intentional misrepresentation of a material fact under the terms of the individual health benefit plan.

c. A decision by the individual carrier or organized delivery system to discontinue offering a particular type of individual health benefit plan in the state's individual insurance market. An individual health benefit plan may be discontinued by the carrier or organized delivery system in that market with the approval of the commissioner or the director and only if the carrier or organized delivery system does all of the following:

(1) Provides advance notice of its decision to discontinue such plan to the commissioner or director. Notice to the commissioner or director, at a minimum, shall be no less than three days prior to the notice provided for in subparagraph (2) to affected individuals.

(2) Provides notice of its decision not to renew such plan to all affected individuals no less than ninety days prior to the nonrenewal date of any discontinued individual health benefit plans.

(3) Offers to each individual of the discontinued plan the option to purchase any other health plan currently offered by the carrier or organized delivery system to individuals in this state.

(4) Acts uniformly in opting to discontinue the plan and in offering the option under subparagraph (3), without regard to the claims experience of any affected eligible individual or beneficiary under the discontinued plan or to a health status-related factor relating to any covered individuals or beneficiaries who may become eligible for the coverage.

d. A decision by the carrier or organized delivery system to discontinue offering and to cease to renew all of its individual health benefit plans delivered or issued for delivery to individuals in this state. A carrier or organized delivery system making such decision shall do all of the following:

(1) Provide advance notice of its decision to discontinue such plan to the commissioner or director. Notice to the commissioner or director, at a minimum, shall be no less than three days prior to the notice provided for in subparagraph (2) to affected individuals.

(2) Provide notice of its decision not to renew such plan to all individuals and to the commissioner or director in each state in which an individual under the discontinued plan is known to reside no less than one hundred eighty days prior to the nonrenewal of the plan.

e. The commissioner or director finds that the continuation of the coverage is not in the best interests of the individuals, or would impair the carrier's or organized delivery system's

ability to meet its contractual obligations.

2. At the time of coverage renewal, a carrier or organized delivery system may modify the health insurance coverage for a policy form offered to individuals in the individual market so long as such modification is consistent with state law and effective on a uniform basis among all individuals with that policy form.

3. An individual carrier or organized delivery system that elects not to renew an individual health benefit plan under subsection 1, paragraph "d", shall not write any new business in the individual market in this state for a period of five years after the date of notice to the commissioner or director.

4. This section, with respect to a carrier or organized delivery system doing business in one established geographic service area of the state, applies only to such carrier's or organized delivery system's operations in that service area.

5. A carrier or organized delivery system offering coverage through a network plan is not required to renew or continue in force coverage or to accept applications from an individual who no longer resides or lives in, or is no longer employed in, the service area of such carrier or organized delivery system, or no longer resides or lives in, or is no longer employed in, a service area for which the carrier is authorized to do business, but only if coverage is not offered or terminated uniformly without regard to health status-related factors of a covered individual.

6. A carrier or organized delivery system offering coverage through a bona fide association is not required to renew a* continue in force coverage or to accept applications from an individual through an association if the membership of the individual in the association on which the basis of coverage is provided ceases, but only if the coverage is not offered or terminated under this paragraph uniformly without regard to health status-related factors of a covered individual.

Sec. 37. Section 513C.7, subsection 1, paragraph b, Code 1997, is amended to read as follows:

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

Sec. 38. Section 513C.7, subsection 2, Code 1997, is amended to read as follows:

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~~ sixty-three days of notification of a premium rate increase applicable to the underwritten benefit plan.

Sec. 39. Section 513C.7, subsection 4, paragraph b, Code 1997, is amended to read as follows:

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~~ sixty-three days prior to the effective date of the new coverage.

Sec. 40. Section 513C.9, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. Notwithstanding subsection 4, a commission shall be paid to an agent related to the sale of a basic or standard health benefit plan under this chapter. A commission paid pursuant to this subsection shall not be considered by the board for purposes of section 513C.10, subsection 9.

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* The word "or" probably intended

Sec. 41. NEW SECTION. 513C.12 COMMISSIONER'S DUTIES.
The commissioner shall adopt rules administering this chapter.

Sec. 42. Section 514E.1, Code 1997, is amended by adding the following new subsections:

NEW SUBSECTION. 3A. "Church plan" means the same as defined in the federal Employee Retirement Income Security Act of 1974, 29 U.S.C. § 3(33).

NEW SUBSECTION. 4A. "Creditable coverage" means health benefits or coverage provided to an individual under any of the following:

a. A group health plan.

b. Health insurance coverage.

c. Part A or Part B Medicare pursuant to Title XVIII of the federal Social Security Act.

d. Medicaid pursuant to Title XIX of the federal Social Security Act, other than coverage consisting solely of benefits under section 1928 of that Act.

e. 10 U.S.C. ch. 55.

f. A health or medical care program provided through the Indian health service or a tribal organization.

g. A state health benefits risk pool.

h. A health plan offered under 5 U.S.C. ch. 89.

i. A public health plan as defined under federal regulations.

j. A health benefit plan under section 5(e) of the federal Peace Corps Act, 22 U.S.C. § 2504(e).

k. An organized delivery system licensed by the director of public health.

NEW SUBSECTION. 4B. "Director" means the director of public health.

NEW SUBSECTION. 5A. "Federally eligible individual" means an individual who satisfies the following:

a. For whom, as of the date on which the individual seeks coverage under this chapter, the aggregate of the periods of creditable coverage is eighteen or more months with no more than a sixty-three day lapse of coverage, and whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan, or health insurance coverage offered in connection with any such plan.

b. Who is not eligible for coverage under a group health plan, Part A or Part B of Title XVIII of the federal Social Security Act, or a state plan under Title XIX of that Act, or any successor program, and does not have other health insurance coverage.

c. With respect to whom the most recent coverage within the coverage period described in paragraph "a" was not terminated based on a nonpayment of premiums or fraud.

d. If the individual had been offered the option of continuation coverage under a COBRA continuation provision or under a similar state program, and elected such coverage.

e. Who, if the individual elected continuation coverage as provided in paragraph "d", has exhausted the continuation coverage under the provision or program.

NEW SUBSECTION. 5B. "Governmental plan" means as defined under section 3(32) of the federal Employee Retirement Income Security Act of 1974 and any federal governmental plan.

NEW SUBSECTION. 5C. a. "Group health plan" means an employee welfare benefit plan as defined in section 3(1) of the federal Employee Retirement Income Security Act of 1974, to the extent that the plan provides medical care including items and services paid for as medical care to employees or their dependents as defined under the terms of the plan directly or through insurance, reimbursement, or otherwise.

b. For purposes of this subsection, "medical care" means amounts paid for any of the following:

(1) The diagnosis, cure, mitigation, treatment, or prevention of disease, or amounts paid for the purpose of affecting a structure or function of the body.

(2) Transportation primarily for and essential to medical care referred to in subparagraph (1).

(3) Insurance covering medical care referred to in subparagraph (1) or (2).

c. For purposes of this chapter, the following apply:

(1) A plan, fund, or program established or maintained by a partnership which, but for this subsection, would not be an employee welfare benefit plan, shall be treated as an employee welfare benefit plan which is a group health plan to the extent that the plan, fund, or program provides medical care, including items and services paid for as medical care for present or former partners in the partnership or to the dependents of such partners, as defined under the terms of the plan, fund, or program, either directly or through insurance, reimbursement, or otherwise.

(2) With respect to a group health plan, the term "employer" includes a partnership with respect to a partner.

(3) With respect to a group health plan, the term participant includes the following:

(a) With respect to a group health plan maintained by a partnership, an individual who is a partner in the partnership.

(b) With respect to a group health plan maintained by a self-employed individual under which one or more of the self-employed individual's employees are participants, the self-employed individual, if that individual is, or may become, eligible to receive benefits under the plan or the individual's dependents may be eligible to receive benefits under the plan.

NEW SUBSECTION. 8A. a. "Health insurance coverage" means health insurance coverage offered to individuals, but does not include short-term limited duration insurance.

b. "Health insurance coverage" does not include any of the following:

(1) Coverage for accident-only, or disability income insurance.

(2) Coverage issued as a supplement to liability insurance.

(3) Liability insurance, including general liability insurance and automobile liability insurance.

(4) Workers' compensation or similar insurance.

(5) Automobile medical-payment insurance.

(6) Credit-only insurance.

(7) Coverage for on-site medical clinic care.

(8) Other similar insurance coverage, specified in federal regulations, under which benefits for medical care are secondary or incidental to other insurance coverage or benefits.

c. "Health insurance coverage" does not include benefits provided under a separate policy as follows:

(1) Limited-scope dental or vision benefits.

(2) Benefits for long-term care, nursing home care, home health care, or community-based care.

(3) Any other similar limited benefits as provided by rule of the commissioner.

d. "Health insurance coverage" does not include benefits offered as independent noncoordinated benefits as follows:

(1) Coverage only for a specified disease or illness.

(2) A hospital indemnity or other fixed indemnity insurance.

e. "Health insurance coverage" does not include Medicare supplemental health insurance as defined under section 1882(g)(1) of the federal Social Security Act, coverage supplemental to the coverage provided under 10 U.S.C. ch. 55 and similar supplemental coverage provided to coverage under group health insurance coverage.

NEW SUBSECTION. 10A. "Involuntary termination" includes, but is not limited to, termination of coverage when a conversion policy is not available or where benefits under a state or federal law providing for continuation of coverage upon termination of employment will cease or have ceased.

NEW SUBSECTION. 12A. "Organized delivery system" means an organized delivery system as licensed by the director of the department of public health.

NEW SUBSECTION. 15. "Preexisting condition exclusion", with respect to coverage, means a limitation or exclusion of benefits relating to a condition based on the fact that the

condition was present before the date of enrollment for such coverage, whether or not any medical advice, diagnosis, care, or treatment was recommended or received before such date.

Sec. 43. Section 514E.1, subsection 9, Code 1997, is amended by striking the subsection.

Sec. 44. Section 514E.2, subsection 1, Code 1997, is amended to read as follows:

1. There is established a nonprofit corporation known as the Iowa comprehensive health insurance association which shall assure that health insurance, as limited by sections 514E.4 and 514E.5, is made available to each eligible Iowa resident and each federally eligible individual applying to the association for coverage. All carriers as defined in section 514E.1, subsection 3, and all organized delivery systems licensed by the director of public health providing health insurance or health care services in Iowa shall be members of the association. The association shall operate under a plan of operation established and approved under subsection 3 and shall exercise its powers through a board of directors established under this section.

Sec. 45. Section 514E.2, subsection 2, unnumbered paragraph 1, Code 1997, is amended to read as follows:

The board of directors of the association shall consist of four members selected by the members of the association, two of whom shall be representatives from corporations operating pursuant to chapter 514 on July 1, 1989, or any successors in interest, and two of whom shall be representatives of organized delivery systems or insurers providing coverage pursuant to chapter 509 or 514A; four public members selected by the governor; the commissioner or the commissioner's designee from the division of insurance; and two members of the general assembly, one of whom shall be appointed by the speaker of the house and one of whom shall be appointed by the president of the senate, after consultation with the majority leader and the minority leader of the senate, who shall be ex officio and nonvoting members. The composition of the board of directors shall be in compliance with sections 69.16 and 69.16A. The governor's appointees shall be chosen from a broad cross-section of the residents of this state.

Sec. 46. Section 514E.2, subsection 3, paragraph f, Code 1997, is amended by striking the paragraph.

Sec. 47. Section 514E.2, subsection 7, Code 1997, is amended to read as follows:

7. Following the close of each calendar year, the association shall determine the net premiums and payments, the expenses of administration, and the incurred losses of the association for the year. The association shall certify the amount of any net loss for the preceding calendar year to the commissioner of insurance and director of revenue and finance ~~who shall make payment to the association according to procedures established under subsection 3, paragraph "f"~~. Any ~~remaining~~ loss~~, after payment to the association from the health insurance trust fund,~~ 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 in any part 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 members of the association if necessary to assure the financial capability of the association to meet the incurred or estimated claims expenses or operating expenses of the association until the next calendar year is completed. Net gains, if any, must be held at interest to offset future losses or allocated to reduce future premiums.

Sec. 48. Section 514E.2, subsection 12, Code 1997, is amended by striking the subsection.

Sec. 49. Section 514E.5, subsection 2, Code 1997, is amended to read as follows:

2. Services and charges made for benefits provided under the laws of the United States, ~~including~~ excluding Medicare and Medicaid, military service-connected disabilities, but including medical services provided for members of the armed forces and their dependents or for employees of the armed forces of the United States, and medical services financed on behalf of all citizens by the United States.

However, the association policy shall pay benefits as a primary payer in any case where benefit coverage provided under the laws of the United States~~, including Medicare and Medicaid,~~ or under the laws of this state is, by rule or statute, secondary to all other coverages.

Sec. 50. Section 514E.6, subsection 3, paragraph e, Code 1997, is amended by striking the paragraph and inserting in lieu thereof the following:

e. An amount as determined by the association for any other association policy offered.

Sec. 51. Section 514E.6, subsection 6, Code 1997, is amended by striking the subsection and inserting in lieu thereof the following:

6. The association, in addition to other policies, shall offer one which is comparable to the standard health benefit plan as defined in section 513B.2.

Sec. 52. Section 514E.7, subsections 1, 2, and 5, Code 1997, are amended by striking the subsections and inserting in lieu thereof the following:

1. An individual who is and continues to be a resident is eligible for plan coverage if evidence is provided of any of the following:

a. A notice of rejection or refusal to issue substantially similar insurance for health reasons by one carrier or organized delivery system.

b. A refusal by a carrier or organized delivery system to issue insurance except at a rate exceeding the plan rate.

c. That the individual is a federally defined eligible individual.

A rejection or refusal by a carrier or organized delivery system offering only stoploss, excess of loss, or reinsurance coverage with respect to an applicant under paragraphs "a" and "b" is not sufficient evidence for purposes of this subsection.

5. a. A preexisting condition exclusion shall not apply to a federally defined eligible individual.

b. Plan coverage shall not impose any preexisting condition as follows:

(1) In the case of a child who is adopted or placed for adoption before attaining eighteen years of age and who, as of the last day of the thirty-day period beginning on the date of the adoption or placement for adoption, is covered under creditable coverage. This subparagraph shall not apply to coverage before the date of such adoption or placement for adoption.

(2) In the case of an individual who, as of the last day of the thirty-day period beginning with the date of birth, is covered under creditable coverage.

(3) Relating to pregnancy as a preexisting condition.

c. Plan coverage shall exclude charges or expenses incurred during the first six months following the effective date of coverage for preexisting conditions. Such preexisting condition exclusions shall be waived to the extent that similar exclusions, if any, have been satisfied under any prior health insurance coverage which was involuntarily terminated, provided both of the following apply:

(1) Application for association coverage is made no later than sixty-three days following such involuntary termination and, in such case, coverage under the plan is effective from the date on which such prior coverage was terminated.

(2) The applicant is not eligible for continuation or conversion rights that would provide

coverage substantially similar to plan coverage.

d. This subsection does not prohibit preexisting conditions coverage in an association policy that is more favorable to the insured than that specified in this subsection.

If the association policy contains a waiting period for preexisting conditions, an insured may retain any existing coverage the insured has under an insurance plan that has coverage equivalent to the association policy for the duration of the waiting period only.

Sec. 53. Section 514E.7, subsection 6, Code 1997, is amended to read as follows:

6. An individual is not eligible for coverage by the association if any of the following apply:

a. The individual is at the time of application eligible for health care benefits under chapter 249A.

b. The individual has terminated coverage by the association within the past twelve months, except that this paragraph does not apply to an applicant who is a federally eligible individual.

c. The individual is an inmate of a public institution ~~or is eligible for public programs for which medical care is provided~~, except that this paragraph does not apply to an applicant who is a federally defined eligible individual.

d. The individual premiums are paid for or reimbursed under any government sponsored program or by any government agency or health care provider, except as an otherwise qualifying full-time employee, or dependent of the employee, of a government agency or health care provider.

e. The individual, on the effective date of the coverage applied for, has not been rejected for, already has, or will have coverage similar to an association policy as an insured or covered dependent. This paragraph does not apply to an applicant who is a federally eligible individual.

Sec. 54. Section 514E.9, Code 1997, is amended to read as follows:

514E.9 RULES.

Pursuant to chapter 17A, the commissioner and the director of public health shall adopt rules to provide for disclosure by carriers and organized delivery systems of the availability of insurance coverage from the association, and to otherwise implement this chapter.

Sec. 55. Section 514E.11, Code 1997, is amended to read as follows:

514E.11 NOTICE OF ASSOCIATION POLICY.

~~Commencing July 1, 1986, every~~ Every carrier, including a health maintenance organization subject to chapter 514B and an organized delivery system, authorized to provide health care insurance or coverage for health care services in Iowa, shall provide a notice ~~and an application for~~ of the availability of coverage by the association to any person who receives a rejection of coverage for health insurance or health care services, or a notice to any person who is informed that a rate for health insurance or coverage for health care services will exceed the rate of an association policy, ~~that effective January 1, 1987,~~ that person is eligible to apply for health insurance provided by the association. Application for the health insurance shall be on forms prescribed by the board and made available to the carriers and organized delivery systems.

Sec. 56. Section 514E.3, Code 1997, is repealed.

Approved May 1, 1997

CHAPTER 104

TRANSPORTATION REGULATION

H.F. 704

AN ACT relating to substantive and other provisions affecting the state department of transportation and driver, motor vehicle, and highway regulation, including the definition of road work zones, registration fees for certain disaster relief vehicles, providing grounds for refusing renewal of vehicle registrations, regulation of intrastate motor carriers, imposing fees, providing for an electronic titling and registration program, creating, eliminating, or enhancing penalties, and providing effective dates.

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

Section 1. Section 306B.2, subsection 3, Code 1997, is amended by striking the subsection.

Sec. 2. Section 306C.11, subsection 3, Code 1997, is amended to read as follows:

3. a. Advertising devices within the adjacent area located in commercial or industrial zones or in unzoned commercial or industrial areas in compliance with the regulatory standards of this division and rules promulgated by the department.

b. The rules shall be consistent with national standards promulgated pursuant to 23 U.S.C. § 131 and shall include at least the following:

(1) Provision for a fee schedule to cover the direct and indirect costs related to issuing permits and control of outdoor advertising.

(2) Specific permit requirements.

(3) Criteria for on-premise signs.

(4) Provisions specifying the measurement of required spacing.

(5) Provisions specifying conforming sign configurations.

Sec. 3. Section 306C.18, subsections 1 and 4, Code 1997, are amended to read as follows:

1. The application for a permit shall be on a form provided by the department and shall contain the name and address of the owner of the advertising device and the name and address of the owner of the real property on which it is located; the date of its erection; a description of its location; its dimensions; and such other information required by the department, together with a permit fee as provided in this section or rule adopted by the department.

4. The fee for both types of permits for calendar years 1997 and 1998 shall be one hundred dollars for the initial fee and fifteen dollars for each annual renewal for signs up to three hundred seventy-five square feet in area, twenty-five dollars for each annual renewal for signs at least three hundred seventy-six, but not more than nine hundred ninety-nine, square feet in area, and fifty dollars for each annual renewal for signs one thousand square feet or more in area. Beginning January 1, 1999, fees shall be as determined by rule by the department. The fees collected for the above permits shall be credited to a special account entitled the "highway beautification fund" and all salaries and expenses incurred in administering this chapter shall be paid from this fund or from specific appropriations for this purpose, except that surveillance of, and removal of, advertising devices performed by regular maintenance personnel are not to be charged against the account.

Sec. 4. Section 310.18, Code 1997, is amended to read as follows:

310.18 PARTIAL PAYMENTS DURING CONSTRUCTION.

Partial payments may be made on ~~the~~ work ~~during the~~ in progress ~~thereof~~, but no such partial payment shall be deemed final acceptance of the work nor a waiver of any defect ~~therein~~ in the work. The ~~approval of any claims by the~~ board of supervisors, the county engineer, or ~~by~~ the department may approve claims. Approval may be evidenced by the signature of the county engineer or chairperson of ~~said~~ the board or department, or a major-

ity of the members of the board or department, on the individual claims or on the abstract of a number of claims with the individual claims attached to ~~said~~ the abstract.

Sec. 5. Section 321.1, subsection 64A, Code 1997, is amended to read as follows:

64A. "Road ~~construction~~ work zone" means the portion of a highway which is identified by posted or moving signs as ~~being under~~ the site of construction, maintenance, survey, or utility work. The zone starts upon meeting the first sign identifying the zone and continues until a posted or moving sign indicates that the ~~construction~~ work zone has ended.

Sec. 6. Section 321.19, subsection 1, unnumbered paragraph 1, Code 1997, is amended to read as follows:

1. All vehicles owned or leased for a period of sixty days or more by the government and used in the transaction of official business by the representatives of foreign governments or by officers, boards, or departments of the government of the United States, and by the state, counties, municipalities and other political subdivisions of the state including vehicles used by an urban transit company operated by a municipality or a regional transit system, and self-propelling vehicles used neither for the conveyance of persons for hire, pleasure, or business nor for the transportation of freight other than those used by an urban transit company operated by a municipality or a regional transit system, ~~and~~ all fire trucks, providing they are not owned and operated for a pecuniary profit, and authorized emergency vehicles used only in disaster relief owned and operated by an organization not operated for pecuniary profit, are exempted from the payment of the fees imposed by this chapter, except as provided for urban transit companies in subsection 2, but are not exempt from the penalties provided in this chapter.

Sec. 7. Section 321.20, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding contrary provisions of this chapter or chapter 326 regarding titling and registration by means other than electronic means, the department may develop and implement a program to test the feasibility of electronic applications, titling, registering, and electronic funds transfer for vehicles traveling in interstate commerce in order to improve the efficiency and timeliness of the processes and to reduce costs for all parties involved.

Sec. 8. Section 321.34, Code 1997, is amended by adding the following new subsections:

NEW SUBSECTION. 11A. LOVE OUR KIDS PLATES.

a. Upon application and payment of the proper fees, the director may issue "love our kids" plates to the owner of a motor vehicle subject to registration under section 321.109, subsection 1, light delivery truck, panel delivery truck, pickup, motor home, multipurpose vehicle, or travel trailer.

b. Love our kids plates shall be designed by the department in cooperation with the Iowa department of public health.

c. The special fee for letter number designated love our kids plates is thirty-five dollars. The fee for personalized love our kids plates is twenty-five dollars, which shall be paid in addition to the special love our kids fee of thirty-five dollars. The fees collected by the director under this subsection shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.24, and prior to the crediting of revenues to the road use tax fund under section 423.24, subsection 1, paragraph "d", the treasurer of state shall transfer monthly from those revenues to the Iowa department of public health the amount of the special fees collected in the previous month for the love our kids plates.

d. Upon receipt of the special registration plates, the applicant shall surrender the current registration receipt and plates to the county treasurer. The county treasurer shall validate the special registration plates in the same manner as regular registration plates are validated under this section. The annual special love our kids fee for letter number designated plates is ten dollars, which shall be paid in addition to the regular annual registration fee.

The annual fee for personalized love our kids plates is five dollars, which shall be paid in addition to the annual special love our kids fee and the regular annual registration fee. The annual love our kids fee shall be credited as provided under paragraph "c".

NEW SUBSECTION. 11B. MOTORCYCLE RIDER EDUCATION PLATES.

a. Upon application and payment of the proper fees, the director may issue "motorcycle rider education" plates to the owner of a motor vehicle subject to registration under section 321.109, subsection 1, light delivery truck, panel delivery truck, pickup, motor home, multipurpose vehicle, or travel trailer.

b. Motorcycle rider education plates shall be designed by the department.

c. The special fee for letter number designated motorcycle rider education plates is thirty-five dollars. The fee for personalized motorcycle rider education plates is twenty-five dollars, which shall be paid in addition to the special motorcycle rider education fee of thirty-five dollars. The fees collected by the director under this subsection shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.24, and prior to the crediting of revenues to the road use tax fund under section 423.24, subsection 1, paragraph "d", the treasurer of state shall transfer monthly from those revenues to the department for use in accordance with section 321.189, subsection 9, the amount of the special fees collected in the previous month for the motorcycle rider education plates.

d. Upon receipt of the special registration plates, the applicant shall surrender the current registration receipt and plates to the county treasurer. The county treasurer shall validate the special registration plates in the same manner as regular registration plates are validated under this section. The annual special motorcycle rider education fee for letter number designated plates is ten dollars, which shall be paid in addition to the regular annual registration fee. The annual fee for personalized motorcycle rider education plates is five dollars, which shall be paid in addition to the annual special motorcycle rider education fee and the regular annual registration fee. The annual motorcycle rider education fee shall be credited as provided under paragraph "c".

Sec. 9. Section 321.34, subsection 13, paragraph c, Code 1997, is amended to read as follows:

c. ~~If the~~ The department ~~recommends approval of a proposed special registration plate, the department shall forward the recommendation to the committees on transportation of the general assembly by January 15 of each year~~ shall adopt rules pursuant to chapter 17A regarding the approval and issuance of special registration plates. ~~The proposed special registration plate shall not be issued unless the special registration plate is enacted into law.~~

Sec. 10. Section 321.34, subsection 13, Code 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. A state agency may submit a request to the department recommending a special registration plate. The alternate fee for letter number designated plates is thirty-five dollars with a ten dollar annual special renewal fee. The fee for personalized plates is twenty-five dollars which is in addition to the alternative fee of thirty-five dollars with an annual personalized plate renewal fee of five dollars which is in addition to the special renewal fee of ten dollars. The alternate fees are in addition to the regular annual registration fee. The alternate fees collected under this paragraph shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.24 and prior to the crediting of the revenues to the road use tax fund under section 423.24, subsection 1, paragraph "d", the treasurer of state shall credit monthly the amount of the alternate fees collected in the previous month to the state agency that recommended the special registration plate.

Sec. 11. Section 321.37, Code 1997, is amended by adding the following new unnumbered paragraph after the first unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Registration plates issued for a motor vehicle which is model year 1948 or older, and reconstructed or specially constructed vehicles built to resemble a model year 1948 vehicle or older, other than a truck registered for more than five tons, motorcycle or truck tractor, may display one registration plate on the rear of the vehicle if the other registration plate issued to the vehicle is carried in the vehicle at all times when the vehicle is operated on a public highway.

Sec. 12. Section 321.40, unnumbered paragraph 4, Code 1997, is amended to read as follows:

The county treasurer shall refuse to renew the registration of a vehicle registered to a person when notified by the department through the distributed teleprocessing network that the person has not paid restitution as defined under section 910.1, subsection 4, to ~~the~~ a clerk of the court located within ~~that county~~ the state. Each clerk of court shall, ~~subject to this section shall~~ on a daily basis, ~~by the last day of each month,~~ notify the ~~county treasurer of that county~~ department through the Iowa court information system of the full name and social security number of all persons who owe delinquent restitution and whose restitution obligation has been satisfied or canceled. ~~Immediately upon the cancellation or satisfaction of the restitution the clerk of court shall notify 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 twenty-five thousand or more. The provisions of this paragraph shall be applicable to any county with a population of less than twenty-five thousand upon the adoption of a resolution by the county board of supervisors so providing.~~

Sec. 13. Section 321.115, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Truck tractors and semitrailers used in combination for exhibition and educational purposes as described in subsection 1 may be registered, exhibited, and driven according to the provisions of subsection 1. Subsection 3 shall not apply to vehicles registered in accordance with this subsection.

Sec. 14. Section 321.166, subsection 1, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Trailers with empty weights of two thousand pounds or less may, upon request, be licensed with regular-sized license plates.

Sec. 15. Section 321.166, subsection 8, Code 1997, is amended to read as follows:

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

Sec. 16. Section 321.210, subsection 1, Code 1997, is amended to read as follows:

1. The department is authorized to establish rules providing for the suspension of the license of an operator upon ~~twenty~~ thirty days' notice and without preliminary hearing upon a showing by its records or other sufficient evidence that the licensee:

a. Is an habitually reckless or negligent driver of a motor vehicle.

b. Is an habitual violator of the traffic laws.

c. Is physically or mentally incapable of safely operating a motor vehicle.

d. Has permitted an unlawful or fraudulent use of the license.

e. Has committed an offense or acted in a manner in another state or foreign jurisdiction which in this state would be grounds for suspension or revocation.

f. Has committed a serious violation of the motor vehicle laws of this state.

g. Is subject to a license suspension under section 321.513.

Prior to a suspension taking effect under paragraph "a", "b", "c", "d", "e", or "f", the licensee shall have received thirty days' advance notice of the effective date of the suspension. Notwithstanding the terms of the Iowa administrative procedure Act, chapter 17A, the filing of a petition for judicial review shall, except for suspensions under paragraph "c", operate to stay the suspension pending the determination by the district court.

Sec. 17. Section 321.218, subsection 1, Code 1997, 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 or as provided in section 252J.8 or section 901.5, subsection 10, 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 serious misdemeanor.

Sec. 18. Section 321.233, Code 1997, is amended to read as follows:

321.233 ROAD WORKERS EXEMPTED.

This chapter, except sections 321.277 and 321.280, does not apply to persons and motor vehicles and other equipment while actually engaged in work upon the surface of a highway officially closed to traffic but does apply to such persons and vehicles when traveling to or from such work. The minimum speed restriction of section 321.285, subsection 6, and the provisions of sections 321.297, ~~and~~ 321.298, and 321.323 do not apply to road workers operating maintenance equipment ~~owned by or under lease to~~ on behalf of any state or local authority while engaged in road maintenance, road blading, snow and ice control and removal, and granular resurfacing work on a highway, whether or not the highway is closed to traffic.

Sec. 19. Section 321.253, unnumbered paragraph 2, Code 1997, is amended to read as follows:

The department shall post signs informing motorists that the scheduled fine for committing a moving traffic violation in a road ~~construction~~ work zone is doubled ~~or is one hundred dollars, whichever is less~~.

Sec. 20. Section 321.288, subsection 6, Code 1997, is amended to read as follows:

6. When approaching and passing through a sign posted ~~construction or maintenance~~ road work zone upon the public highway.

Sec. 21. Section 321.445, subsection 2, paragraph e, Code 1997, is amended to read as follows:

e. A person possessing a written certification from a ~~physician~~ health care provider licensed under chapter 148, 150, 150A, or 151 on a form provided by the department that the person is unable to wear a safety belt or safety harness due to physical or medical reasons. The certification shall specify the time period for which the exemption applies. The time period shall not exceed twelve months, at which time a new certification may be issued unless the certifying ~~physician~~ health care provider is from a United States military facility, in which case the certificate may specify a longer period of time or a permanent exemption.

Sec. 22. Section 321.463, Code 1997, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 3:

NEW UNNUMBERED PARAGRAPH. Machinery defined in section 321.1, subsection 32, paragraph "f", shall be operated in compliance with this section. However, machinery used exclusively for mixing and dispensing nutrients to bovine animals at feedlots is not required to comply with section 321.463 until July 1, 1999.

Sec. 23. Section 321.491, unnumbered paragraph 2, Code 1997, is amended to read as follows:

Within ten days after the conviction or forfeiture of bail of a person upon a charge of violating any provision of this chapter or other law regulating the operation of vehicles on

highways every magistrate of the court or clerk of the district court of record in which the conviction occurred or bail was forfeited shall prepare and immediately forward to the department an abstract of the record of the case. The abstract must be certified by the person preparing it to be true and correct. The clerk of the district court shall collect a fee of fifty cents for each copy of any record of conviction or forfeiture of bail furnished to any requestor except the department or other local, state, or federal government entity. Moneys collected under this section shall be transferred to the department as a repayment receipt, as defined in section 8.2, to enhance the efficiency of the department to process records and information between the department and the Iowa court information system.

Sec. 24. Section 321.555, subsection 1, Code 1997, is amended by adding the following new paragraphs:

NEW PARAGRAPH. g. Eluding or attempting to elude a pursuing law enforcement vehicle in violation of section 321.279.

NEW PARAGRAPH. h. Serious injury by a vehicle in violation of section 707.6A, subsection 3.

Sec. 25. Section 321E.8, subsection 4, Code 1997, is amended by striking the subsection.

Sec. 26. Section 321E.9, subsection 2, Code 1997, is amended to read as follows:

2. Vehicles with indivisible loads exceeding the width, length, and total gross weight provided in subsection 1, may be moved in special or emergency situations, provided the permitting authority has reviewed the route and has approved the movement of the vehicle and load. ~~The vehicle and load shall be accompanied by an escort as required by rules adopted pursuant to chapter 17A.~~ The issuing authority may impose any special restrictions as deemed necessary on movements or exempt movements from the restrictions of section 321E.11 by permit under this subsection.

Sec. 27. Section 321E.9, subsection 3, Code 1997, is amended by striking the subsection.

Sec. 28. Section 321E.11, unnumbered paragraph 1, Code 1997, is amended to read as follows:

Movements by permit in accordance with this chapter shall be permitted only during the hours from thirty minutes prior to sunrise to thirty minutes following 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 those highways designated by the department. Additional safety lighting and escorts may be required for movement at night.

Sec. 29. NEW SECTION. 321E.34 ESCORT REQUIREMENTS.

1. An operator of an escort vehicle, serving as an escort in the movement of vehicles and loads of excess size and weight under permits required by this chapter shall have a motor vehicle license as defined in section 321.1 valid for the operation of the escort vehicle.

2. Vehicles under permit, the width of which, including any load, exceeds that prescribed in section 321.454 but does not exceed fourteen feet six inches including appurtenances, may be moved on two-lane highways of this state without an escort if the highway being traversed has a minimum lane width of twelve feet and a sufficient shoulder width and if an amber revolving light or strobe light is displayed on the power unit and on the rear extremity of the vehicle or load. In addition, vehicles moving under permit, including any load, with an overall width not exceeding sixteen feet six inches may be moved on an interstate or four-lane highway of this state without an escort if an amber revolving light or strobe light is displayed on the power unit and on the rear extremity of the vehicle or load.

3. The department shall adopt rules pursuant to chapter 17A for all escort requirements other than those exempted in subsection 2. The rules shall include escorting requirements

for annual permits, single-trip permits, multitrip permits, special or emergency situations, length, height, and weight.

Sec. 30. Section 321J.13, subsection 3, Code 1997, is amended to read as follows:

3. After the hearing the department shall order that the revocation be either rescinded or sustained. 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~~ thirty 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 twenty days of the director's order.

Sec. 31. Section 321J.13, subsection 4, Code 1997, is amended by striking the subsection.

Sec. 32. NEW SECTION. 325A.1 DEFINITIONS.

As used in this chapter:

1. "Department" means the state department of transportation.

2. "Highway" means a street, road, bridge, or thoroughfare of any kind in this state.

3. "Interstate motor carrier number" means a United States department of transportation number or motor carrier number issued by the federal highway administration.

4. "Intrastate" means a movement of property or passengers from one location to another within this state. "Intrastate" does not include transportation of property or passengers which is a furtherance of an interstate movement.

5. "Motor carrier" means a person defined in subsection 7, 8, or 9.

6. "Motor carrier certificate" means a certificate issued by the department to any person transporting passengers on any highway of this state for hire. This certificate is transferable.

7. "Motor carrier of household goods" means a person engaged in the transportation, for hire, of personal effects and property used or to be used in a dwelling, and includes the following:

a. Furniture, fixtures, equipment and the property of stores, offices, museums, institutions, hospitals, or other establishments when a part of the stock, equipment, or supply of such establishment; except, this paragraph shall not be construed to include the stock-in-trade of any establishment, except when transported as an incident to the removal of the establishment from one location to another.

b. Articles including objects of art, displays, and exhibits, which because of their unusual nature or value, require the specialized handling and equipment usually employed in moving household goods.

8. "Motor carrier of liquid commodities" means a person engaged in the transportation, for hire, of liquid commodities or compressed gases in bulk upon any highway in this state.

9. "Motor carrier of property" means a person engaged in the transportation, for hire, of property by motor vehicle.

10. "Motor carrier permit" means a permit issued by the department to any person operating any motor vehicle on any highway of this state to transport property for hire. A motor carrier permit is not transferable unless it was issued to a motor carrier of household goods.

11. "Motor vehicle" means an automobile, motor truck, truck tractor, road tractor, motor bus, or other self-propelled vehicle, or a trailer, semitrailer, or other device used in connection with the transportation of property or passengers. "Motor vehicle" does not include a motor vehicle owned by a school district or used exclusively in conveying school children to and from school or school activities.

12. "Private carrier" means a person who provides transportation of property or passengers by motor vehicle, is not a for-hire motor carrier, or transports commodities of which the person is the owner, lessee, or bailee and the transportation is a furtherance of the person's primary business or occupation.

13. "Transportation for-hire" means all transportation of property or passengers made available by a person for compensation.

Sec. 33. NEW SECTION. 325A.2 DUTIES OF DEPARTMENT.

The department shall do all of the following:

1. Prescribe and enforce safety and financial responsibility regulations for motor carriers and require the filing of reports regarding safety and financial responsibility.

2. Approve a tariff for motor carriers of household goods.

3. Issue, amend, suspend, or revoke motor carrier permits and certificates.

Sec. 34. NEW SECTION. 325A.3 APPLICATION AND ISSUANCE OF PERMIT OR CERTIFICATE.

1. Upon the filing of an application by a motor carrier and compliance with the terms and conditions of this chapter, the department shall issue to the applicant a permit or certificate. The actual operation by a motor carrier of a motor vehicle shall not begin without the permit or certificate being issued by the department.

2. All applications shall be in writing and contain the following:

a. The name and tax identification number of the person making the application.

b. The applicant's principal place of business.

c. The type of permit or certificate being requested.

d. A signed statement agreeing to comply with all applicable safety regulations as prescribed by the department.

e. A copy of all existing tariffs provided to the department for approval by motor carriers of household goods.

f. A financial statement completed by motor carriers of liquid commodities or passengers from which the department can determine the financial fitness of the applicant to engage in the transport of liquid commodities or passengers.

g. A sponsor certification of support statement provided by charter carriers establishing a need for the proposed service.

h. A verification of liability and property damage insurance coverage as required in section 325A.6, in a form prescribed by the department.

3. The provisions of subsection 2, paragraph "f" and subsection 4, shall not apply to the transportation of dairy products.

4. Motor carriers of liquid commodities or passengers shall complete a motor carrier safety education seminar provided by or approved by the department. This seminar must be completed within six months of the permit or certificate issuance.

Sec. 35. NEW SECTION. 325A.4 FEES.

1. The department shall charge the following fees:

a. One hundred fifty dollars for a new application.

b. One hundred fifty dollars for a reinstatement.

c. Twenty-five dollars to change an address or name.

d. Ten dollars for tariff updates.

e. One hundred fifty dollars to transfer a passenger certificate.

f. Twenty-five dollars for a duplicate permit or certificate.

2. Changes in ownership of motor carrier permits require a new application and the new application fee of one hundred fifty dollars shall be assessed.

3. The department shall collect a fee of two hundred dollars to cover the cost of the motor carrier safety education seminar.

Sec. 36. NEW SECTION. 325A.5 FEES — CREDITED TO ROAD USE TAX FUND — SEMINAR RECEIPTS.

All fees received for applications and permits or certificates under this chapter shall be remitted to the treasurer of state and credited to the road use tax fund. All fees collected for the motor carrier safety education seminar shall be considered a repayment receipt as de-

fined in section 8.2, and shall be remitted to the department to be used to pay for the seminars.

Sec. 37. NEW SECTION. 325A.6 INSURANCE.

All motor carriers subject to this chapter shall have minimum insurance coverage which meets the limits established in the federal motor carrier safety regulations in 49 C.F.R. ch. 387.

Sec. 38. NEW SECTION. 325A.7 CHARGES.

All charges filed under the tariff by any motor carrier of household goods for any service shall be just, reasonable, and nondiscriminating and every unjust, unreasonable, or discriminating charge for such service or any part thereof is prohibited and declared unlawful.

Sec. 39. NEW SECTION. 325A.8 REQUIRED MARKING.

The motor carrier shall attach distinctive markings or tags to each motor vehicle. If a motor vehicle has both an interstate and intrastate motor carrier number, only the interstate motor carrier number must be displayed.

If a motor carrier is renting a vehicle on a daily basis, a copy of the lease must be carried in the vehicle. Violation of this section is a scheduled violation subject to the fine provided in section 805.8, subsection 2, paragraph "ad".

Sec. 40. NEW SECTION. 325A.9 ADVERTISING.

An advertisement to the general public concerning for-hire transportation must include the permit or motor carrier certificate number issued under this chapter.

Sec. 41. NEW SECTION. 325A.10 RULES FOR OPERATION.

The department shall adopt rules pursuant to chapter 17A as necessary to govern and control the operation, maintenance, and inspection of vehicles covered by this chapter upon the highways.

Sec. 42. NEW SECTION. 325A.11 PASSENGER TRANSPORTATION.

In addition to the requirements of subchapter 1, motor carriers of passengers and charter carriers shall comply with the requirements of this subchapter.

Sec. 43. NEW SECTION. 325A.12 DEFINITIONS.

As used in this subchapter:

1. "Car pool" means transportation of a group of at least two riders in a motor vehicle having a seating capacity of not more than eight passengers between a rider's, owner's, or operator's residence or other designated location and a rider's, owner's, or operator's place of employment or other common destination of the group, if the motor vehicle is driven by one of the members of the group.

2. "Charter" means an agreement whereby the owner of a motor vehicle lets the motor vehicle to a group of persons as one party for a specified sum and for a specified act of transportation at a specified time and over an irregular route.

3. "Charter carrier" means a person engaged in the business of transporting the public by motor vehicle under charter. "Charter carrier" does not include any of the following:

a. Taxicabs with a seating capacity of not more than eight passengers, or persons having a license, contract, or franchise with an Iowa city to carry or transport passengers for-hire while operating within the guidelines of the license, contract, or franchise.

b. A city engaged in the business of carrying or transporting passengers for-hire over regular routes.

c. School bus operators when engaged in transportation involving any school activity.

d. A regular-route motor carrier of passengers.

4. "Regional transit system" means a public transit system serving one county or all or part of a multicounty area whose boundaries correspond to the same boundaries as those of the regional planning areas designated by the governor except as agreed upon by the county

or the department. Each county board of supervisors within the region is responsible for determining the service and funding within its county. However, the administration and overhead support services for the overall regional transit system shall be consolidated into one existing or new agency to be mutually agreed upon by the participating members. Privately chartered bus services and uses other than providing services that are open and public on a shared-ride basis shall not be construed to be a regional transit system.

5. "Regular-route motor carrier of passengers" means a person engaged in the for-hire transportation of passengers by motor vehicle over regular routes by scheduled service and available to the general public.

6. "Van pool" means transportation of a group of riders in a vehicle having a seating capacity of not less than eight passengers and not more than fifteen passengers between a rider's, owner's, or operator's residence or other designated location and a rider's, owner's, or operator's place of employment or other common destination of the group, if the vehicle is driven by one of the members of the group.

Sec. 44. NEW SECTION. 325A.13 CERTIFICATE OF CONVENIENCE AND NECESSITY AND REGULAR-ROUTE PASSENGER CERTIFICATE.

1. It is unlawful for a charter carrier to transport passengers by motor vehicle for hire from any point or place in this state to another place in this state irrespective of the route or highway traversed, without first having obtained from the department a certificate declaring that public convenience and necessity require the operation.

2. a. It is unlawful for a regular-route motor carrier of passengers to transport passengers for-hire upon the highways of this state in intrastate commerce without first having obtained from the department a regular-route passenger certificate. The department shall issue a regular-route passenger certificate without hearing, if the department finds that the applicant is fit, willing, and able.

b. In determining whether a regular-route motor carrier of passengers is fit, willing, and able, the department shall only consider the applicant's compliance with safety, financial fitness, and insurance requirements.

c. A regular-route passenger certificate authorizing the transportation of passengers includes the authority to transport newspapers, baggage of passengers, express packages, or mail in the same motor vehicle with passengers.

d. A regular-route motor carrier of passengers holding a regular-route passenger certificate may at any time commence scheduled service over any regular route from any point or place in this state to another place in this state irrespective of the route or highway traversed and may at any time discontinue any part of its regular-route service.

e. A regular-route motor carrier of passengers granted a certificate prior to the effective date of this Act, which authorized motor carrier passenger operations, may continue to provide motor carrier passenger service with all rights and privileges granted by a regular-route passenger certificate issued under this section.

f. A regular-route motor carrier of passengers shall not operate as a charter carrier in this state unless it possesses a certificate of convenience and necessity to engage in the business of a charter carrier.

g. An Iowa urban transit system as defined in section 452A.57, subsection 6, may operate within the metropolitan area which it serves and between its service area and another city which is located not more than ten miles from its service area without obtaining a regular-route passenger certificate if the other city is not served by another motor carrier of passengers operating under a regular-route passenger certificate.

3. A motor carrier providing primarily passenger service for elderly, handicapped, and other transportation-disadvantaged persons is exempt from the certification requirements of this section if it satisfies all of the following requirements:

a. The motor carrier is not a corporation organized for-profit under the laws of Iowa or any other state or the motor carrier is a governmental organization.

b. The motor carrier received or receives operating funds from federal, state, or local government sources.

c. The motor carrier does not duplicate a transportation service provided by a motor carrier issued a regular-route passenger certificate.

4. A person operating a motor vehicle in a car pool or van pool is exempt from the requirement of this chapter.

5. Except for a person operating a car pool or van pool, each motor carrier exempt from the requirement for obtaining a certificate under this section shall obtain a nontransferable permit from the department. Such motor carriers shall comply with all safety, insurance, and other rules of the department pertaining to a publicly funded transit system.

Sec. 45. NEW SECTION. 325A.15 APPLICATION FOR CERTIFICATE.

All applications for a charter carrier or regular-route passenger certificate shall be in writing and, in addition to any other information required by this chapter, shall contain all of the following:

1. A complete description of the area in which the applicant proposes to operate.

2. An applicant for a regular-route passenger certificate, in lieu of the information required by subsection 1, shall indicate that statewide regular-route passenger authority is being sought.

Sec. 46. NEW SECTION. 325A.16 PROTESTS AGAINST APPLICATIONS.

1. Upon the filing of the application, the department shall publish a notice to the citizens of each county in which the proposed motor carrier passenger service will be rendered. The notice shall be published once in a newspaper of general circulation in each county.

2. Any person, city, or county whose rights or interests may be affected may file written objections to the proposed service with the department.

3. An objection filed against the granting of an application shall state specifically the grounds upon which it is made and contain a concise statement of the interest of the person filing the objection in the proceeding.

4. An objection shall be filed with the department not later than thirty days from the date of the publication of notice.

5. Upon receipt of an objection complying with subsection 3, the department shall request the department of inspections and appeals to set the matter for hearing not less than ten days following the expiration of the time in which objections may be made. The department of inspections and appeals shall give notice to all persons who have filed objections of the time and place of the hearing.

6. This section applies to all intrastate motor carriers of passengers except regular-route motor carriers of passengers.

Sec. 47. NEW SECTION. 325A.17 RULES OF PROCEDURE.

The department shall adopt rules pursuant to chapter 17A establishing the procedure to be followed in the filing of applications for a motor carrier passenger certificate and the department of inspections and appeals shall adopt rules pursuant to chapter 17A for the conduct of hearings regarding objections by other persons to the issuance of a motor carrier certificate to an applicant.

Sec. 48. NEW SECTION. 325A.18 UNCONTESTED CASE PROCEDURE.

If an objection is not filed, the department shall consider the application and any relevant evidence in determining whether to grant the certificate requested in the application.

Sec. 49. NEW SECTION. 325A.19 GRANTING APPLICATION — RESTRICTIONS.

The department may grant the application in whole or in part upon terms and restrictions established by the department. However, no condition or restriction on a regular-route passenger certificate shall be established, and all regular-route passenger certificates shall grant statewide regular-route passenger authority. The actual operation shall not begin without a written statement of approval from the department to the effect that the applicant has complied with applicable safety provisions.

If a certificate is granted to a charter carrier, the department may attach to the exercise of the rights conferred by the certificate such terms and conditions as in its judgment the public convenience and necessity require.

Sec. 50. NEW SECTION. 325A.20 EXPENSE OF HEARING.

The applicant and any persons objecting to the granting of a certificate to the applicant shall split equally and pay all the costs of the hearing before the application is granted. The department of inspections and appeals shall establish appropriate fees which shall be paid to the department of inspections and appeals.

Sec. 51. NEW SECTION. 325A.21 REVIEW.

A decision of the department of inspections and appeals is subject to review by the state department of transportation. Judicial review of the decisions and actions of the state department of transportation may be sought in accordance with chapter 17A. A petitioner shall file with the clerk of the district court a bond for costs in the sum of not less than five hundred dollars.

Sec. 52. NEW SECTION. 325A.22 TRANSFER OF CERTIFICATE.

1. A certificate of convenience and necessity shall not be sold, transferred, leased, or assigned and a contract or agreement with reference to or affecting a certificate shall not be entered into without the written approval of the department. The department may request the department of inspections and appeals to hold a hearing regarding the transfer of the certificate. The state department of transportation shall approve the sale, transfer, lease, or assignment upon a finding by the department of inspections and appeals that there has been continuous service under the certificate for at least ninety days prior to the transfer, that the transferee is fit, willing, and able to perform the operations authorized by the certificate, and that the transfer is consistent with the public interest. Pending determination of an application filed with the department for approval of a sale, transfer, lease, or assignment, the department may grant temporary approval of the proposed operation upon a finding of good cause.

2. A regular-route passenger certificate shall not be sold, transferred, leased, or assigned without the approval of the department. The department shall approve the sale, transfer, lease, or assignment if the person obtaining or seeking to obtain ownership or control of a certificate is found to be fit, willing, and able to perform the service proposed. In determining the fitness of the person seeking transfer of the certificate, the department shall consider only the person's compliance with safety, financial fitness, and insurance requirements.

Sec. 53. NEW SECTION. 325A.23 RIDING ON OUTSIDE PART.

Passengers shall not ride on the running boards, fenders, or on any other outside part of passenger-carrying motor vehicles.

Sec. 54. NEW SECTION. 325A.24 AMEND, SUSPEND, OR REVOKE PERMIT OR CERTIFICATE.

The department may, in addition to other penalties, revoke or suspend the permit or certificate of a motor carrier for a violation of this chapter or a rule adopted under this chapter. For flagrant or persistent violations of safety or hazardous materials rules by the holder of a permit or certificate or the holder's agent, the department may suspend the permit or certificate of necessity until the rules adopted by the department are complied with, or the department may revoke the permit or certificate for continued noncompliance.

Sec. 55. NEW SECTION. 325A.25 SCHEDULED FINES — PENALTY.

A person who violates this chapter or a rule adopted pursuant to this chapter for which a penalty is not otherwise established, or who aids or abets a person in a failure to comply with this chapter or a rule adopted pursuant to this chapter, is subject to the fine provided in section 805.8, subsection 2, paragraph "ad".

Sec. 56. NEW SECTION. 325A.26 CERTIFICATES PRIOR TO JANUARY 1, 1998.

1. A certificate or permit, or both, which was issued under chapter 325, before January 1, 1998, and which authorized a person to transport property in intrastate commerce by motor vehicle as a common carrier or contract carrier, or both, is void. However, to the extent a certificate or permit, or portion of a certificate or permit, authorized a person to transport household goods over irregular routes or passengers in intrastate commerce, this subsection does not apply.

2. A person who owned a certificate or permit, or both, that was a valid certificate or permit, or both, on December 31, 1997, is deemed to have a valid certificate or permit, unless the person's certificate or permit has been suspended, revoked, or transferred to another person as provided by law. A person deemed to have a valid certificate or permit under this subsection is not required to file an application pursuant to section 325A.3 to continue providing intrastate transportation, but rather, upon such person's compliance with the requirements of section 325A.3, subsection 2, the person is deemed to have a valid certificate or permit in force as required pursuant to section 325A.3, subsection 1, authorizing the person to transport property except household goods in intrastate commerce on the public highways, unless the person's certificate or permit is suspended, revoked, or transferred to another person as provided by law. Within a reasonable time after January 1, 1998, the department shall issue certificates or permits to all persons who are deemed to be qualified under this subsection.

Sec. 57. Section 422.45, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 7A. The refund of sales and use tax paid on transportation construction projects let by the state department of transportation are subject to the special provisions of this subsection.

a. A contractor awarded a contract for a transportation construction project is considered the consumer of all building materials, building supplies and equipment and shall pay sales tax to the supplier or remit consumer use tax directly to the department.

b. The contractor is not required to file information with the department of transportation stating the amount of goods, wares, or merchandise, or services rendered, furnished, or performed and used in the performance of the contract or the amount of sales or use tax paid.

c. The department of transportation shall file a refund claim based on a formula that considers the following:

(1) The quantity of material to complete the contract, and quantities of items of work.

(2) The estimated cost of these materials included in the items of work, and the state sales or use tax to be paid on the tax rate in effect in section 422.43.

The quantity of materials shall be determined after each letting based on the contract quantities of all items of work let to contract. The quantity of individual component materials required for each item shall be determined and maintained in a database. The total quantities of materials shall be determined by multiplying the quantities of component materials for each contract item of work by the total quantities of each contract item for each letting. Where variances exist in the cost of materials, the lowest cost shall be used as the base cost.

d. Only the state sales or use tax is refundable. Local option taxes paid by the contractor are not refundable.

Sec. 58. Section 805.8, subsection 2, Code 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. ad. For violation of section 325A.8, the scheduled fine is fifty dollars. For violation of chapter 325A, other than a violation of section 325A.8, the scheduled fine is two hundred fifty dollars.

Sec. 59. Section 805.8, subsection 2A, Code 1997, is amended to read as follows:

2A. MOVING TRAFFIC VIOLATIONS — ~~CONSTRUCTION~~ ROAD WORK ZONES. The

scheduled fine for any moving traffic violations under chapter 321 as provided in this section shall be doubled ~~or shall be set at one hundred dollars, whichever is less,~~ if the violation occurs within any road ~~construction~~ work zone, as defined in section 321.1.

Sec. 60.

1. Chapters 325, 327, and 327A, Code 1997, are repealed.
2. Section 321E.26, Code 1997, is repealed.

Sec. 61. EFFECTIVE AND IMPLEMENTATION DATES.

1. Sections 12, 32 through 56, 58, and 60, subsection 1, of this Act take effect January 1, 1998.
2. Section 6 of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 1, 1997

CHAPTER 105

LEGALIZATION OF SERGEANT BLUFF URBAN REVITALIZATION PLAN

H.F. 717

AN ACT to legalize the proceedings taken by the Sergeant Bluff city council to grant an urban revitalization tax exemption for certain property and providing an effective and retroactive applicability date.

WHEREAS, the city of Sergeant Bluff decided in February of 1996 to designate a portion of the city as an urban revitalization area under chapter 404; and

WHEREAS, Sioux City Brick and Tile held a groundbreaking ceremony on April 11, 1996, and began construction on property within the urban revitalization area on August 1, 1996; and

WHEREAS, the Sergeant Bluff city council adopted, on December 17, 1996, a resolution in accordance with section 404.2 stating the necessity for establishing the urban revitalization area in which property owned by Sioux City Brick and Tile would be eligible for the urban revitalization property tax exemption; and

WHEREAS, the Sergeant Bluff city council held a public hearing on the proposed urban revitalization area and adopted the plan for the revitalization area in accordance with section 404.2 on January 28, 1997; and

WHEREAS, the Sergeant Bluff city council erroneously believed that the Sioux City Brick and Tile property would be qualified for the urban revitalization tax exemption as of January 28, 1997, even though construction was completed prior to that date; and

WHEREAS, section 404.3, subsection 7, requires the construction to be undertaken during the period in which the property was in a designated urban revitalization area; NOW THEREFORE,

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

Section 1. All proceedings taken by the Sergeant Bluff city council regarding the adoption of the urban revitalization plan are hereby legalized and constitute a valid adoption of an urban revitalization plan.

Sec. 2. This Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable on and after April 1, 1996.

Approved May 1, 1997

CHAPTER 106

WORKERS' COMPENSATION — OUT-OF-STATE INJURIES AND CLAIMS

S.F. 109

AN ACT relating to workers' compensation coverage for injuries that occur and claims made outside of the state.

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

Section 1. Section 85.71, Code 1997, is amended to read as follows:

85.71 ~~EMPLOYMENT~~ INJURY OUTSIDE OF STATE.

If an employee, while working outside the territorial limits of this state, suffers an injury on account of which the employee, or in the event of death, the employee's dependents, would have been entitled to the benefits provided by this chapter had such injury occurred within this state, such employee, or in the event of death resulting from such injury, the employee's dependents, shall be entitled to the benefits provided by this chapter, ~~provided that~~ if at the time of such injury any of the following is applicable:

1. The employment is principally localized in this state, that is, the employee's employer has a place of business in this or some other state and the employee regularly works in this state, or if the employee's employer has a place of business in this state and the employee is domiciled in this state~~, or~~.

2. The employee is working under a contract of hire made in this state in employment not principally localized in any state~~, or~~ and the employee spends a substantial part of the employee's working time working for the employer in this state.

3. The employee is working under a contract of hire made in this state in employment principally localized in another state, whose workers' compensation law is not applicable to the employee's employer~~, or~~.

4. The employee is working under a contract of hire made in this state for employment outside the United States.

Sec. 2. NEW SECTION. 85.72 CLAIMS FOR BENEFITS MADE OUTSIDE OF STATE — RESTRICTIONS — CREDIT.

1. An employee, or an employee's dependents, shall not be entitled to benefits under this chapter if the employee or the employee's dependents has initiated a judicial proceeding or a contested case or other similar proceeding for the same injury, disability, or death pursuant to the laws of another state or country concerning workers' compensation, and the employee or the employee's dependents receives benefits following resolution of the proceeding pursuant to a settlement, judgment, or award.

2. If an employee, or an employee's dependents, initiates a judicial proceeding or a contested case or other similar proceeding for benefits pursuant to the laws of another state or country concerning workers' compensation, any proceeding initiated by an employee, or an employee's dependents, for workers' compensation benefits under this chapter for the same injury, disability, or death shall be stayed, without prejudice, pending resolution of the out-of-state claim for benefits.

3. If benefits are paid under this chapter and were payable, at any time, for the same injury, disability, or death pursuant to the laws of another state or country concerning workers' compensation, the employer shall have a credit toward the benefits payable under this chapter for any benefits paid in another state or country.

Approved May 2, 1997

CHAPTER 107

REGISTERED AGENTS OF CORPORATIONS, PARTNERSHIPS, AND LIMITED LIABILITY COMPANIES

S.F. 116

AN ACT relating to the appointment and resignation of registered agents of corporations, limited liability companies, and partnerships and their registered offices.

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

Section 1. Section 487.104, subsection 3, Code 1997, is amended to read as follows:

3. An agent for service of process may resign as agent ~~upon~~ by signing and delivering to the secretary of state an original statement of resignation for filing ~~and recording~~ in accordance with section 487.206 ~~a written notice of resignation, executed in duplicate, with the secretary of state~~. The ~~secretary of state shall forthwith mail~~ agent shall send a copy of the statement of resignation by certified mail to the limited partnership at its principal place of business. The agent shall certify to the secretary of state that the copy has been sent to the limited partnership, including the date the copy was sent. The appointment of the agent terminates ~~upon the expiration of thirty days after receipt of the notice by~~ on the date on which the statement is filed by the secretary of state.

Sec. 2. Section 487.104A, subsection 1, paragraphs b and d, Code 1997, are amended by striking the paragraphs.

Sec. 3. Section 487.902, subsection 5, Code 1997, is amended to read as follows:

5. A statement that the secretary of state is the agent of the foreign limited partnership for service of process if the registered agent has resigned and an agent has not been appointed under subsection 4 or, if appointed, the agent's authority has been revoked, or if the agent cannot be found or served with the exercise of reasonable diligence.

Sec. 4. Section 487.909, Code 1997, is amended to read as follows:

487.909 RESIGNATION OF AGENT FOR SERVICE OF PROCESS.

An agent for service of process of a foreign limited partnership may resign as agent ~~upon filing a written notice of the resignation, executed in duplicate, with the secretary of state~~ by signing and delivering to the secretary of state an original statement of resignation for filing in accordance with section 487.206. The ~~secretary of state~~ agent shall ~~forthwith mail~~ send a copy of the statement of resignation by certified mail to the foreign limited partnership at its principal ~~office or office required to be maintained in the state of its organization~~ place of business. The agent shall certify to the secretary of state that the copy has been sent to the limited partnership, including the date the copy was sent. The appointment of the agent terminates ~~upon the expiration of thirty days after receipt of the notice by~~ on the date on which the statement is filed by the secretary of state.

Sec. 5. NEW SECTION. 487.911 CHANGE OF REGISTERED OFFICE OR REGISTERED AGENT.

1. A foreign limited partnership may change its registered office or registered agent by delivering to the secretary of state for filing a statement of change that sets forth all of the following:

a. The name of the foreign limited partnership.

b. If the current registered office is to be changed, the street address of the new registered office.

c. If the current registered agent is to be changed, the name of the new registered agent and the new agent's written consent to the appointment, either on the statement or attached to the statement.

d. That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.

2. If a registered agent changes the street address of the registered agent's business office, the registered agent may change the street address of the registered office of any foreign limited partnership for which the person is the registered agent by notifying the foreign limited partnership in writing of the change and signing, either manually or in facsimile, and delivering to the secretary of state for filing a statement that complies with the requirements of subsection 1 and recites that the foreign limited partnership has been notified of the change.

3. If a registered agent changes the registered agent's business address to another place, the registered agent may change the business address and the address of the registered agent by filing a statement as required in subsection 2 for each foreign limited partnership, or a single statement for all foreign limited partnerships named in the notice, except that the statement need be signed only by the registered agent or agents and need not be responsive to subsection 1, paragraph "c", and must recite that a copy of the statement has been mailed to each foreign limited partnership named in the notice.

4. A document delivered to the secretary of state for the purpose of changing a foreign limited partnership's registered agent or registered office may be executed by a general partner.

Sec. 6. Section 490.1701, subsection 3, paragraph c, unnumbered paragraph 2, Code 1997, is amended to read as follows:

If the county of the initial registered office as stated in the instrument is one which is other than the county where the principal place of business of the corporation, as designated in its articles of incorporation, was located, the ~~secretary of state~~ corporation shall forward ~~also~~ to the county recorder of the county in which the principal place of business of the corporation was located a copy of the instrument and the ~~secretary of state~~ corporation shall forward to the recorder of the county in which the initial registered office of the corporation is located, in addition to a copy of the original ~~of the~~ instrument, a copy of the articles of incorporation of the corporation together with all amendments to them as then on file in the secretary of state's office. The corporation shall, through an officer or director, certify to the secretary of state that a copy has been sent to each applicable county recorder, including the date each copy was sent.

Sec. 7. Section 490A.502, subsection 1, paragraphs b and d, Code 1997, are amended by striking the paragraphs.

Sec. 8. Section 490A.502, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The change of address of a registered office or the change of registered agent becomes effective upon the filing of such statement by the secretary of state.

Sec. 9. Section 490A.503, Code 1997, is amended to read as follows:

490A.503 RESIGNATION OF REGISTERED AGENT.

1. A registered agent may resign the agent's agency appointment by signing and delivering to the secretary of state for filing ~~the signed~~ an original ~~and two exact copies or conformed copies of a~~ statement of resignation. The statement may include a statement that the registered office is also discontinued. ~~After filing the statement the secretary of state~~ The registered agent shall ~~mail one~~ send a copy of the statement of resignation to the registered office, if not discontinued, and ~~the other copy~~ to the limited liability company at its principal office. The agent shall certify to the secretary of state that the copy has been sent to the limited liability company, including the date the copy was sent.

2. The agency appointment is terminated, and the registered office discontinued if so provided, on the ~~thirty-first day after the~~ date on which the statement ~~was~~ is filed by the secretary of state.

Sec. 10. Section 504A.9, Code 1997, is amended to read as follows:

504A.9 CHANGE OF REGISTERED OFFICE OR REGISTERED AGENT.

1. A corporation may change its registered office or ~~change its~~ registered agent ~~or agents, or both office and agent or agents upon filing in the office of~~ by delivering to the secretary of state for filing a statement ~~setting~~ of change that sets forth all of the following:

~~1.~~ a. The name of the corporation.

~~2. The address of its then registered office.~~

~~3.~~ b. If the ~~address of its~~ current registered office is to be changed, the street address ~~to which~~ of the new registered office ~~is to be changed~~.

~~4. The name of its then registered agent or agents.~~

~~5.~~ c. If ~~its~~ the current registered agent ~~or agents are~~ is to be changed, the name of its ~~successor~~ new registered agent ~~or agents,~~ and the new agent's ~~or agents'~~ written consent to the appointment, either on the statement~~, or by attaching the agent's or agents' consent to the appointment~~ or attached to the statement.

~~6.~~ d. That after the change or changes are made, the ~~address~~ street addresses of its registered office and the ~~address of the~~ business office of its registered agent ~~or agents, as changed,~~ will be identical.

2. The statement shall be delivered to the secretary of state for filing ~~and recording~~ in the secretary of state's office.

3. If a registered agent ~~or agents change~~ changes the agent's ~~or agents'~~ business address to another place within the same county, the agent ~~or agents~~ may change the address of the registered office of any corporations of which that person is a registered agent by filing a statement as required ~~above~~ in subsection 1 for each corporation, or a single statement for all corporations named ~~therein~~ in the statement, except that ~~it~~ the statement need be signed only by the registered agent ~~or agents~~ and need not be responsive to subsection ~~5 above~~ 1, paragraph "c", ~~and~~ but must recite that notification of such change has been mailed to each ~~such~~ corporation named in the statement.

4. The change of address of registered office or the change of registered agent ~~or agents or both registered office and agent or agents, as the case may be, shall become~~ becomes effective upon the filing of such statement by the secretary of state.

5. ~~Any~~ A registered agent of a corporation may resign as such agent ~~upon~~ by signing and delivering to the secretary of state for filing ~~a written notice thereof, executed in duplicate, with the secretary of state, who shall record one copy and forthwith mail the other copy thereof to the corporation in care of an officer, who is not the resigning registered agent, at the address of such officer as shown by the most recent annual report of the corporation~~ an original statement of resignation. The statement of resignation may also include a statement that the registered office is also discontinued. The registered agent shall send a copy of the statement of resignation by certified mail to the corporation at its principal office and to the registered office, if the registered office is not discontinued. The appointment of ~~such~~ the agent ~~shall terminate upon the expiration of thirty days after receipt of such notice by~~ terminates on the date on which the statement is filed by the secretary of state. If the

statement of resignation contains a statement that the registered office is discontinued, such office is discontinued on the date on which the statement of resignation is filed by the secretary of state.

6. The secretary of state may provide for the change of registered office or registered agent on the form prescribed by the secretary of state for the annual report pursuant to section 504A.83, provided that the form contains the information required in this section. If the secretary of state determines that an annual report does not contain the information required by section 504A.83 but otherwise meets the requirements of this section for the purpose of changing the registered office or registered agent, the secretary of state shall file the statement of change of registered office or registered agent before returning the annual report to the corporation pursuant to section 504A.84. A statement of change of registered office or registered agent pursuant to this paragraph shall be executed by a person authorized to execute the annual report.

Approved May 2, 1997

CHAPTER 108

DEPARTMENT OF TRANSPORTATION — MISCELLANEOUS PROVISIONS

S.F. 132

AN ACT relating to state department of transportation operations, including regulating hazardous materials transport, regulating motor vehicle dealers, eliminating requirements that the department adopt administrative rules in certain instances, and establishing, making applicable, or enhancing penalites.

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

Section 1. Section 321.1, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 0A. "Agricultural hazardous material" means a hazardous material, other than hazardous waste, whose end use directly supports the production of an agricultural commodity, including, but not limited to, a fertilizer, pesticide, soil conditioner, or fuel. "Agricultural hazardous material" is limited to material in class 3, 8, or 9, division 2.1, 2.2, 5.1, or 6.1, or an ORM-D material as defined in 49 C.F.R. § 171.8.

Sec. 2. Section 321.1, subsection 42, paragraph c, Code 1997, is amended to read as follows:

c. "New motor vehicle or new car" means a ~~car~~ motor vehicle subject to registration which has not been sold "at retail" as defined in chapter 322.

Sec. 3. Section 321.11, unnumbered paragraph 3, Code 1997, is amended to read as follows:

Notwithstanding other provisions of this section to the contrary, the department shall not release personal information to a person, other than to an officer or employee of a law enforcement agency or a licensed private investigation agency or a licensed security service or a licensed employee of either, if the information is requested by the presentation of a registration plate number. However, a law enforcement agency may release the name, address, and telephone number of a motor vehicle registrant to a person requesting the information by the presentation of a registration plate number if the law enforcement agency

believes that the information is necessary to prevent an unlawful act. A person seeking the information shall state in writing the nature of the unlawful act that the person is attempting to prevent.

Sec. 4. Section 321.25, unnumbered paragraph 2, Code 1997, is amended to read as follows:

The department shall, upon request by any dealer, furnish "registration applied for" cards free of charge. Only cards furnished by the department shall be used. Only one card shall be issued in accordance with this subsection for each vehicle purchased.

Sec. 5. Section 321.34, subsection 9, Code 1997, is amended to read as follows:

9. LEASED VEHICLES. Registration plates under this section, including disabled veteran plates specified in section 321.105, may be issued to the lessee of a motor vehicle if the lessee provides evidence of a lease for a period of more than sixty days and if the lessee complies with the requirements, under this section, for issuance of the specific registration plates.

Sec. 6. Section 321.50, subsection 4, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. However, when a security interest is discharged for a vehicle with a gross vehicle weight rating of sixteen thousand pounds or more, the lienholder shall note the cancellation of a security interest on the face of the title and may note the cancellation of the security interest on a form prescribed by the department and deliver a copy of the form in lieu of the title to the department or to the treasurer of the county in which the title was issued. The department or county treasurer shall note the release of the security interest upon the statewide computer system and the county's records. A copy of the form, if used, shall be attached to the title by the lienholder and shall be evidence of the release of the security interest. The lienholder shall deliver the title to the first lienholder, or if there is no such person, to the person as designated by the owner, or if there is no such person designated, to the owner.

Sec. 7. Section 321.52, subsection 4, paragraph c, unnumbered paragraph 2, Code 1997, is amended to read as follows:

~~The provision of this subsection requiring a salvage theft examination by a peace officer specially certified or recertified by the Iowa law enforcement academy to do salvage theft examinations shall become effective July 1, 1989. Salvage theft examinations conducted before July 1, 1989, shall be made by peace officers authorized to do so by the state department of transportation or the department of public safety who are qualified, as determined by those agencies, to conduct salvage theft examinations.~~ The state department of transportation shall adopt rules in accordance with chapter 17A to carry out this section~~, including transition rules allowing for salvage theft examinations prior to July 1, 1989~~.

Sec. 8. Section 321.69, subsection 9, Code 1997, is amended to read as follows:

9. This section does not apply to new motor vehicles with a true mileage, as defined in section 321.71, of one thousand miles or less, motor trucks and truck tractors with a gross vehicle weight rating of sixteen thousand pounds or more, vehicles more than nine model years old, motorcycles, motorized bicycles, and special mobile equipment. The section does apply to motor homes.

Sec. 9. Section 321.104, subsection 4, Code 1997, is amended to read as follows:

4. To ~~purport to~~ sell, offer for sale, or transfer a motor vehicle, trailer, or semitrailer, except as provided in section 321.47 or 321.48, without obtaining a certificate of title in the name of the seller or transferor or without delivering to the purchaser or transferee a certificate of title or a manufacturer's or importer's certificate duly assigned to the purchaser or transferee as provided in this chapter.

Sec. 10. Section 321.105, unnumbered paragraph 5, Code 1997, is amended to read as follows:

Seriously disabled veterans who have been provided with an automobile or other vehicle by the United States government under the provisions of sections 1901 to 1903, Title 38 of the United States Code, ~~{38 U.S.C. § 1901 et seq. (1970)}~~, shall be exempt from payment of any automobile registration fee provided in this chapter, and shall be provided, without fee, with a registration plate. The disabled veteran, to be able to claim the above benefit, must be a resident of the state of Iowa ~~and must produce a certificate of title to the automobile owned and registered in this state in the name of said veteran~~.

Sec. 11. NEW SECTION. 321.174A OPERATION OF MOTOR VEHICLES WITH EXPIRED LICENSE.

A person shall not operate a motor vehicle upon a highway in this state with an expired motor vehicle license.

Sec. 12. Section 321.208A, Code 1997, is amended to read as follows:

321.208A OPERATION IN VIOLATION OF OUT-OF-SERVICE ORDER — PENALTY.

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. 13. Section 321.236, subsection 12, Code 1997, is amended to read as follows:

12. Designating highways or portions of highways as snow routes. When conditions of snow or ice exist on the traffic surface of a designated snow route, it is unlawful for the driver of a vehicle to impede or block traffic if the driving wheels of the vehicle are not equipped with snow tires, tire chains, or a nonslip differential. ~~"Snow tires" as used in this subsection means tires designed for use when there are conditions of snow or ice on the highways, and meeting the standards which shall be promulgated by rule of the director of transportation. The standards promulgated by the director shall require that snow tires be so designed to provide adequate traction to maintain reasonable movement of the motor vehicle on highways under snow conditions.~~

~~Any~~ A person charged with impeding or blocking traffic for lack of snow tires, chains, or nonslip differential shall have ~~said~~ the charge dismissed upon a showing to the court that the person's motor vehicle was equipped with snow tires, chains, or a nonslip differential.

Sec. 14. Section 321.249, Code 1997, is amended to read as follows:

321.249 SCHOOL ZONES.

Cities and counties shall have the power to establish school zones and provide for the stopping of all motor vehicles approaching ~~said~~ the school zones, when movable stop signs have been placed in the streets in ~~such~~ the cities and highways in counties at the limits of the zones, ~~this~~ notwithstanding the provisions of any statute to the contrary. All traffic-control devices provided for school zones shall conform to specifications included in the manual of traffic-control devices adopted by the department, except the provision prohibiting the use of portable or part-time stop signs.

Sec. 15. Section 321.266, subsection 4, Code 1997, is amended to read as follows:

4. Notwithstanding section 455B.386, a carrier transporting hazardous material upon a public highway in this state, in the case of an accident involving the transportation of the hazardous material, shall immediately notify the police radio broadcasting system established pursuant to section 693.1 or shall notify a peace officer of the county or city in which

the accident occurs. When a local law enforcement agency is informed of the accident, the agency shall notify the Iowa highway safety patrol and the state department of transportation office of motor vehicle enforcement. A person who violates a provision of this subsection is guilty of a serious misdemeanor.

Sec. 16. Section 321.309, Code 1997, is amended to read as follows:

321.309 TOWING — CONVOYS — DRAWBARS.

~~No~~ A person shall not pull or tow by motor vehicle, for hire, another motor vehicle over any highway outside the limits of any incorporated city, except in case of temporary movement of a disabled motor vehicle to the place where repairs will be made, unless ~~such~~ the person has complied with the provisions of sections 321.57 and 321.58. Provided, however, if ~~such~~ the person is a nonresident of the state of Iowa and has complied with the laws of the state of that person's residence governing licensing and registration as a transporter of motor vehicles the person shall not be required to pay the fee provided in section 321.58 but only to submit proof of the person's status as a bona fide manufacturer or transporter as may reasonably be required by the department.

~~Every~~ A person pulling or towing by motor vehicle another motor vehicle in convoy or caravan shall maintain a distance of at least five hundred feet between the units of ~~said~~ the convoy or caravan.

~~The drawbar or towing arm between a motor vehicle pulling or towing another motor vehicle shall be of a type approved by the director, except in case of the temporary movement of a disabled vehicle in an emergency situation.~~

Sec. 17. Section 321.317, subsection 1, Code 1997, is amended to read as follows:

1. The signals required under the provisions of this chapter may be given either by means of the hand and arm as provided in section 321.318, or by a mechanical or electrical directional signal device or light ~~of a type approved by the department and~~ conforming to the provisions of this chapter ~~relating thereto~~.

Sec. 18. Section 321.317, subsection 3, Code 1997, is amended to read as follows:

3. It is unlawful for any person to sell or offer for sale or operate on the highways of the state any vehicle subject to registration under the provisions of this chapter which has never been registered in this or any other state prior to January 1, 1954, unless the vehicle is equipped with a directional signal device of a type ~~approved by the department and is~~ in compliance with the provisions of subsection 2 ~~of this section~~. Motorcycles, motorized bicycles and semitrailers and trailers less than forty inches in width are exempt from the provisions of this section.

Sec. 19. Section 321.373, subsection 7, Code 1997, is amended to read as follows:

7. A school bus may be equipped with a white flashing strobe light mounted on the roof of the bus to afford optimum visibility during periods of inclement weather. The light shall be ~~of a type approved by the department of transportation and shall be~~ installed and operated in accordance with rules promulgated by the department of education. Each new school bus put into initial service after January 1, 1977, shall be equipped with such a light.

Sec. 20. Section 321.383, subsection 2, Code 1997, is amended to read as follows:

2. When operated on a highway in this state at a speed of thirty miles per hour or less, every farm tractor, or tractor with towed equipment, self-propelled implement of husbandry, road construction or maintenance vehicle, road grader, horse-drawn vehicle, or any other vehicle principally designed for use off the highway and any such tractor, implement, vehicle, or grader when manufactured for sale or sold at retail after December 31, 1971, shall be identified with a reflective device ~~of a type approved by the director~~ in accordance with the standards of the American society of agricultural engineers; however, this provision shall not apply to such vehicles when traveling in any escorted parade. The reflective device shall be visible from the rear ~~and mounted in a manner approved by the director~~. ~~The director,~~

~~when approving the device, shall be guided as far as practicable by the standards of the American society of agricultural engineers.~~ A vehicle other than those specified in this section shall not display a reflective device. On vehicles operating at speeds above thirty miles per hour, the reflective device shall be removed or hidden from view.

Sec. 21. Section 321.397, Code 1997, is amended to read as follows:

321.397 LAMPS ON BICYCLES.

Every bicycle shall be equipped with a lamp on the front exhibiting a white light, at the times specified in section 321.384 visible from a distance of at least three hundred feet to the front and with a lamp on the rear exhibiting a red light visible from a distance of three hundred feet to the rear; except that a red reflector ~~meeting the requirements of this chapter~~ may be used in lieu of a rear light.

Sec. 22. Section 321.423, subsection 6, Code 1997, is amended to read as follows:

6. AMBER FLASHING LIGHT. A farm tractor, farm tractor with towed equipment, self-propelled implement of husbandry, road construction or maintenance vehicle, road grader, or other vehicle principally designed for use off the highway which, when operated on a primary or secondary road, is operated at a speed of twenty-five miles an hour or less, shall be equipped with and display an amber flashing light visible from the rear at any time from sunset to sunrise. If the amber flashing light is obstructed by the towed equipment, the towed equipment shall also be equipped with and display an amber flashing light as required under this subsection. All vehicles specified in this subsection which are manufactured for sale or sold in this state shall be equipped with an amber flashing light in accordance with the standards of the American society of agricultural engineers. ~~The type, number, dimensions, and method of mounting of the lights shall be determined by the director. The director, when approving the light, shall be guided as far as practicable by the standards of the American society of agricultural engineers.~~

Sec. 23. Section 321.424, Code 1997, is amended to read as follows:

321.424 SALE OF LIGHTS — APPROVAL.

On and after July 4, 1955, ~~no~~ a person shall not have for sale, sell, or offer for sale for use upon or as a part of the equipment of a motor vehicle, trailer, or semitrailer, or use upon any such vehicle any headlamp, auxiliary, or fog lamp, rear lamp, signal lamp, or reflector, which reflector is required hereunder, or parts of any of the foregoing which tend to change the original design or performance, unless of a type which has been submitted to the director and approved by the director.

~~The foregoing provisions of this section shall not apply to equipment in actual use when this section is adopted or replacement parts therefor.~~

~~No~~ A person shall not have for sale, sell, or offer for sale for use upon or as a part of the equipment of a motor vehicle, trailer, or semitrailer any ~~lamp or device mentioned in this section which has been approved by the director~~ headlamp, auxiliary or fog lamp, rear lamp, signal lamp, or reflector, unless such lamp or device bears thereon the trademark or name under which it is approved so as to be legible when installed.

~~No person shall use upon any motor vehicle, trailer, or semitrailer any lamps mentioned in this section unless said lamps are mounted, adjusted and aimed in accordance with instructions of the director.~~

Sec. 24. Section 321.430, subsection 3, Code 1997, is amended to read as follows:

3. Every trailer or semitrailer of a gross weight of three thousand pounds or more, and every trailer coach or travel trailer of a gross weight of three thousand pounds or more intended for use for human habitation, when operated on the highways of this state, shall be equipped with brakes adequate to control the movement of and to stop and hold such vehicle, and so designed as to be applied by the driver of the towing motor vehicle from its cab, or with self-actuating brakes, and weight equalizing hitch with a sway control ~~of a type approved by the director of transportation~~. Every semitrailer, travel trailer, or trailer coach of

a gross weight of three thousand pounds or more shall be equipped with a separate, auxiliary means of applying the brakes on the semitrailer, travel trailer, or trailer coach from the cab of the towing vehicle. Trailers or semitrailers with a truck or truck tractor need only comply with the brake requirements.

Sec. 25. Section 321.444, subsection 3, Code 1997, is amended by striking the subsection.

Sec. 26. Section 321.445, subsection 1, Code 1997, is amended to read as follows:

1. Except for motorcycles or motorized bicycles, 1966 model year or newer motor vehicles subject to registration in Iowa shall be equipped with safety belts and safety harnesses ~~of a type and installed in a manner approved by rules adopted by the department pursuant to chapter 17A. The department shall adopt rules regarding the types of safety belts and safety harnesses required to be installed in motor vehicles and the manner in which they are installed. The rules shall~~ which conform with federal motor vehicle safety standard numbers 209 and 210 as published in 49 C.F.R. § 571.209 – 571.210 and with prior federal motor vehicle safety standards for seat belt assemblies and seat belt assembly anchorages applicable for the motor vehicle's model year. The department may adopt rules which comply with changes in the applicable federal motor vehicle safety standards with regard to the type of safety belts and safety harnesses and their manner of installation.

Sec. 27. Section 321.450, unnumbered paragraph 2, Code 1997, is amended to read as follows:

Notwithstanding other provisions of this section, rules adopted under this section concerning physical and medical qualifications for drivers of commercial vehicles engaged in intrastate commerce shall not be construed as disqualifying any individual who was employed as a driver of commercial vehicles engaged in intrastate commerce ~~prior to January 1, 1988~~, and whose physical or medical condition existed, prior to July 29, 1996.

Sec. 28. Section 321.450, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding other provisions of this section, rules adopted under this section shall not apply to a farmer or employees of a farmer when transporting an agricultural hazardous material between the sites in the farmer's agricultural operations unless the material is being transported on the interstate highway system. As used in this paragraph, "farmer" means a person engaged in the production or raising of crops, poultry, or livestock, "farmer" does not include a person who is a commercial applicator of agricultural chemicals or fertilizers.

Sec. 29. Section 321.462, unnumbered paragraph 2, Code 1997, is amended by striking the unnumbered paragraph.

Sec. 30. Section 321.493, subsection 1, Code 1997, is amended to read as follows:

1. a. ~~In~~ Subject to paragraph "b", 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.

b. The owner of a vehicle with a gross vehicle weight rating of seven thousand five hundred pounds or more who rents the vehicle for less than a year under an agreement which requires an insurance policy covering at least the minimum levels of financial responsibility prescribed by law, shall not be deemed to be the owner of the vehicle for the purpose of determining financial responsibility for the operation of the vehicle or for the acts of the operator in connection with the vehicle's operation.

Sec. 31. Section 321.560, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A person who is determined to be a habitual offender while the person's license is already revoked for being a habitual offender under section 321.555 shall not be issued a license to operate a motor vehicle in this state for a period of not less than two years nor more than six years. The revocation period may commence either on the date of 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, or on the date the previous revocation expires.

Sec. 32. Section 321H.2, subsection 9, Code 1997, is amended to read as follows:

9. "Vehicle salvager" means a person engaged in the business of scrapping ~~vehicles~~, recycling, dismantling, or storing wrecked or damaged vehicles or selling reusable parts of vehicles or storing vehicles not currently registered which vehicles are subject to registration under chapter 321.

Sec. 33. Section 321H.3, subsection 1, Code 1997, is amended to read as follows:

1. Selling or offering for sale used bodies, parts of bodies, frames, or component parts of more than six used vehicles subject to registration under chapter 321 in a calendar year; or

Sec. 34. Section 321H.8, Code 1997, is amended to read as follows:

321H.8 PENALTIES.

A person convicted of violating a provision of this chapter is guilty of a ~~simple~~ serious misdemeanor.

Sec. 35. Section 322.2, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. "Engaged in the business" means doing any of the following acts for the purpose of the sale of motor vehicles at retail: acquiring, selling, exchanging, holding, offering, displaying, brokering, accepting on consignment, conducting a retail auction, or acting as an agent for the purpose of doing any of those acts. A person selling at retail more than six motor vehicles during a twelve-month period may be presumed to be engaged in the business.

Sec. 36. Section 322.3, subsection 11, Code 1997, is amended to read as follows:

11. A person who is engaged in the business of selling motor vehicles at retail shall not sell, offer for sale, display, represent, or advertise that the person intends to sell motor vehicles from a location other than the person's place of business, except as provided in section 322.5.

Sec. 37. Section 322.14, unnumbered paragraph 1, Code 1997, is amended to read as follows:

Any person violating any of the provisions of this chapter where a penalty is not specifically provided for shall be deemed guilty of a ~~simple~~ serious misdemeanor.

Sec. 38. Section 322.29, Code 1997, is amended to read as follows:

322.29 ISSUANCE OF LICENSE — FEES.

Application for license shall be made to the department by a manufacturer, distributor, or wholesaler, ~~factory branch, distributor branch, factory representative or distributor representative~~ in a form and containing information as the department requires and shall be

accompanied by the required license fee. Licenses shall be granted or refused within thirty days after application, and shall expire, unless sooner revoked or suspended, on December 31 of the calendar year for which they are granted.

License fees for each calendar year, or part thereof, shall be as follows effective January 1, ~~1980~~ 1998:

1. For a motor vehicle manufacturer, thirty-five dollars.
2. For a new motor vehicle distributor or wholesaler, twenty dollars.
3. For a used motor vehicle distributor or wholesaler, ten dollars.
4. ~~For each factory branch of a motor vehicle manufacturer in this state, ten dollars.~~
5. ~~For a factory representative or distributor branch or representative, five dollars.~~

A license shall not be issued to a person as a distributor or wholesaler for a new motor vehicle model unless the distributor or wholesaler has written authorization from the manufacturer as a distributor or wholesaler of the motor vehicle model. ~~A license shall not be issued to a factory representative unless the person is employed by a licensed manufacturer. A license shall not be issued to a distributor representative unless the person is employed by a licensed distributor or wholesaler. A license shall not be issued to a factory branch unless the motor vehicle manufacturer maintaining the branch is a licensed manufacturer nor shall a license be issued to a distributor branch unless the distributor maintaining the branch is a licensed distributor or wholesaler.~~

A person who rebuilds new completed motor vehicles by fabricating, altering, adding, or replacing essential parts, components, or equipment for the purpose of building an ambulance, rescue vehicle, or fire vehicle as defined in chapter 321 may be issued a license as a wholesaler of new motor vehicles of the make and model rebuilt.

~~Every factory representative or distributor representative shall carry a license when engaged in business, and display the license upon request. The license shall name the employer, and in case of a change of employer, the representative shall immediately mail the license to the department which shall endorse the change on the license without charge.~~

Sec. 39. Section 322.31, Code 1997, is amended to read as follows:

322.31 DENIAL OF LICENSE.

The department may deny the application of any person for a license as a manufacturer, distributor, or wholesaler, ~~factory branch, distributor branch, factory representative or distributor representative~~ if after reasonable notice and a hearing the department determines that such applicant has violated any provision of this chapter and may revoke or suspend any such license that has been issued if the department shall determine after reasonable notice and a hearing that such licensee has violated any provision of this chapter.

Sec. 40. Section 322A.15, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Good cause does not include a realignment, relocation, or reduction of dealerships.

Sec. 41. Section 322C.4, subsection 1, paragraph e, Code 1997, is amended to read as follows:

e. If the applicant is a party to a contract, agreement or understanding with a manufacturer or distributor of travel trailers or is about to become a party to a contract, agreement, or understanding, the applicant shall state the name of each manufacturer and distributor and the make or makes of new ~~motor vehicles~~ travel trailers, if any, which are the subject matter of the contract, agreement or understanding.

Sec. 42. Section 452A.51, Code 1997, is amended to read as follows:

452A.51 PURPOSE.

The purpose of this division is to provide an additional method of collecting fuel taxes from interstate motor vehicle operators commensurate with their operations on Iowa highways; and to permit the state department of transportation to suspend this collection as to

transportation entering Iowa from any other state where it appears that Iowa highway fuel tax revenue and interstate highway transportation moving out of Iowa will not be unduly prejudiced thereby. Further, all motor vehicle operators from jurisdictions not participating in the international fuel tax agreement are required to comply with this chapter using the guidelines from the international fuel tax agreement for Iowa fuel tax compliance reporting purposes, penalty, interest, refunds, and credential display.

Sec. 43. Section 452A.53, unnumbered paragraphs 1, 2, and 3, Code 1997, are amended to read as follows:

The advance arrangements referred to in the preceding section shall include the procuring of a permanent ~~interstate fuel~~ international fuel tax agreement permit or license or single trip interstate permit.

Persons choosing not to make advance arrangements with the state department of transportation by procuring a permit or license are not relieved of their responsibility to purchase motor fuel and special fuel commensurate with their use of the state's highway system. When there is reasonable cause to believe that there is evasion of the fuel tax on commercial motor vehicles, the state department of transportation may audit persons not holding a permit or license. Audits shall be conducted pursuant to section 452A.55 and in accordance with international fuel tax agreement guidelines. The state department of transportation shall collect all taxes due and refund any overpayment.

A permanent international fuel tax agreement permit or license may be obtained upon application to the state department of transportation. A fee of ten dollars shall be charged for each permit or license issued. The holder of a permanent permit or license shall have the privilege of bringing into this state in the fuel supply tanks of commercial motor vehicles any amount of motor fuel or special fuel to be used in the operation of the vehicles and for that privilege shall pay Iowa motor fuel or special fuel taxes as provided in section 452A.54. A single trip interstate permit may be obtained from the state department of transportation. A fee of ~~twelve~~ twenty dollars shall be charged for each individual single trip interstate permit issued. A single trip interstate permit is subject to the following provisions and limitations:

Sec. 44. Section 452A.54, unnumbered paragraph 2, Code 1997, is amended to read as follows:

Notwithstanding any provision of this chapter to the contrary, except as provided in this section, the holder of a permanent international fuel tax agreement permit or license may make application to the state department of transportation for a refund, not later than the last day of the third month following the quarter in which the overpayment of Iowa fuel tax paid on excess purchases of motor fuel or special fuel was reported as provided in section 452A.8, and which application is supported by such proof as the state department of transportation may require. The state department of transportation shall refund Iowa fuel tax paid on motor fuel or special fuel purchased in excess of the amount consumed by such commercial motor vehicles in their operation on the highways of this state.

Sec. 45. Section 452A.54, unnumbered paragraph 4, Code 1997, is amended to read as follows:

To determine the amount of fuel taxes due under this division and to prevent the evasion thereof, the state department of transportation shall require a quarterly report on forms prescribed by the state department of transportation. It shall be filed not later than the last day of the month following the quarter reported, and each quarter thereafter. These reports shall be required of all persons who have been issued a permit or license under this division and shall cover actual operation and fuel consumption in Iowa on the basis of the permit or license holder's average consumption of fuel in Iowa, determined by the total miles traveled and the total fuel purchased and consumed for highway use by the permittee's or licensee's commercial motor vehicles in the permittee's or licensee's entire operation in all states to

establish an overall miles per gallon ratio, which ratio shall be used to compute the gallons used for the miles traveled in Iowa.

Sec. 46. Section 452A.55, Code 1997, is amended to read as follows:

452A.55 RECORDS.

Every person operating within the purview of this division shall make and keep for a period of ~~three~~ four years such records as may reasonably be required by the state department of transportation for the administration of this division. If in the normal conduct of the business, the required records are maintained and kept at an office outside the state of Iowa, it shall be a sufficient compliance with this section if the records are made available for audit and examination by the state department of transportation at the office outside Iowa.

The state department of transportation within a period of one year from the issuance of a permanent ~~interstate~~ international fuel tax agreement fuel permit or license may audit the records of the permittee or licensee for the two years preceding the issuance of the permit or license. The state department of transportation shall collect all taxes due had the permittee or licensee been licensed for the two years prior to the issuance of the permit or license and shall refund any overpayment pursuant to section 452A.54. When, as a result of an audit, fuel taxes unpaid and due the state of Iowa exceed five hundred dollars, the audit shall be at the expense of the person whose records are being audited. However, if an audit of records maintained under this section is made outside the state of Iowa in a state which requires payment of the costs for similar audits performed by officials or employees of the other state when made in Iowa, then all costs of audits performed outside of Iowa in the other state shall be at the expense of the person whose records are audited.

Sec. 47. Section 805.8, subsection 2, paragraph w, Code 1997, is amended to read as follows:

w. For failure to have a valid license or permit for operating a motor vehicle on the highways of this state pursuant to section 321.174, the scheduled fine is ~~twenty~~ one hundred dollars.

Sec. 48. Section 805.8, subsection 2, Code 1997, is amended by adding the following new paragraphs:

NEW PARAGRAPH. ad. For violations of section 321.57, the scheduled fine is fifty dollars. For violations of section 321.62, the scheduled fine is fifty dollars.

NEW PARAGRAPH. ae. For operating a motor vehicle on the highways of this state with an expired motor vehicle license pursuant to section 321.174A, the scheduled fine is twenty dollars.

Sec. 49. Sections 321.27, 321.120, 321.391, 321.424, 321.428, and 321.429, Code 1997, are repealed.

Approved May 2, 1997

CHAPTER 109

REPAIR OF OUT-OF-STATE COMMERCIAL VEHICLES

S.F. 379

AN ACT providing for maintenance and repair of out-of-state commercial motor vehicles.

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

Section 1. NEW SECTION. 307.31 REPAIR OF OUT-OF-STATE COMMERCIAL MOTOR VEHICLES.

1. The operator of a commercial motor vehicle which is not registered within the state as required pursuant to chapter 321 or 326 or which does not have an interstate fuel permit, as required under chapter 452A, may enter the state and travel to a commercial vehicle dealer or repair facility and exit the state under the following circumstances:

a. If the commercial motor vehicle is entering the state solely for the purposes of maintenance and repair to the commercial motor vehicle and is exiting the state after having completed vehicle maintenance or repair.

b. If the operator has obtained a temporary entry or exit permit from the department.

c. If the commercial motor vehicle is unladen.

2. The department shall provide a temporary entry and exit permit to a commercial motor vehicle operator which authorizes the operator to enter and exit the state as allowed under this section. Any operator of a commercial motor vehicle who has in the operator's possession, the permit allowing entry into the state and exit from the state, shall not be charged with a registration violation under chapter 321 or 326 or with a motor vehicle fuel tax violation under chapter 452A, except for violations of section 452A.74A.

3. For purposes of this section, "commercial motor vehicle" means as defined in section 321.1, subsection 11, paragraph "e", subparagraph (2).

Approved May 2, 1997

CHAPTER 110

WORKFORCE DEVELOPMENT BOARD

S.F. 460

AN ACT relating to membership on the workforce development board and providing an effective date.

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

Section 1. Section 84A.1A, subsection 1, Code 1997, is amended to read as follows:

1. An Iowa workforce development board is created, consisting of nine voting members appointed by the governor and ~~seven~~ eight ex officio nonvoting members. The ex officio nonvoting members are four legislative members; one president or the president's designee of the university of northern Iowa, the university of Iowa, or Iowa state university of science and technology, designated by the state board of regents on a rotating basis; one representative from the largest statewide public employees' organization representing state employees; one president or the president's designee of an independent Iowa college, appointed by the Iowa association of independent colleges and universities; and one superintendent or

the superintendent's designee of a community college, appointed by the Iowa association of community college presidents. The legislative members are two state senators, one appointed by the president of the senate, after consultation with the majority leader of the senate, and one appointed by the minority leader of the senate, after consultation with the president of the senate, from their respective parties; and two state representatives, appointed by the speaker after consultation with the majority and minority leaders of the house of representatives from their respective parties. Not more than five of the voting members shall be from the same political party. Of the nine voting members, one member shall represent a nonprofit organization involved in workforce development services, four members shall represent employers, and four members shall represent nonsupervisory employees. Of the members appointed by the governor to represent nonsupervisory employees, two members shall be from statewide labor organizations, one member shall be an employee representative of a labor management council, and one member shall be a person with experience in worker training programs. The governor shall consider recommendations from statewide labor organizations for the members representing nonsupervisory employees. The governor shall appoint the nine voting members of the board for a term of four years beginning and ending as provided by section 69.19, subject to confirmation by the senate, and the governor's appointments shall include persons knowledgeable in the area of workforce development.

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

Approved May 2, 1997

CHAPTER 111

TAXATION OF SHAREHOLDERS OF SUBCHAPTER S CORPORATIONS

H.F. 306

AN ACT relating to the individual income tax by extending the special method of computation of tax for value-added S corporation shareholders to all S corporation shareholders and eliminating the refund limitation and including effective and retroactive applicability date provisions.

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

Section 1. Section 422.4, subsection 18, Code 1997, is amended by striking the subsection.

Sec. 2. Section 422.5, subsection 1, paragraph j, subparagraph (2), subparagraph subdivisions (a) and (c), Code 1997, are amended by striking the subparagraph subdivisions.

Sec. 3. Section 422.5, subsection 1, paragraph j, subparagraph (2), Code 1997, is amended to read as follows:

(2) The tax imposed upon the taxable income of a resident shareholder in ~~a value-added~~ an S corporation which has in effect for the tax year an election under subchapter S of the Internal Revenue Code and carries on business within and without the state may be computed by reducing the amount determined pursuant to paragraphs "a" through "i" by the amounts of nonrefundable credits under this division and by multiplying this resulting

amount by a fraction of which the resident's net income allocated to Iowa, as determined in section 422.8, subsection 2, paragraph "b", is the numerator and the resident's total net income computed under section 422.7 is the denominator. If a resident shareholder has elected to take advantage of this subparagraph, and for the next tax year elects not to take advantage of this subparagraph, the resident shareholder shall not reelect to take advantage of this subparagraph for the three tax years immediately following the first tax year for which the shareholder elected not to take advantage of this subparagraph, unless the director consents to the reelection. This ~~paragraph~~ subparagraph also applies to individuals who are residents of Iowa for less than the entire tax year.

~~(a) In order for a resident shareholder in a value-added corporation which has in effect for the tax year an election under subchapter S of the Internal Revenue Code and carries on business within and without the state, to claim the benefits of apportionment of income of the value-added S corporation, the taxpayer must completely fill out the return, determine the taxpayer's income tax liability without the benefit of apportionment of the value-added corporation's income, and pay the amount of tax owed. The taxpayer shall recompute the taxpayer's income tax liability, by applying the provisions of this subparagraph on a special return. This special return shall be filed under rules of the director and constitutes a claim for refund of the difference between the amount of tax the taxpayer paid as determined without the provisions of this subparagraph and the amount of tax determined with the provisions of this subparagraph.~~

~~(b)~~ This subparagraph shall not affect the amount of the taxpayer's checkoff to the Iowa election campaign fund under section 56.18, the checkoff for the fish and game fund in section 456A.16, the credits from tax provided in sections 422.10, 422.11A, and 422.12 and the allocation of these credits between spouses if the taxpayers filed separate returns or separately on combined returns.

~~(c) For any tax year, the aggregate amount of refund claims that shall be paid pursuant to this subparagraph shall not exceed five million dollars. If, for a tax year, the aggregate amount of refund claims filed pursuant to this subparagraph exceeds five million dollars, each claim for refund shall be paid on a pro rata basis so that the aggregate amount of refund claims does not exceed five million dollars. In the case where refund claims are not paid in full, the amount of the refund to which the taxpayer is entitled under this subparagraph is the pro rata amount that was paid and the taxpayer is not entitled to a refund of the unpaid portion and is not entitled to carry that amount forward or backward to another tax year. Taxpayers shall not use refunds as estimated payments for the succeeding tax year. Taxpayers whose tax years begin on January 1 must file their refund claims by October 31 of the calendar year following the end of their tax year to be eligible for refunds. Taxpayers whose tax years begin on a date other than January 1 must file their refund claims by the end of the tenth month following the end of their tax years to be eligible. The department shall determine on February 1 of the second succeeding calendar year if the total amount of claims for refund exceeds five million dollars for the tax year. Notwithstanding any other provision, interest shall not be due on any refund claims that are paid by the last day of February of the second succeeding calendar year. If the claim is not payable on February 1 of the second succeeding calendar year, because the taxpayer is a fiscal year filer, then the amount of the claim allowed shall be in the same ratio as the refund claims available on February 1 of the second succeeding calendar year. These claims shall be funded by moneys appropriated for payment of individual income tax refunds.~~

Sec. 4. Section 422.5, subsection 1, paragraph k, unnumbered paragraph 4, Code 1997, is amended to read as follows:

In the case of a resident, including a resident estate or trust, the state's apportioned share of the state alternative minimum tax is one hundred percent of the state alternative minimum tax computed in this subsection. In the case of a resident or part-year resident shareholder in ~~a value-added~~ an S corporation which has in effect for the tax year an election under subchapter S of the Internal Revenue Code and carries on business within and with-

out the state, a nonresident, including a nonresident estate or trust, or an individual, estate, or trust that is domiciled in the state for less than the entire tax year, the state's apportioned share of the state alternative minimum tax is the amount of tax computed under this subsection, reduced by the applicable credits in sections 422.10 through 422.12 and this result multiplied by a fraction with a numerator of the sum of state net income allocated to Iowa as determined in section 422.8, subsection 2, paragraph "a" or "b" as applicable, plus tax preference items, adjustments, and losses under subparagraph (1) attributable to Iowa and with a denominator of the sum of total net income computed under section 422.7 plus all tax preference items, adjustments, and losses under subparagraph (1). In computing this fraction, those items excludable under subparagraph (1) shall not be used in computing the tax preference items. Married taxpayers electing to file separate returns or separately on a combined return must allocate the minimum tax computed in this subsection in the proportion that each spouse's respective preference items, adjustments, and losses under subparagraph (1) bear to the combined preference items, adjustments, and losses under subparagraph (1) of both spouses.

Sec. 5. Section 422.8, subsection 2, paragraph b, unnumbered paragraph 1, Code 1997, is amended to read as follows:

A resident's income allocable to Iowa is the income determined under section 422.7 reduced by items of income and expenses from ~~a subchapter~~ an S corporation ~~which is a value-added corporation~~ that carries on business within and without the state when those items of income and expenses pass directly to the shareholders under provisions of the Internal Revenue Code. These items of income and expenses are increased by the greater of the following:

Sec. 6. Section 422.8, subsection 6, Code 1997, is amended to read as follows:

6. If the resident or part-year resident is a shareholder of ~~a value-added~~ an S corporation which has in effect an election under subchapter S of the Internal Revenue Code, subsections 1 and 3 do not apply to any income taxes paid to another state or foreign country on the income from the ~~value-added~~ corporation which has in effect an election under subchapter S of the Internal Revenue Code.

Sec. 7. Section 2 of this Act applies retroactively to January 1, 1997, for tax years beginning on or after that date.

Sec. 8. This Act, except for section 2 of this Act, is effective January 1, 1998, and applies to tax years beginning on or after that date.

Approved May 2, 1997

CHAPTER 112

SUPPLEMENTAL NEEDS TRUSTS FOR PERSONS WITH DISABILITIES

H.F. 492

AN ACT relating to supplemental needs trusts for persons with disabilities.

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

Section 1. NEW SECTION. 634A.1 DEFINITIONS.

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

1. "Person with a disability" means a person to whom one of the following applies, prior to creation of a trust which otherwise qualifies as a supplemental needs trust for the person's benefit:

a. Is considered to be a person with a disability under the disability criteria specified in Title II or Title XVI of the federal Social Security Act.

b. Has a physical or mental illness or condition which, in the expected natural course of the illness or condition, to a reasonable degree of medical certainty, is expected to continue for a continuous period of twelve months or more and substantially impairs the person's ability to provide for the person's care or custody.

2. "Supplemental needs trust" means an inter vivos or testamentary trust created for the benefit of a person with a disability and funded by a person other than the trust beneficiary or the beneficiary's spouse, and which is declared to be a supplemental needs trust in the instrument creating the trust. "Supplemental needs trust" shall include, but is not limited to, a trust created for the benefit of a person with a disability and funded solely with moneys awarded as damages in a personal injury case or moneys received in the settlement of a personal injury case provided that the trust is created within six months of receiving the award or settlement, the trust is irrevocable, the beneficiary is not named a trustee of the trust, and the instrument creating the trust declares the trust to be a supplemental needs trust.

Sec. 2. NEW SECTION. 634A.2 SUPPLEMENTAL NEEDS TRUST — REQUIREMENTS.

1. A supplemental needs trust established in compliance with this chapter is in keeping with the public policy of this state and is enforceable.

2. A supplemental needs trust established under this chapter shall comply with all of the following:

a. Shall be established as a discretionary trust for the purpose of providing a supplemental source for payment of expenses which include but are not limited to the reasonable living expenses and basic needs of a person with a disability only if benefits from publicly funded benefit programs are not sufficient to provide adequately for those expenses and needs.

b. Shall contain provisions which prohibit disbursements that would result in replacement, reduction, or substitution for publicly funded benefits otherwise available to the beneficiary or in rendering the beneficiary ineligible for publicly funded benefits. The supplemental needs trust shall provide for distributions only in a manner and for purposes that supplement or complement the benefits available under medical assistance, state supplementary assistance, and other publicly funded benefit programs for persons with disabilities.

3. For the purpose of establishing eligibility of a person as a beneficiary of a supplemental needs trust, disability may be established conclusively by the written opinion of a licensed professional who is qualified to diagnose the illness or condition, if confirmed by the written opinion of a second licensed professional who is also qualified to diagnose the illness or condition.

4. A supplemental needs trust is not enforceable if the trust beneficiary becomes a patient or resident after sixty-four years of age in a state institution or nursing facility for six months or more and, due to the beneficiary's medical need for care in an institutional setting, there is no reasonable expectation, as certified by the beneficiary's attending physician, that the beneficiary will be discharged from the facility. For the purposes of this subsection, a beneficiary participating in a group residential program is not a patient or resident of a state institution or nursing facility.

5. The trust income and assets of a supplemental needs trust are considered available to the beneficiary for medical assistance or other public assistance program purposes to the extent that income and assets are considered available in accordance with the methodology applicable to a particular program.

6. A supplemental needs trust is not subject to administration in the Iowa district court

sitting in probate. A trustee of a supplemental needs trust has all powers and shall be subject to all the duties and liabilities of a trustee as provided in the probate code, except the duty of reporting to or obtaining approval of the court.

7. Notwithstanding the prohibition of the funding of a supplemental needs trust by the beneficiary or the beneficiary's spouse, a supplemental needs trust may be established with the proceeds of back payments made by the United States social security administration resulting from a judgment regarding the regulatory schemes for determination of the disability of a child.

Approved May 2, 1997

CHAPTER 113

NOTICE REQUIREMENTS FOR CERTAIN ELECTRIC TRANSMISSION LINES

H.F. 552

AN ACT eliminating notice requirements relating to the location of certain electric transmission lines, wires, or cables.

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

Section 1. Section 478.1, unnumbered paragraph 2, Code 1997, is amended to read as follows:

If the transmission line, wire, or cable is capable of operating only at an electric voltage of less than thirty-four and one-half kilovolts, no franchise is required. However, the utilities board shall retain jurisdiction over all such lines, wires, or cables ~~and shall prescribe the contents of a written notice and map to be timely provided to the board and affected parties including owners of electric supply lines located within six-tenths of one mile of proposed construction of such lines, wires or cables~~. A person who seeks to construct, erect, maintain or operate a transmission line, wire, or cable which will operate at an electric voltage of less than thirty-four and one-half kilovolts outside of cities and which cannot secure the necessary voluntary easements to do so may petition the board pursuant to section 478.3, subsection 1, for a franchise granting authority for such construction, erection, maintenance, or operation, and for the use of the right of eminent domain.

Approved May 2, 1997

CHAPTER 114

SECURITIES REGULATION

H.F. 553

AN ACT amending the uniform securities Act relating to the registration of securities and the registration of broker-dealers and agents, establishing fees, and providing an effective date.

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

Section 1. Section 502.102, subsection 3, Code 1997, is amended to read as follows:

3. "Agent" means any individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect purchases or sales of securities. "Agent" does not include an individual who represents ~~an~~:

a. An issuer in doing any of the following:

~~a.~~ (1) Effecting transactions in a security exempted by section 502.202, subsection 1, 2, 3, 4, 6, 10, 11, 12, 13, or 17, or a security issued by an industrial loan company licensed under chapter 536A~~;~~.

~~b.~~ (2) Effecting transactions exempted by section 502.203~~; or~~.

(3) Effecting transactions in a federal covered security as described in sections 18(b)(3) and 18(b)(4)(D) of the Securities Act of 1933 as amended in Pub. L. No. 104-290.

~~c.~~ (4) Effecting transactions with an existing ~~employees~~ employee, member, manager, ~~partners~~ partner, or ~~directors~~ director of the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state.

b. A broker-dealer in effecting a transaction in this state which is limited to a transaction provided in section 15(h)(2) of the Securities Exchange Act of 1934.

"Agent" also does not include any other ~~individuals~~ individual who ~~are~~ is not within the intent of this subsection whom the administrator by rule or order designates. A partner, member, manager, officer, or director of a broker-dealer or issuer, or a person occupying a similar status or performing similar functions, is an agent only if such person otherwise comes within this definition.

Sec. 2. Section 502.102, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. "Federal covered security" means any security that is a covered security under section 18(b) of the Securities Act of 1933 or rules or regulations adopted under the Securities Act of 1933.

Sec. 3. Section 502.102, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 13A. "Securities and exchange commission" means the United States securities and exchange commission as established pursuant to 15 U.S.C. § 78(d).

Sec. 4. Section 502.102, subsection 14, Code 1997, is amended to read as follows:

14. "Security" means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in a profit sharing agreement; collateral trust certificate; preorganization certificate or subscription; transferable share; investment contract; voting trust certificate; certificate of deposit for a security; fractional undivided interest in an oil, gas, or other mineral lease or in payments out of production under such a lease, right, or royalty; an interest in a limited liability company or in a limited liability partnership or any class or series of such interest, including any fractional or other interest in such interest; or, in general, any interest or instrument commonly known as a "security", or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. "Security" does not include an insurance or endowment policy or annuity contract under which an insurance company promises to pay money either in a lump sum or periodically for life or

for some other specified period. "Security" also does not include an interest in a limited liability company or a limited liability partnership if the person claiming that such an interest is not a security proves that all of the members of the limited liability company or limited liability partnership are actively engaged in the management of the limited liability company or limited liability partnership; provided that the evidence that members vote or have the right to vote, or the right to information concerning the business and affairs of the limited liability company or limited liability partnership, or the right to participate in management, shall not establish, without more, that all members are actively engaged in the management of the limited liability company or limited liability partnership.

Sec. 5. Section 502.201, Code 1997, is amended to read as follows:

502.201 REGISTRATION REQUIREMENT.

It is unlawful for any person to offer or sell any security in this state unless one of the following applies:

1. It is registered under this chapter~~; or~~.

2. The security or transaction is exempted under section 502.202 or 502.203.

3. It is a federal covered security.

Sec. 6. Section 502.202, subsection 7, Code 1997, is amended to read as follows:

7. Any security issued or guaranteed by ~~any railroad, other common carrier,~~ a public utility~~,~~ or holding company which is any of the following:

~~a. Subject to the jurisdiction of the interstate commerce commission;~~

~~b.~~ a. A registered holding company under the Public Utility Holding Company Act of 1935 or a subsidiary of such a company within the meaning of that Act~~; or~~.

b. Regulated in respect of its rates and charges by a governmental authority of the United States or any state.

c. Regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States, any state, Canada, or any Canadian province.

Sec. 7. NEW SECTION. 502.206A FEDERAL COVERED SECURITIES.

1. The administrator, by rule or order, may require the filing of any or all of the following documents with respect to a federal covered security under section 18(b)(2) of the Securities Act of 1933:

a. Prior to the initial offer of a federal covered security in this state, all documents that are part of a current federal registration statement filed with the United States securities and exchange commission under the Securities Act of 1933, together with a consent to service of process signed by the issuer and a filing fee calculated as specified in section 502.208, subsection 2.

b. After the initial offer of a federal covered security in this state, all documents that are part of an amendment to a current federal registration statement filed with the United States securities and exchange commission under the Securities Act of 1933.

c. To the extent necessary to compute fees, an annual or periodic report of the value of the federal covered securities offered or sold in this state together with the applicable filing fee, if any, calculated as specified in section 502.208, subsection 2.

2. With respect to any security that is a federal covered security under section 18(b)(4)(D) of the Securities Act of 1933, the administrator, by rule or otherwise, may require the issuer to file a notice on Form D as promulgated by the securities and exchange commission and a consent to service of process signed by the issuer not later than fifteen days after the first sale of the federal covered security in this state together with a filing fee, as established by rule adopted by the administrator.

3. The administrator, by rule or otherwise, may require the filing of any document filed with the securities and exchange commission under the Securities Act of 1933 with respect to a federal covered security under section 18(b)(3) or (4) of the Securities Act of 1933, together with a filing fee established by rule adopted by the administrator which shall not be more than one hundred dollars.

4. The administrator may issue a stop order suspending the offer and sale of a federal covered security, except a federal covered security under section 18(b)(1) of the Securities Act of 1933, if the administrator finds that both of the following apply:

a. The order is in the public interest.

b. The person against whom the stop order is issued has failed to comply with a requirement provided in this section.

5. The administrator, by rule or otherwise, may waive any requirement of this section if the administrator finds good cause that the requirement is not necessary in order to carry out the purposes of the section.

Sec. 8. Section 502.207A, subsection 5, Code 1997, 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. ~~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. 9. Section 502.208, subsections 1, 2, 4, 5, 8, 9, 11, and 13, Code 1997, are amended to read as follows:

1. A registration statement or a notice filing made pursuant to section 502.206A may be filed by the issuer, any other person on whose behalf the offering is to be made, or a registered broker-dealer.

2. a. Except as provided in subsection 13 and section 502.207A, subsection 3, paragraph "g", a person who files a registration statement or a notice filing shall pay a filing fee of one-tenth of one percent of the proposed aggregate sales price of the securities to be offered to persons in this state pursuant to the registration statement or notice filing. However, except as provided in paragraph "c" of this subsection, subsection 13, and section 502.207A, subsection 3, paragraph "g", the annual filing fee shall not be less than fifty dollars or more than one thousand dollars.

b. The administrator shall retain the filing fee even if the notice filing is withdrawn or the registration is withdrawn, denied, suspended, revoked, or abandoned.

c. A person who is ~~a face-amount certificate company, open-end management investment company, or a unit investment trust, as defined in the Investment Company Act of 1940,~~ the issuer of a federal covered security under section 18(b)(2) of the Securities Act of 1933 shall initially ~~register~~ make a notice filing and annually renew a ~~registration statement~~ notice filing in this state for an indefinite amount or a fixed amount. The fixed amount must be for two hundred fifty thousand dollars. A ~~registrant~~ notice filer shall pay a filing fee when the ~~statement~~ notice is filed. If the ~~registration statement~~ amount covered by the notice is indefinite, the ~~registrant~~ notice filer shall pay a filing fee of one thousand dollars. If the ~~registration statement~~ amount covered by the notice is fixed, the ~~registrant~~ notice filer shall pay a filing fee of two hundred fifty dollars, and the following shall apply:

(1) The ~~registrant~~ notice filer shall file a sales report with the administrator or pay an additional filing fee of one thousand two hundred fifty dollars within ninety days after the ~~registration statement's~~ notice filing's annual renewal date. If the ~~registrant~~ notice filer files a sales report with the administrator, the ~~registrant~~ notice filer shall pay an additional filing

fee of one-tenth of one percent of the amount of securities sold in excess of two hundred fifty thousand dollars. The additional filing fee must be paid within ninety days after the ~~registration statement's~~ notice filing's annual renewal date.

(2) The ~~administrator shall order the registration of~~ notice filing covering the additional securities shall be effective retroactively as of the effective date of the ~~registration statement~~ notice filing that is being amended.

4. Any document filed under this chapter or a predecessor act within five years preceding the filing of a registration statement or notice filing may be incorporated by reference in the registration statement or notice filing to the extent that the document is currently accurate.

5. The administrator may by rule or otherwise permit the omission of any item of information or document from any registration statement or notice filing.

8. The administrator may by rule require that registered securities of designated classes shall be issued under a trust indenture containing such provisions as the administrator determines.

9. a. A registration statement or notice filing shall remain effective for one year from its effective date unless it is renewed, extended, or amended by rule or order of the administrator. An initial notice filing or a renewal or amendment of a notice filing becomes effective on the date received by the administrator, or, if requested by the issuer, on the date that the initial notice filing, renewal, or amendment is effective with the securities and exchange commission. All outstanding securities of the same class as a registered security or a security for which a notice filing has been made are considered to be registered or covered by a notice filing for the purpose of any transaction by or on behalf of a person who is not the issuer, and who is not in control of the issuer or controlled by the issuer or under common control with the issuer, so long as the registration statement or notice filing is effective, unless otherwise prescribed by order. A registration statement ~~may~~ or notice filing shall not be withdrawn after its effective date if any of the securities has been sold in this state, unless permitted by rule or order of the administrator. A registration statement is not effective during the time a stop order is in effect under section 502.209. A notice filing is not effective during the time that a stop order issued pursuant to section 502.206A is in effect. A registration statement which never became effective may be withdrawn without prejudice to the issuer upon request and for good cause as determined at the discretion of the administrator.

b. During the effective period of a registration statement, the administrator may by rule or order require the person who filed the registration statement to file reports, not more often than quarterly, to keep reasonably current the information contained in the registration statement and to disclose the progress of the offering. If any of the securities registered has been sold in this state, the administrator may by rule or order extend the period for filing the reports for an additional period not exceeding two years from the date the registration became effective or from the date of its last amendment or extension.

11. ~~Except for face-amount certificate companies, open-end management investment companies, and unit investment trusts, as defined by the Investment Company Act of 1940, registration~~ Registration statements may be amended during the registration period to increase the amount of registered securities to be offered for sale to persons in this state.

a. The amendment to the registration statement becomes effective on the date ordered by the administrator.

b. Filing fees shall be calculated as specified by subsection 2, paragraph "a", and subsection 13.

13. ~~a. With the exception of face-amount certificate companies, open-end management investment companies, and unit investment trusts, a~~ A registrant who sold securities to persons in this state in excess of the amount of securities registered in this state at the time of the sale may file an amendment to its registration statement to register the additional securities. The following requirements shall apply:

~~(1)~~ a. If a registrant proposes to sell securities to persons in this state pursuant to a registration statement that is currently effective in this state in an amount that exceeds the

amount registered in this state, the registrant must do both of the following:

~~(a)~~ (1) File an amendment to register the additional securities.

~~(b)~~ (2) Pay an additional filing fee in the same amount as specified by subsection 2, paragraph "a", as though the amendment constitutes a separate issue.

~~(2)~~ b. If a registrant sold securities to persons in this state in excess of the amount registered in this state at that time, the registrant must do both of the following:

~~(a)~~ (1) File an amendment to register the additional securities.

~~(b)~~ (2) Pay an additional filing fee that is three times the amount specified in subsection 2, paragraph "a", as though the amendment constitutes a separate issue.

~~(3)~~ c. The administrator may order the amendment effective retroactively as of the effective date of the registration statement that is being amended.

Sec. 10. Section 502.302, subsection 4, Code 1997, is amended to read as follows:

4. The administrator may by rule or order require a minimum capital for broker-dealers ~~and establish limitations on aggregate indebtedness of broker-dealers in relation to net capital and may classify broker-dealers for purposes of such requirements~~ subject to the limitations of section 15 of the Securities Exchange Act of 1934. ~~The administrator may not, however, with respect to any broker-dealer who is a member of the national association of securities dealers, inc., or who is registered with the securities and exchange commission, require a higher minimum capital or lower ratio of aggregate indebtedness to net capital than is contained in the rules and regulations adopted by such association or commission.~~

Sec. 11. Section 502.303, subsections 1 and 2, Code 1997, are amended to read as follows:

1. Every registered broker-dealer shall make and keep ~~such~~ accounts, correspondence, memoranda, papers, books, and other records as the administrator ~~by rule prescribes~~ may prescribe by rule or order, except as provided by section 15 of the Securities Exchange Act of 1934. ~~All records so required shall be preserved for three years unless the administrator by rule prescribes otherwise for particular types of records. All required records shall be kept within this state or shall, at the request of the administrator, be made available at any time for examination at the administrator's option either in the principal office of the registrant or by production of exact copies thereof in this state.~~

2. Every registered broker-dealer shall file such financial reports as the administrator ~~by rule~~ prescribes by rule or order, not to exceed the limitations provided in section 15 of the Securities Exchange Act of 1934.

Sec. 12. Section 502.304, subsection 1, paragraph e, Code 1997, is amended to read as follows:

e. Is the subject of an order of the administrator denying, suspending, or revoking registration as a broker-dealer, agent, or insurance agent;

Sec. 13. Section 502.406, subsection 2, paragraph a, Code 1997, is amended to read as follows:

a. ~~Neither the~~ The fact that a registration statement or a notice filing has been filed under this chapter ~~nor~~ or the fact that ~~such~~ the statement has become effective ~~constitutes~~ does not constitute a finding by the administrator that any document filed under this chapter is true, complete or not misleading. ~~Neither any~~ Any such fact ~~nor~~ or the fact that an exemption is available for a security or a transaction ~~means~~ does not mean that the administrator has passed in any way upon the merits or qualifications of, or has recommended or given approval to, any person, security or transaction.

Sec. 14. Section 502.501, subsection 1, paragraph a, Code 1997, is amended to read as follows:

a. Violates section 502.201, subsection 1 or 2, or section 502.208, subsection 12, or section 502.406, subsection 2, paragraph "b", or

Sec. 15. Section 502.602, Code 1997, is amended to read as follows:

502.602 FILING OF SALES AND ADVERTISING LITERATURE.

The administrator may by rule or order require the filing of any prospectus, pamphlet, circular, form letter, advertisement, or other sales literature or advertising communication addressed or intended for distribution to prospective investors, unless the security is a federal covered security or the transaction relates to a federal covered security or the security or transaction is exempted by section 502.202 or 502.203. The administrator may by rule or order prohibit the publication, circulation or use of any advertising deemed false or misleading.

Sec. 16. Section 502.607, subsection 1, Code 1997, is amended to read as follows:

1. Pursuant to ~~the Iowa administrative procedure Act~~ chapter 17A, the administrator may from time to time make, amend, and rescind such rules, forms, and orders as are necessary to carry out the provisions of this chapter, including rules and forms governing registration statements, notice filings, applications, and reports, and defining any terms, whether or not used in this chapter, insofar as the definitions are not inconsistent with the provisions of this chapter. For the purpose of rules and forms, the administrator may classify securities, persons, and other relevant matters, and prescribe different requirements for different classes.

Sec. 17. Section 502.608, subsections 2 and 3, Code 1997, are amended to read as follows:

2. The administrator shall keep a register of all applications for registration, notice filings, and registration statements which are or have been effective under this chapter and predecessor laws, and all censure, denial, suspension, or revocation orders which have been entered under this chapter and predecessor laws. The register shall be open for public inspection.

3. The information contained in or filed with any registration statement, application, notice filing, or report may be made available to the public under such rules as the administrator prescribes.

Sec. 18. Section 502.609, subsection 1, unnumbered paragraph 1, Code 1997, is amended to read as follows:

Every applicant for registration under this chapter, and every issuer which proposes to offer a security in this state, shall file with the administrator, in such form as the administrator by rule prescribes, an irrevocable consent appointing the administrator or the administrator's successor in office to be such person's attorney to receive service of any lawful process in any noncriminal suit, action or proceeding against such person or the successor, executor or administrator of such person which arises under this chapter or any rule or order hereunder after the consent has been filed, with the same validity as if served personally on the person filing the consent. The consent need not be filed by a person who has filed a consent in connection with a previous registration or notice filing which is then in effect. Service may be made by leaving a copy of the process in the office of the administrator, but it is not effective unless the plaintiff, including the administrator when acting as such,

Sec. 19. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 2, 1997

CHAPTER 115

ABANDONED COAL MINES

H.F. 615

AN ACT relating to abandoned coal mines expenditures, including reclamation of land and drainage abatement.

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

Section 1. Section 207.21, subsection 2, Code 1997, is amended to read as follows:

2. a. Lands and water eligible for reclamation or drainage abatement expenditures under this section ~~are those~~ include the following:

(1) Lands which were mined for coal or affected by such mining, waste banks, coal processing, or other coal mining processes, and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under state or federal laws.

(2) Coal lands and water damaged by coal mining processes and abandoned after August 3, 1977, if they were mined for coal or affected by coal mining processes and if either of the following occurred:

(a) The mining occurred and the site was left in either an unreclaimed or inadequately reclaimed condition between August 4, 1977, and April 10, 1981, and any moneys for reclamation or abatement that are available pursuant to a bond or other form of financial guarantee or from any other source are not sufficient to provide for adequate reclamation or abatement at the site.

(b) The mining occurred and the site was left in either an unreclaimed or inadequately reclaimed condition between August 4, 1977, and November 5, 1990, and the surety of the mining operator became insolvent during that period and, as of November 5, 1990, moneys immediately available from proceedings relating to the insolvency or from any financial guarantee or other source are not sufficient to provide for adequate reclamation or abatement at the site.

b. If requested by the governor, the division may fill voids and seal tunnels, shafts, and entryways resulting from any previous noncoal mining operation, and may reclaim surface impacts of any such noncoal underground or surface mines that were mined prior to August 3, 1977, and which constitute an extreme danger to the public health, safety, general welfare, or property. Sites and areas designated for remedial action pursuant to the federal Uranium Mill Tailings Radiation Control Act of 1978, 42 U.S.C. § 7901 et seq., or which have been listed for remedial action pursuant to the federal Comprehensive Environmental Response Compensation and Liability Act of 1980, 42 U.S.C. § 9601 et seq., are not eligible for expenditures under this section.

Sec. 2. Section 207.21, subsection 3, paragraph d, Code 1997, is amended by striking the paragraph.

Sec. 3. Section 207.23, subsection 1, Code 1997, is amended to read as follows:

1. ~~Before initiating a reclamation project, the division shall obtain a notarized appraisal by an independent appraiser of the value of the land before the project.~~ Within six months after the completion of a project to restore, reclaim, abate, control, or prevent adverse effects of past coal mining practices on privately owned land, the division shall itemize the money expended on the project~~, obtain another appraisal~~ and ~~shall~~ may file a lien statement in the manner provided in section 572.8~~, together with the notarized appraisals,~~ in the office of the district court clerk of each county in which a portion of the property affected by the project is located, together with a notarized appraisal by an independent appraiser of the value of the land before the restoration, reclamation, abatement, control, or prevention of adverse effects of past mining practices if the money so expended results in a significant increase in prop-

erty value. A copy of the lien statement and the appraisal, if required, shall be served upon affected property owners in the manner provided for service of an original notice. The lien shall not exceed the amount determined by the appraiser to be the increase in the market value of the land as a result of the restoration, reclamation, abatement, control, or prevention of adverse effects of past coal mining practices. A lien shall not be filed in accordance with this subsection against the property of a person, who owned the surface prior to May 2, 1977, and who neither consented to, participated in nor exercised control over the mining operation which necessitated the reclamation performed.

Sec. 4. Section 207.23, subsections 4 and 5, Code 1997, are amended by striking the subsections.

Sec. 5. NEW SECTION. 207.29 POWERS AND AUTHORITY.

The division may engage in any work and do all things necessary or expedient, including adoption of rules, to implement and administer the provisions of an abandoned mine reclamation program.

Approved May 2, 1997

CHAPTER 116

INSTRUMENTS FILED WITH COUNTY RECORDER

H.F. 616

AN ACT relating to instruments filed or recorded with the county recorder.

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

Section 1. Section 331.602, subsection 1,* Code 1997, 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~~ Except as otherwise authorized by the recorder, 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~~.

Approved May 2, 1997

* Subsection 1, unnumbered paragraph 1, probably intended

CHAPTER 117

CORPORATIONS — MISCELLANEOUS PROVISIONS

H.F. 628

AN ACT relating to corporations by providing for the call of special meetings of shareholders, for the combination of a corporation and certain shareholders, and for certain merger and share acquisitions.

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

Section 1. Section 490.702, subsection 1, unnumbered paragraph 1, Code 1997, is amended to read as follows:

~~A~~ Except as provided in subsection 5, a corporation shall hold a special meeting of shareholders upon the occurrence of either of the following:

Sec. 2. Section 490.702, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Notwithstanding subsections 1 through 4, a corporation which has a class of voting stock that is listed on a national securities exchange, authorized for quotation on the national association of securities dealers automated quotations-national market system, or held of record by more than two thousand shareholders, is required to hold a special meeting only upon the occurrence of either of the following:

a. On call of its board of directors or the person or persons authorized to call a special meeting by the articles of incorporation or bylaws.

b. If the holders of at least fifty percent of all the votes entitled to be cast on any issue proposed to be considered at the proposed special meeting sign, date, and deliver to the corporation's secretary one or more written demands for the meeting describing the purpose or purposes for which it is to be held.

Sec. 3. Section 490.1101, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 4. One or more business entities organized under Title XII or XIII may merge with or into a corporation organized under this chapter, and a corporation organized under this chapter may merge with or into such business entity or entities, if the entity or entities are authorized to merge with such corporation pursuant to the chapter under which the entity or entities are organized. Except as otherwise provided, this division applies to such mergers.

Sec. 4. Section 490.1102, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 5. One or more business entities organized under Title XII or XIII may acquire all of the outstanding shares of one or more classes or series of a corporation organized under this chapter, and a corporation organized under this chapter may acquire all of the outstanding ownership interests in such business entity or entities, if the entity or entities are authorized to enter into such share exchange with such corporation pursuant to the chapter under which the entity or entities are organized. Except as otherwise provided, this division applies to such exchange.

Sec. 5. NEW SECTION. 490.1109 BUSINESS COMBINATIONS WITH INTERESTED SHAREHOLDERS.

1. Notwithstanding any other provision of this chapter, a corporation shall not engage in any business combination with an interested shareholder for a period of three years following the time that the shareholder became an interested shareholder, unless any of the following apply:

a. Prior to the time the shareholder became an interested shareholder, the board of directors of the corporation approved either the business combination or the transaction which

resulted in the shareholder becoming an interested shareholder.

b. Upon consummation of the transaction which resulted in the shareholder becoming an interested shareholder, the interested shareholder owned at least eighty-five percent of the voting stock of the corporation outstanding at the time the transaction commenced, excluding, for purposes of determining the number of shares outstanding, those shares owned by persons who are directors and officers, and by employee stock plans in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer.

c. At or subsequent to the time the shareholder became an interested shareholder, the business combination is approved by the board of directors and authorized at an annual or special meeting of shareholders by the affirmative vote of at least sixty-six and two-thirds percent of the outstanding voting stock which is not owned by the interested shareholder. Such approval shall not be by written consent.

2. This section does not apply in any of the following circumstances:

a. The corporation does not have a class of voting stock that is listed on a national securities exchange, authorized for quotation on the national association of securities dealers automated quotations-national market system, or held of record by more than two thousand shareholders, unless any of the foregoing results from action taken, directly or indirectly, by an interested shareholder or from a transaction in which a person becomes an interested shareholder.

b. The corporation's original articles of incorporation contain a provision expressly electing not to be governed by this section.

c. The corporation, by action of its board of directors, adopts an amendment to its bylaws by no later than September 29, 1997, expressly electing not to be governed by this section, which amendment shall not be further amended by the board of directors.

d. The corporation, by action of its shareholders, adopts an amendment to its articles of incorporation or bylaws expressly electing not to be governed by this section, provided that, in addition to any other vote required by law, such amendment to the articles of incorporation or bylaws must be approved by the affirmative vote of a majority of the shares entitled to vote. An amendment adopted pursuant to this paragraph is effective immediately in the case of a corporation that has never had a class of voting stock that falls within any of the three categories set out in paragraph "a" and has not elected by a provision in its original articles of incorporation or any amendment to such articles to be governed by this section. In all other cases, an amendment adopted pursuant to this paragraph is not effective until twelve months after the adoption of the amendment and does not apply to any business combination between the corporation and any person who became an interested shareholder of the corporation on or prior to such adoption.

An amendment to the bylaws adopted pursuant to this paragraph shall not be further amended by the board of directors.

e. A shareholder becomes an interested shareholder inadvertently and both of the following apply:

(1) As soon as practicable the shareholder divests itself of ownership of sufficient shares so that the shareholder ceases to be an interested shareholder.

(2) The shareholder would not, at any time within the three-year period immediately prior to a business combination between the corporation and such shareholder, have been an interested shareholder but for the inadvertent acquisition of ownership.

f. (1) The business combination is proposed prior to the consummation or abandonment of and subsequent to the earlier of the public announcement or the notice required in this paragraph of a proposed transaction which satisfies all of the following:

(a) Constitutes a transaction described in subparagraph (2).

(b) Is with or by a person who either was not an interested shareholder during the previous three years or who became an interested shareholder with the approval of the corporation's board of directors or who became an interested shareholder during the time

period described in paragraph "g".

(c) Is approved or not opposed by a majority of the members of the board of directors then in office who were directors prior to any person becoming an interested shareholder during the previous three years, or who were recommended for election or elected to succeed such directors by a majority of such directors.

(2) A proposed transaction under subparagraph (1) is limited to the following:

(a) A merger of the corporation, other than a merger pursuant to section 490.1104.

(b) A sale, lease, exchange, mortgage, pledge, transfer, or other disposition, in one or more transactions and whether as part of a dissolution or otherwise, of assets of the corporation or of any direct or indirect majority-owned subsidiary of the corporation, other than to a direct or indirect wholly owned subsidiary of the corporation or to the corporation itself, which has an aggregate market value equal to fifty percent or more of either the aggregate market value of all of the assets of the corporation determined on a consolidated basis, or the aggregate market value of all the outstanding stock of the corporation.

(c) A proposed tender or exchange offer for fifty percent or more of the outstanding voting stock of the corporation.

(3) The corporation shall give no less than twenty days' notice to all interested shareholders prior to the consummation of any of the transactions described in subparagraph (2), subparagraph subdivision (a) or (b).

g. The business combination is with an interested shareholder who becomes an interested shareholder of the corporation at a time when the corporation is not subject to this section pursuant to paragraphs "a" through "d".

Notwithstanding paragraphs "a" through "d", a corporation may elect under its original articles of incorporation or any amendment to such articles to be subject to this section. However, such amendment shall not apply to restrict a business combination between the corporation and an interested shareholder of the corporation if the interested shareholder became such prior to the effective date of the amendment.

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

a. "Affiliate" means a person that directly, or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, another person.

b. "Associate", when used to indicate a relationship with a person, means any of the following:

(1) A corporation, partnership, unincorporated association, or other entity of which the person is a director, officer, or partner or is, directly or indirectly, the owner of twenty percent or more of any class of voting stock.

(2) A trust or other estate in which the person has at least a twenty percent beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity.

(3) A relative or spouse of the person, or any relative of the spouse, who has the same residence as the person.

c. "Business combination", with respect to a corporation and an interested shareholder of such corporation, means any of the following:

(1) A merger or consolidation of the corporation or any direct or indirect majority-owned subsidiary of the corporation with the interested shareholder, or with any other corporation, partnership, unincorporated association, or other entity if the merger or consolidation is caused by the interested shareholder and as a result of such merger the surviving entity is not subject to subsection 1.

(2) A sales, lease, exchange, mortgage, pledge, transfer, or other disposition, in one transaction or a series of transactions, except proportionately as a shareholder of such corporation, to or with the interested shareholder, whether as part of a dissolution or otherwise, of assets of the corporation or of any direct or indirect majority-owned subsidiary of the corporation which assets have an aggregate market value equal to ten percent or more of either the aggregate market value of all the assets of the corporation determined on a consolidated basis or the aggregate market value of all the outstanding stock of the corporation.

(3) A transaction which results in the issuance or transfer by the corporation or by any direct or indirect majority-owned subsidiary of the corporation of any stock of the corporation or of such subsidiary to the interested shareholder, except for the following:

(a) Pursuant to the exercise, exchange, or conversion of securities exercisable for, exchangeable for, or convertible into stock of the corporation or such subsidiary which securities were outstanding prior to the time that the interested shareholder became an interested shareholder.

(b) Pursuant to a merger under section 490.1104.

(c) Pursuant to a distribution paid or made, or the exercise, exchange, or conversion of securities exercisable for, exchangeable for, or convertible into stock of such corporation or any such subsidiary, which stock is distributed pro rata to all holders of a class or series of stock of the corporation subsequent to the time the interested shareholder became an interested shareholder.

(d) Pursuant to an exchange offer by the corporation to purchase stock made on the same terms to all holders of the stock.

(e) Any issuance or transfer of stock by the corporation, provided, however, that in no case under subparagraph subdivisions (c) and (d) and this subparagraph subdivision shall there be an increase in the interested shareholder's proportionate share of the stock of any class or series of the corporation or of the voting stock of the corporation.

(4) A transaction involving the corporation or any direct or indirect majority-owned subsidiary of the corporation which has the effect, directly or indirectly, of increasing the proportionate share of the stock of any class or series, or securities convertible into the stock of any class or series, of the corporation or of any such subsidiary which is owned by the interested shareholder, except as a result of immaterial changes due to fractional share adjustments or as a result of any purchase or redemption of any shares of stock not caused, directly or indirectly, by the interested shareholder.

(5) The receipt by the interested shareholder of the benefit, directly or indirectly, except proportionately as a shareholder of such corporation, of any loans, advances, guarantees, pledges, or other financial benefits, other than those expressly permitted in subparagraphs (1) through (4), provided by or through the corporation or any direct or indirect majority-owned subsidiary.

d. "Control", including the terms "controlling", "controlled by", and "under common control with", means the ability, directly or indirectly, to direct or cause the direction of the management and policies of a person, whether through the ownership of voting stock, by contract, or otherwise. A person who is the owner of twenty percent or more of the outstanding voting stock of any corporation, partnership, unincorporated association, or other entity is presumed to have control of such entity, in the absence of proof by a preponderance of the evidence to the contrary. Notwithstanding this paragraph, a presumption of control shall not apply where a person holds voting stock, in good faith and not for the purpose of circumventing this section, as an agent, bank, broker, nominee, custodian, or trustee for one or more owners who do not individually or as a group have control of such entity.

e. "Interested shareholder" means any person, other than the corporation and any direct or indirect majority-owned subsidiary of the corporation, that is the owner of fifteen percent or more of the outstanding voting stock of the corporation, or is an affiliate or associate of the corporation and was the owner of fifteen percent or more of the outstanding voting stock of the corporation at any time within the three-year period immediately prior to the date on which it is sought to be determined whether such person is an interested shareholder, and the affiliates and associates of such person. "Interested shareholder" does not include either of the following:

(1) A person who owns shares in excess of the fifteen percent limitation and who acquired such shares as follows:

(a) Pursuant to a tender offer commenced prior to January 1, 1998, or pursuant to an exchange offer announced prior to January 1, 1998, and commenced within ninety days

after such date, if such person satisfies either of the following:

(i) Continues to own shares in excess of the fifteen percent limitation or would continue to own such shares but for action taken by the corporation.

(ii) Is an affiliate or associate of the corporation and continues, or would continue but for action taken by the corporation, to be the owner of fifteen percent or more of the outstanding voting stock of the corporation at any time within the three-year period immediately prior to the date on which it is sought to be determined whether such person is an interested shareholder.

(b) From a person subject to subparagraph subdivision (a) by gift, devise, or in a transaction in which no consideration for the shares was exchanged.

(2) A person whose ownership of shares in excess of the fifteen percent limitation is the result of action taken solely by the corporation, provided that such person is an interested shareholder if, after such action by the corporation, the person acquires additional shares of voting stock of the corporation, other than as a result of further corporate action not caused, directly or indirectly, by such person.

For purposes of determining whether a person is an interested shareholder, the outstanding voting stock of the corporation does not include any other unissued stock of the corporation which may be issuable pursuant to any agreement, arrangement, or understanding, or upon exercise of conversion rights, warrants, or options, or otherwise.

f. "Owner", including the terms "own" and "owned" when used with respect to any stock, means a person that individually or with or through any of such person's affiliates or associates satisfies any of the following:

(1) Beneficially owns such stock, directly or indirectly.

(2) Has the right to do either of the following:

(a) Acquire such stock, whether such right is exercisable immediately or only after the passage of time, pursuant to any agreement, arrangement, or understanding, or upon the exercise of conversion rights, exchange rights, warrants, or options, or otherwise. However, a person is not deemed the owner of stock tendered pursuant to a tender or exchange offer made by such person or any of such person's affiliates or associates until such tendered stock is accepted for purchase or exchange.

(b) Vote such stock pursuant to any agreement, arrangement, or understanding. However, a person is not deemed the owner of any stock because of such person's right to vote such stock if the agreement, arrangement, or understanding to vote such stock arises solely from the revocable proxy or consent given in response to a proxy or consent solicitation made to ten or more persons.

(3) Has any agreement, arrangement, or understanding for the purpose of acquiring, holding, voting, or disposing of such stock with any other person who beneficially owns, or whose affiliates or associates beneficially own, directly or indirectly, such stock. However, an agreement, arrangement, or understanding for the purpose of voting such stock does not include voting pursuant to a revocable proxy or consent under subparagraph (2), subparagraph subdivision (b).

g. "Person" means any individual, corporation, partnership, unincorporated association, or other entity.

h. "Stock" means, with respect to any corporation, capital stock and, with respect to any other entity, any equity interest.

i. "Voting stock" means, with respect to any corporation, stock of any class or series entitled to vote generally in the election of directors and, with respect to any entity that is not a corporation, any equity interest entitled to vote generally in the election of the governing body of such entity.

4. The articles of incorporation or bylaws shall not require, for any vote of shareholders required by this section, a greater vote of shareholders than that specified in this section.

Approved May 2, 1997

CHAPTER 118

GRANDPARENT AND GREAT-GRANDPARENT VISITATION RIGHTS

H.F. 643

AN ACT providing for grandparent and great-grandparent visitation rights.

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

Section 1. Section 598.35, Code 1997, is amended to read as follows:

598.35 GRANDPARENT — GREAT-GRANDPARENT — VISITATION RIGHTS.

The grandparent or great-grandparent of a child may petition the district court for grandchild or great-grandchild visitation rights when any of the following circumstances occur:

1. The parents of the child are divorced.
2. A petition for dissolution of marriage has been filed by one of the parents of the child.
3. The parent of the child, who is the child of the grandparent, or who is the grandchild of the great-grandparent, has died.
4. The child has been placed in a foster home.
5. The parents of the child are divorced, and the parent who is not the child of the grandparent or who is not the grandchild of the great-grandparent has legal custody of the child, and the spouse of the child's custodial parent has been issued a final adoption decree pursuant to section 600.13.
6. The paternity of a child born out of wedlock is judicially established and the grandparent of the child is the parent of the father of the child or the great-grandparent of the child is the grandparent of the father of the child and the mother of the child has custody of the child, or the grandparent of a child born out of wedlock is the parent of the mother of the child or the great-grandparent of the child is the grandparent of the mother of the child and custody has been awarded to the father of the child.
7. A parent of the child unreasonably refuses to allow visitation by the grandparent or great-grandparent or unreasonably restricts visitation. This subsection applies to but is not limited in application to a situation in which the parents of the child are divorced and the parent who is the child of the grandparent or who is the grandchild of the great-grandparent has legal custody of the child.

A petition for grandchild or great-grandchild visitation rights shall be granted only upon a finding that the visitation is in the best interests of the child and that the grandparent or great-grandparent had established a substantial relationship with the child prior to the filing of the petition.

Approved May 2, 1997

CHAPTER 119

LAWS RELATING TO CERTAIN CRIMINAL OFFENSES AFFIRMED AND REENACTED

H.F. 265

AN ACT relating to the affirmation and reenactment of certain provisions affecting the criminal and juvenile laws, and providing an effective date.

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

Section 1. LEGISLATIVE FINDINGS. It is the finding of the general assembly that as a result of certain court cases and other activities, questions have been raised in some quarters

in regard to the proper enactment of certain provisions contained in enactments relating to juvenile justice. It is the intent of the general assembly to resolve any doubt as to the validity of provisions in those juvenile justice enactments of prior years. Passage of an Act by the general assembly necessarily includes a finding by the general assembly that the Act embraced but one subject, and matters properly connected with the subject, and that the subject is properly expressed in the title.

Sec. 2. Section 723A.1, subsection 1, paragraph "h", Code 1997, is affirmed and reenacted in accordance with its enactment in 1996 Iowa Acts, chapter 1134, section 10, and including any other 1996 amendments and editorial changes.

Sec. 3. Section 724.16A, Code 1997, is affirmed and reenacted in accordance with its enactment in 1994 Iowa Acts, chapter 1172, section 55, and including any other 1994, 1995, or 1996 amendments and editorial changes.

Sec. 4. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 6, 1997

CHAPTER 120

DEBT COLLECTION PRACTICES

H.F. 308

AN ACT relating to notification requirements for communications between a debt collector and a debtor.

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

Section 1. Section 537.7103, subsection 4, paragraph b, Code 1997, is amended to read as follows:

b. The failure to ~~clearly~~ disclose in ~~all~~ the initial written ~~communications made to collect or attempt to collect a debt or to obtain or attempt to obtain information about a debtor~~ communication with the debtor and, in addition, if the initial communication with the debtor is oral, in that initial oral communication, that the debt collector is attempting to collect a debt and that information obtained will be used for that purpose, and the failure to disclose in subsequent communications that the communication is from a debt collector, except ~~where disclosure would tend to embarrass the debtor~~ that this paragraph does not apply to a formal pleading made in connection with a legal action.

Approved May 6, 1997

CHAPTER 121

FINANCIAL AND REGULATORY PROCEDURES OF COUNTIES, CITIES, AND DRAINAGE DISTRICTS

H.F. 645

AN ACT relating to the financial and regulatory procedures of counties, cities, and drainage districts, by amending the powers and duties of county treasurers and including an effective date provision.

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

Section 1. Section 321.44A, Code 1997, is amended to read as follows:

321.44A VOLUNTARY CONTRIBUTION — ANATOMICAL GIFT PUBLIC AWARENESS AND TRANSPLANTATION FUND — AMOUNT RETAINED BY COUNTY TREASURER.

For each application for registration or renewal, the county treasurer or the department shall request through use of a written form, and, if the application is made in person, through verbal communication, that an applicant make a voluntary contribution of one dollar or more to the anatomical gift public awareness and transplantation fund established pursuant to section 142C.15. ~~Moneys~~ Ninety-five percent of the moneys collected in the form of contributions shall be remitted to the treasurer of state for deposit in the fund to be used for the purposes specified for the fund. The remaining five percent shall be retained by the county treasurer for deposit in the general fund of the county. The director shall adopt rules to administer this section.

Sec. 2. Section 321.52, subsections 2 and 3, Code 1997, are amended to read as follows:

2. The purchaser or transferee of a motor vehicle for which a certificate of title is issued which is sold for scrap or junk shall surrender the certificate of title, properly endorsed and signed by the previous owner, to the county treasurer of the county of residence of the transferee, and shall apply for a junking certificate from the county treasurer, within fifteen days after assignment of the certificate of title. The county treasurer shall issue to such person without fee a junking certificate. A junking certificate shall authorize the holder to possess, transport or transfer by endorsement the ownership of the junked vehicle. A certificate of title shall not again be issued for the vehicle subsequent to the issuance of a junking certificate except as provided in subsection 3. The county treasurer shall cancel the record of the vehicle ~~and forward the certificate of title to the department. The junking certificate shall be of a form to allow for the assignment of ownership of the vehicle. The junking certificate shall provide a space for the notation of the transferee of the component parts of the vehicle transferred by the owner of the vehicle~~. The junking certificate shall be printed on the registration receipt form and shall be imprinted with the words "junking certificate", as prescribed by the department. A space for transfer by endorsement shall be on the reverse side of the junking certificate. A separate form for the notation of the transfer of component parts shall be attached to the junking certificate when the certificate is issued.

3. When a vehicle for which a certificate of title is issued is junked or dismantled by the owner, the owner shall detach the registration plates and surrender the plates to the county treasurer, unless the plates are properly assigned to another vehicle. The owner shall also surrender the certificate of title to the county treasurer. Upon surrendering the certificate of title and application for junking certificate, the county treasurer shall issue to the person, without fee, a junking certificate, which shall authorize the holder to possess, transport or transfer ownership of the junked vehicle by endorsement of the junking certificate. The county treasurer shall hold the surrendered certificate of title, registration receipt, application for junking certificate, and, if applicable, the registration plates for a period of fourteen days following the issuance of a junking certificate under this subsection. Within the fourteen-day period the person who was issued the junking certificate and to whom the vehicle was titled or assigned may surrender to the county treasurer the junking certificate,

and upon the person's payment of appropriate fees and taxes and payment of any credit for registration fees received by the person for the vehicle under section 321.46, subsection 3, the county treasurer shall issue to the person a certificate of title for the vehicle. After the expiration of the fourteen-day period, a county treasurer shall not issue a certificate of title for a junked vehicle for which a junking certificate is issued. The county treasurer shall cancel the record of the vehicle and forward the certificate of title to the department.

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 321.105, unnumbered paragraph 2, Code 1997, is amended to read as follows:

The registration fee shall be paid to the county treasurer at the same time the application is made for the registration or reregistration of the motor vehicle or trailer. An owner may, when applying for registration or reregistration of a motor vehicle or trailer, request that the plates be mailed to the owner's post-office address. The owner's request shall be accompanied by a mailing fee as determined annually by the director in consultation with the Iowa county treasurers association.

Sec. 4. Section 331.508, subsection 6, Code 1997, is amended to read as follows:

6. ~~Fee book~~ Record of fees as provided in section 331.902.

Sec. 5. Section 331.553, Code 1997, is amended by adding the following new subsections:

NEW SUBSECTION. 5. Accept electronic transfers or* funds in payment of moneys due to the county, including but not limited to, credits and reimbursements received from the state, tax payments, and tax sale redemptions.

NEW SUBSECTION. 6. Require a payor or an agent of a payor to make payment by electronic transfer of the funds when the payment totals one hundred thousand dollars or more.

Sec. 6. Section 331.606, subsection 1, Code 1997, is amended to read as follows:

1. In addition to other requirements specified by law, the recorder shall note in the ~~fee book~~ county system the date of filing of each instrument, the number and character of the instrument, and the name of each grantor and grantee named in the instrument. In numbering the instruments, the recorder may start with the number one immediately following the date of annual settlement with the board and continue to number them consecutively until the next annual settlement with the board or the recorder may start with number one on the first working day of the calendar year and continue to number the instruments consecutively until the last working day of the calendar year.

Sec. 7. Section 331.607, subsection 3, Code 1997, is amended to read as follows:

3. A ~~fee book~~ record of fees as provided in section 331.902.

Sec. 8. Section 331.655, subsection 3, Code 1997, is amended to read as follows:

3. The sheriff shall keep an accurate record of the fees collected in ~~a fee book~~ the county system, make a quarterly report of the fees collected to the board, and pay the fees belonging to the county into the county treasury as provided in section 331.902.

Sec. 9. Section 331.902, subsections 2 and 3, Code 1997, are amended to read as follows:

2. Each elective officer specified in subsection 1 shall ~~keep a fee book as a part of the~~

* The word "of" probably intended

~~permanent county records of the office. The book shall be ruled in appropriate columns for the date, kind of service, for whom rendered, and the amount of fee or charge collected~~ maintain a permanent record in the county system of each fee and charge collected. The record shall show the date, amount, payor, and type of service, and, when the fee is for recording an instrument, the names of the parties to the instrument. ~~The required information shall be recorded in the fee book when the service is rendered.~~

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

Sec. 10. Section 384.59, subsection 1, Code 1997, is amended to read as follows:

1. A description and parcel number of each lot to be assessed.

Sec. 11. Section 384.60, subsection 5, unnumbered paragraph 3, Code 1997, is amended to read as follows:

The county treasurer shall ~~place on the tax list~~ enter on the county system the amounts to be assessed against each lot within the assessment district, as certified.

Sec. 12. Section 384.63, unnumbered paragraphs 2 and 4, Code 1997, are amended to read as follows:

The council shall, by resolution, provide that the deficiencies for the lots specially benefited by a public improvement shall be certified to the county treasurer, who shall record them in ~~a separate book entitled "Special Assessment Deficiencies"~~ the county system as "special assessment deficiencies", and to the appropriate city official charged with the responsibility of issuing building permits, who shall notify the council when a private improvement is subsequently constructed on any lot subject to a deficiency. Certification to the county treasurer shall include a legal description of each lot. The period of amortization for a public improvement for which there are deficiencies shall commence with the adoption of the resolution of necessity and extend for the same period for which installments of assessments for the project are made payable. Deficiencies may be assessed only during the period of amortization, which shall also be certified to the county treasurer and the city official charged with the responsibility of issuing building permits. Certification to the county treasurer shall include a legal description of each lot.

An owner may appeal from the amount of the assessment within thirty days of the date notice is mailed. County officials shall collect a deficiency assessment, commencing in the year following the assessment, in the manner provided for the collection of other special assessments. Upon collection, the county treasurer shall make the appropriate credit entries in the ~~"Special Assessment Deficiencies" book~~ county system, and shall credit the amounts collected as provided for other special assessments on the same public improvement, or to the city, to the extent that the deficiency has been previously paid from other city funds.

Sec. 13. Section 384.70, Code 1997, is amended to read as follows:

384.70 REDEMPTION BY BONDHOLDER.

A holder of a special assessment bond payable in whole or in part out of a special assessment against any lot or parcel of ground, or a city within which the lot or parcel of ground is situated, which lot or parcel of ground has been sold for taxes, either general or special, may have an assignment of any certificate of tax sale of the property for any general taxes or

special taxes thereon, upon tender to the holder or to the county ~~auditor~~ treasurer of the amount to which the holder of the tax sale certificate would be entitled in case of redemption.

Sec. 14. Section 427.9, Code 1997, 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 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 county board of supervisors shall annually send to the department of human services the names and social security numbers of persons receiving a tax suspension pursuant to this section. The department shall verify the continued eligibility for tax suspension of each name on the list and shall return the list to the board of supervisors. The director of human services shall advise the person that the person may apply for an additional property tax credit pursuant to sections 425.16 to 425.39 which shall be credited against the amount of the taxes suspended.

Sec. 15. Section 435.1, subsection 2, Code 1997, is amended to read as follows:

2. "Manufactured home" is a factory-built structure built under authority of 42 U.S.C. § 5403, is required by federal law to display a seal from the United States department of housing and urban development, and was constructed on or after June 15, 1976. If a manufactured home is placed in a mobile home park, the home must be titled and is subject to the mobile home square foot tax. If a manufactured home is placed outside a mobile home park, the home must be titled and is to be assessed and taxed as real estate.

Sec. 16. Section 435.1, subsection 5, Code 1997, is amended to read as follows:

5. "Modular home" means a factory-built structure ~~built on a permanent chassis~~ which is manufactured to be used as a place of human habitation, is constructed to comply with the Iowa state building code for modular factory-built structures, and must display the seal issued by the state building code commissioner. If a modular home is placed in a mobile home park, the home is subject to the annual tax as required by section 435.22. If a modular home is placed outside a mobile home park, the home shall be considered real property and is to be assessed and taxed as real estate.

Sec. 17. Section 445.37, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. To avoid interest on delinquent taxes a payment must be received by the treasurer on or before the last business day of the month preceding the delinquent date, or mailed with appropriate postage and applicable fees paid, and a United States postal service postmark affixed to the payment envelope, with the postmark bearing a date preceding the delinquent date. Items returned to the sender by the United States postal service for insufficient postage or applicable fees shall be assessed interest, unless the appropriate postage and fees are paid and the items are postmarked again before the delinquent date.

Sec. 18. Section 446.9, subsection 2, Code 1997, is amended to read as follows:

2. Publication of the time and place of the annual tax sale shall be made once by the treasurer in ~~an~~ at least one official newspaper in the county as selected by the board of supervisors and designated by the treasurer at least one week, but not more than three weeks, before the day of sale. The publication shall contain a description of the parcel to be sold that is clear, concise, and sufficient to distinguish the parcel to be sold from all other parcels. All items offered for sale pursuant to section 446.18 may be indicated by an "s" or by an asterisk. The publication shall also contain the name of the person in whose name the parcel to be sold is taxed, the amount delinquent for which the parcel is liable each year, the amount of the interest, fees, costs, and the cost of publication in the newspaper, all to be incorporated as a single sum. The publication shall contain a statement that, after the sale, if the parcel is not redeemed within the period provided in chapter 447, the right to redeem expires and a deed may be issued.

Sec. 19. Section 446.16, Code 1997, is amended to read as follows:

446.16 BID — PURCHASER.

1. 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.

2. The treasurer may establish and collect a reasonable registration fee from each purchaser at the tax sale. The fee shall not be assessed against a county or municipality as a purchaser. The total of the fees collected shall not exceed the total costs of the tax sale. Registration fees collected shall be deposited in the general fund of the county.

3. 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. 20. Section 446.31, unnumbered paragraph 1, Code 1997, 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 one hundred dollars, or ten dollars in the case of an assignment by an estate, to be deposited in the county general fund. The assignment transaction fee shall not be added to the amount necessary to redeem.

Sec. 21. Section 446.39, Code 1997, is amended to read as follows:

446.39 IOWA FINANCE AUTHORITY STATEMENT.

A city or county, a city or county agency as authorized by the Iowa finance authority, or the Iowa finance authority may file with the county treasurer a verified statement that a parcel to be sold at tax sale is abandoned and deteriorating in condition, is inhabited but is not safe for human habitation, or is, or is likely to become, a public nuisance, and that the parcel is suitable for use and is to be used in an Iowa homesteading project under section 16.14. Other information may be included. Upon proper filing of the statement, and if the parcel is offered at a tax sale and no bid is received, or if the bid received is less than the total amount due, ~~or if the parcel is to be transferred to the county under section 446.38,~~ the city, county, city or county agency, or Iowa finance authority may bid for the parcel for use in an

Iowa homesteading project, bidding a sum equal to the total amount due. Each of the tax-levying and tax-certifying bodies having an interest in the taxes for which the parcel is sold shall be charged with its proportionate share of the purchase price.

Sec. 22. Section 447.9, unnumbered paragraph 1, Code 1997, is amended to read as follows:

After one year and nine months from the date of sale, or after nine months from the date of a sale made under section 446.18, ~~446.38~~ or 446.39, the holder of the certificate of purchase may cause to be served upon the person in possession of the parcel, and also upon the person in whose name the parcel is taxed, in the manner provided for the service of original notices in R.C.P. 56.1, if the person resides in Iowa, or otherwise as provided in section 446.9, subsection 1, a notice signed by the certificate holder or the certificate holder's agent or attorney, stating the date of sale, the description of the parcel sold, the name of the purchaser, and that the right of redemption will expire and a deed for the parcel be made unless redemption is made within ninety days from the completed service of the notice. The ninety-day redemption period begins as provided in section 447.12. When the notice is given by a county as a holder of a certificate of purchase the notice shall be signed by the county treasurer or the county attorney, and when given by a city, it shall be signed by the city officer designated by resolution of the council. When the notice is given by the Iowa finance authority or a city or county agency holding the parcel as part of an Iowa homesteading project, it shall be signed on behalf of the agency or authority by one of its officers, as authorized in rules of the agency or authority.

Sec. 23. Section 447.10, Code 1997, is amended to read as follows:

447.10 SERVICE BY PUBLICATION.

If notice in accordance with section 447.9 cannot be served upon a person entitled to notice in the manner prescribed in that section, then the holder of the certificate of purchase shall cause the required notice to be published once in an official newspaper in the county. If service is made by publication, the affidavit required by section 447.12 shall state the reason why service in accordance with section 447.9 could not be made. Service of notice by publication shall be deemed complete on the day of the publication. Fees for publication, if required under section 447.13, shall not exceed the customary publication fees for official county publications.

Sec. 24. Section 448.1, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The tax sale certificate holder shall return the certificate of purchase and remit the appropriate deed issuance fee to the county treasurer within ninety calendar days after the redemption period expires. The treasurer shall cancel the certificate for any tax sale certificate holder who fails to comply with this paragraph. This paragraph does not apply to certificates held by a county. This paragraph is applicable to all certificates of purchase issued before, on, or after July 1, 1997. Holders of certificates of purchase that are outstanding on July 1, 1997, shall return the certificate of purchase and remit the appropriate deed issuance fee to the county treasurer within ninety calendar days from that date.

Sec. 25. Section 448.3, Code 1997, 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 claim of the state and county to the parcel, and all the right, title, interest, and estate of the former owner in and to the parcel conveyed~~,~~. However, the deed is subject to all restrictive covenants, resulting from prior conveyances in the chain of title to the former owner, and subject to 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. 26. Section 468.57, subsection 2, unnumbered paragraph 1, Code 1997, 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~~ to the next December 1, or additional annual installments may be paid after the current installment has been paid before December 1 without interest. A payment must be for the full amount of the next installment. If installments remain to be paid, the next annual installment with interest added to December 1 will be due. After December 1, if a drainage assessment is not delinquent, a property owner may pay one-half or all of the next annual installment of principal and interest of a drainage assessment 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 the payments of the drainage assessment, and shall credit the next annual installment or future installments of the drainage assessment to the extent of the payment or payments, and shall remit the payments to the drainage fund. 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. Each installment of an assessment with interest on the unpaid balance is delinquent from October 1 after its due date, including those instances when the last day of September is a Saturday or Sunday, 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. 27. Section 468.160, Code 1997, is amended to read as follows:

468.160 PURCHASE OF TAX CERTIFICATE.

When land in a drainage or levee district, or subdistrict, is subject to an unpaid assessment and levy for drainage purposes and has been sold for taxes the board of supervisors of that county, or if control of the district has passed to trustees then such trustees, may purchase the certificate of sale issued by the county treasurer by depositing with the county ~~auditor~~ treasurer the amount of money to which the holder of the certificate would be entitled if redemption was made at that time, and thereupon the rights of the holder of the certificate and the ownership thereof shall vest in the board of supervisors, or the trustees of that district, as the case may be, in trust for said drainage district or subdistrict.

Sec. 28. Section 468.162, Code 1997, is amended to read as follows:

468.162 PAYMENT — ASSIGNMENT OF CERTIFICATE.

When such money is deposited with the county ~~auditor~~ treasurer, the ~~auditor~~ treasurer shall by mail notify the purchaser at ~~said~~ the tax sale, or the latter's assignee if of record, and shall pay to the holder of such certificate the sum of money deposited with the ~~auditor~~ treasurer for that purpose on surrender of the certificate with proper assignment thereon to

the board of supervisors, or to the trustees of ~~said~~ the district, as the case may be, as trustee for ~~said~~ the district.

Sec. 29. Section 468.163, Code 1997, is amended to read as follows:

468.163 FUNDS.

Payment to the county ~~auditor~~ treasurer for such certificate shall be from the fund of said drainage or levee district, or subdistrict, on a warrant issued against that fund which shall have precedence over all other outstanding warrants drawn against that fund in the order of their payment. Should there not be a sufficient amount in the fund of said district, or subdistrict, to pay said warrant then the board of supervisors, or the trustees of the district, as the case may be, are authorized to borrow a sum of money sufficient for that purpose on a warrant for that amount on the fund of the district, or subdistrict, which warrant shall bear interest from date at a rate not exceeding that permitted by chapter 74A and shall have preference in payment over all other unpaid warrants on said fund, and the county treasurer shall so enter the same on the list of warrants in the treasurer's office and call the same for payment as soon as there is sufficient money in said fund.

Sec. 30. Section 468.165, Code 1997, is amended to read as follows:

468.165 DUTY OF TREASURER.

When any lands in a drainage or levee district, or subdistrict, are subject to an unpaid assessment and levy for drainage purposes and are sold ~~for a less sum of money than~~ at tax sale for the amount of delinquent taxes, ~~thereon~~ the county treasurer shall immediately report that fact to the board of supervisors, or to the trustees for the district, as the case may be.

Sec. 31. Section 555B.4, subsection 3, Code 1997, is amended to read as follows:

3. If a tax lien exists on the mobile home or personal property at the time an action for abandonment is initiated, the real property owner shall notify the county treasurer of each county in which a tax lien appears by restricted certified mail sent not less than ten days before the hearing. The notice shall describe the mobile home and shall state the docket, case number, date, and time at which the hearing is scheduled, and the county treasurer's right to assert a claim to the mobile home at the hearing. The notice shall also state that failure to assert a claim to the mobile home is deemed a waiver of all right, title, claim, and interest in the mobile home and is deemed consent to the sale or disposal of the mobile home.

Sec. 32. Section 562B.7, subsection 6, Code 1997, is amended to read as follows:

6. "Mobile home park" shall mean any site, lot, field or tract of land upon which ~~two~~ three or more ~~occupied~~ mobile homes ~~are harbored, either free of charge or for revenue purposes, and shall include any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such mobile home park~~, 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. 33. Section 444.28, Code 1997, is repealed.

Sec. 34. EFFECTIVE DATE. Sections 18, 19, 20, 21, 24, 25, 26, and 31 of this Act, being deemed of immediate importance, take effect upon enactment.

Approved May 6, 1997

CHAPTER 122

CONTROLLED SUBSTANCES — AMPHETAMINE

H.F. 666

AN ACT to increase the penalties for the manufacture, delivery, or possession with intent to manufacture or deliver amphetamine or any substance containing amphetamine.

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

Section 1. Section 124.401, subsection 1, paragraph a, subparagraph (2), subparagraph subdivision (e), Code 1997, is amended to read as follows:

(e) Amphetamine, its salts, isomers, and salts of isomers.

~~(e)~~ (f) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subparagraph subdivisions (a) through ~~(d)~~ (e).

Sec. 2. Section 124.401, subsection 1, paragraph b, Code 1997, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (8) More than five grams but not more than five kilograms of amphetamine, its salts, isomers, or salts of isomers, or any compound, mixture, or preparation which contains any quantity of detectable amount of amphetamine, its salts, isomers, and salts of isomers.

Sec. 3. Section 124.401, subsection 1, paragraph c, Code 1997, is amended by adding the following new subparagraph (7) and renumbering the subsequent subparagraph:

NEW SUBPARAGRAPH. (7) Five grams or less of amphetamine, its salts, isomers, or salts of isomers, or any compound, mixture, or preparation which contains any quantity or detectable amount of amphetamine, its salts, isomers, and salts of isomers.

Approved May 6, 1997

CHAPTER 123

PARKING PERMITS — STATEMENT REGARDING HANDICAP

H.F. 692

AN ACT relating to the criteria for issuance of handicapped special plates and making a civil penalty applicable.

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

Section 1. Section 321.34, subsection 14, Code 1997, is amended to read as follows:

14. HANDICAPPED SPECIAL PLATES. An owner referred to in subsection 12 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 special registration plates with a handicapped processed emblem designed by the department bearing the international symbol of accessibility. The special registration plates with a handicapped processed emblem shall only be issued if the application is accompanied with a statement from a physician licensed under chapter 148, 149, 150, or 150A, a physician assistant licensed under chapter 148C, an advanced registered nurse practitioner licensed under chapter 152, or a chiropractor licensed under chapter 151, written on the physician's, physician assistant's, nurse

practitioner'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 special registration plates with a handicapped processed emblem shall be issued to the applicant. There shall be no fee in addition to the regular annual registration fee for the special registration plates with a handicapped processed emblem. The authorization for special registration plates with a handicapped processed emblem 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. 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 registration plates with a handicapped processed emblem shall be surrendered in exchange for regular registration plates as provided in subsection 12 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. 2. Section 321L.2, subsection 1, paragraph a, unnumbered paragraph 1, Code 1997, is amended to read as follows:

A handicapped resident of the state desiring a handicapped parking permit shall apply to the department upon an application form furnished by the department providing the applicant's name, address, date of birth, and social security number and shall also provide a statement from a physician licensed under chapter 148, 149, 150, or 150A, a physician assistant licensed under chapter 148C, an advanced registered nurse practitioner licensed under chapter 152, or a chiropractor licensed under chapter 151, or a physician, physician assistant, nurse practitioner, or chiropractor licensed to practice in a contiguous state, written on the physician's, physician assistant's, nurse practitioner's, or chiropractor's stationery, stating the nature of the applicant's handicap and such additional information as required by rules adopted by the department under section 321L.8. If the person is applying for a temporary handicapped parking permit, the physician's, physician assistant's, nurse practitioner's, or chiropractor's statement shall state the period of time during which the person is expected to be handicapped and the period of time for which the permit should be issued, not to exceed six months.

Sec. 3. Section 321L.2, subsection 1, paragraph a, subparagraph (3), Code 1997, is amended to read as follows:

(3) Removable windshield placard. A handicapped person may apply for a temporary removable windshield placard which shall be valid for a period of up to six months, as determined by the physician's, physician assistant's, nurse practitioner's, or chiropractor's statement under this subsection or a removable windshield placard which shall be valid for a period of four years from the date of issuance. A removable windshield placard shall be renewed within thirty days of the date of expiration. To renew the placard, the person shall comply with the requirements for initial issuance of the placard under this section. Persons seeking temporary removable windshield placards shall be required to furnish evidence upon initial application that they are temporarily handicapped and, in addition, furnish evidence at subsequent intervals that they remain temporarily handicapped. Temporary removable windshield placards shall be of a distinctively different color from removable windshield placards. The department shall issue one additional removable windshield placard upon the request of a handicapped person.

Sec. 4. Section 321L.2, subsection 2, Code 1997, is amended to read as follows:

2. Any person providing false information with the intent to defraud on the application for a handicapped parking permit used in establishing proof under subsection 1 is subject to a civil penalty of three hundred dollars which may be imposed by the department. A physician, physician assistant, nurse practitioner, or chiropractor who provides false informa-

tion with the intent to defraud on the physician's, physician assistant's, nurse practitioner's, or chiropractor's statement used in establishing proof under subsection 1 is subject to a civil penalty of three hundred dollars which may be imposed by the department. In addition to the civil penalty, the department shall revoke the permit issued pursuant to this section.

Approved May 6, 1997

CHAPTER 124

BRUCELLOSIS ERADICATION

H.F. 694

AN ACT extending the provisions relating to the eradication of brucellosis to apply to animals other than bovine animals, making penalties applicable, and providing an effective date.

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

Section 1. Section 164.1, Code 1997, is amended to read as follows:

164.1 DEFINITIONS.

As used in this chapter:

1. "Animal" means a nonhuman vertebrate.

2. "Bovine animal" means bison or cattle.

~~1.~~ 3. "Class free state" means there has been no known brucellosis in ~~cattle~~ bovine animals for a period of twelve months. ~~States are~~ A state is classified as class free, class A, class B, and class C, according to guidelines set forth in 9 C.F.R. § 78.1.

~~2.~~ 4. "Condemned" or "reactor" applies to ~~cattle~~ a designated animal reacting to ~~a~~ an official test ~~applied for~~ conducted to determine if a designated animal is infected with brucellosis.

5. "Designated animal" means a bovine animal or any other species of animal that the department by rule determines is capable of carrying and spreading brucellosis, including elk or goats.

~~3.~~ 6. "Official calfhood vaccination" means the vaccination of a female calf of any ~~breed~~ species of bovine animal between the ages of four months and ten months with brucella vaccine approved for that species of bovine animal by the United States department of agriculture, ~~which~~ if the vaccination has been administered by a ~~licensed accredited~~ veterinarian according to the rules established by the department. ~~The officially vaccinated animal shall be identified by an official vaccination tattoo mark, and an official ear tag or owner's purebred identification. The tattoo mark, ear tag or owner's purebred identification shall be described in a certificate furnished by the attending veterinarian.~~

~~Within thirty days following the vaccination, the attending veterinarian shall supply the owner with a certificate of vaccination. The veterinarian shall retain a copy of the certificate and forward a copy to the office of the state veterinarian within the Iowa department of agriculture and land stewardship.~~

~~4.~~ 7. "Official test" means a test for brucellosis ~~includes all tests~~ approved for a species of designated animal by the department and to the extent applicable by the United States department of agriculture which is conducted under the supervision of, or the authorization from, the department.

~~5.~~ 8. "Owner" includes any person~~, persons, firm copartnership, association or corporation~~ owning or leasing ~~livestock from another owner~~ a designated animal.

~~6.~~ 9. "Quarantine" means the entire herd of designated animals must be confined to ~~the premise~~ a premises designated by the department, if any reactor is disclosed.

~~7.~~ 10. "Registered purebred" ~~shall include~~ includes cattle with a certificate from herdbooks where registered.

~~8.~~ 11. "State-approved premises" means an area, including a feedlot or grazing ~~areas~~ area established at the discretion of the department for the ~~feeding, fattening or growing~~ care and feeding of untested designated animals as provided by the department. However, for cattle, "state-approved premises" means an area where untested heifers over ~~four~~ six months of age but under eighteen months of age are subject to care and feeding. ~~Rules governing the operation of the premises shall be made at the discretion of the department and subject to chapter 17A.~~

12. "Veterinarian" means a licensed accredited veterinarian authorized by the department.

Sec. 2. Section 164.2, Code 1997, is amended to read as follows:

164.2 ERADICATION AREA.

~~The~~ This state ~~of Iowa~~ is ~~hereby~~ declared to be ~~an~~ a brucellosis eradication area. ~~It shall be compulsory that every~~ An owner ~~of dairy or breeding cattle within the area~~ shall ~~permit~~ allow the owner's ~~cattle~~ designated animals to be tested when ~~so~~ ordered by the department or a representative of the department. The owner shall confine and restrain the ~~cattle~~ designated animal in a suitable place so that a test can be ~~applied~~ conducted. If the owner refuses to confine and restrain the ~~cattle~~ designated animal, after a reasonable time the department may employ sufficient ~~help~~ assistance to properly confine and restrain ~~them and~~ the designated animal. The expense ~~of such help~~ for obtaining assistance shall be paid by the owner.

Sec. 3. Section 164.3, Code 1997, is amended to read as follows:

164.3 FEMALE ~~CALVES~~ DESIGNATED ANIMALS VACCINATED.

~~All native~~ Native female ~~cattle~~ bovine animals of any breed between the ages of four months and ten months may be officially vaccinated for brucellosis according to ~~the method~~ procedures approved by the United States department of agriculture. Native female designated animals other than bovine animals may be vaccinated as provided by rules adopted by the department. The expense of the vaccination shall be borne in the same manner as provided in section 164.6.

Sec. 4. Section 164.4, Code 1997, is amended to read as follows:

164.4 RULES.

1. The department may adopt rules ~~respecting~~ as provided in chapter 17A relating to the official testing of ~~cattle~~ designated animals, the disposal by segregation and quarantine or slaughter of condemned ~~livestock~~ designated animals, the operation of state-approved premises, the disinfection of the premises where designated animals are kept, the introduction of designated animals into ~~the~~ a herd of other ~~cattle~~ designated animals, the control and eradication of brucellosis, the prevention of the spread ~~thereof~~ of brucellosis to ~~the cattle of~~ designated animals in this state, and the proper enforcement of this chapter.

2. The department shall not adopt rules relating to cattle that are ~~no~~ less restrictive than the uniform methods and rules for brucellosis eradication promulgated by the United States department of agriculture, APHIS 91-1, as effective January 1, 1996, but may adopt rules that are more restrictive~~, subject to chapter 17A~~.

3. The department ~~shall have the discretion to~~ may implement any ~~of the procedures enumerated~~ procedure provided in the uniform methods and rules if approved jointly by state and federal animal health officials, including but not limited to the use of quarantined pastures, quarantined feedlots, or other options permitted under the uniform methods and rules.

Sec. 5. Section 164.5, Code 1997, is amended to read as follows:

164.5 REQUEST FOR TEST.

~~Whenever~~ Upon request by the owner ~~of cattle shall request the department to make an~~ for a departmental inspection of the owner's ~~cattle~~ designated animals for brucellosis, the department may designate a veterinarian to make an inspection ~~and, if~~ of the designated animals. If authorized by the department, the veterinarian may conduct ~~a plate or tube agglutination~~ an official test ~~by the method or methods adopted and approved by the department~~ on the designated animals.

Sec. 6. Section 164.6, Code 1997, is amended to read as follows:

164.6 EXPENSE OF TEST.

The expense for an inspection and official test of a designated animal other than for bovine animals shall be borne by the owner. If the designated animal is a bovine animal, and the owner agrees to comply with and carry out the provisions of this chapter and the rules ~~made~~ adopted by the department under section 164.4, the expense of the inspection and test shall be borne by the United States department of agriculture, or by the department, or by the brucellosis and tuberculosis eradication fund or any combination of these sources.

Sec. 7. Section 164.7, Code 1997, is amended to read as follows:

164.7 ~~CERTIFICATE ISSUED~~ COPY OF A REPORT PROVIDED TO THE OWNER.

~~Whenever~~ A veterinarian or the department shall provide a report to the owner of a designated animal showing the results of an official test ~~of any cattle is made~~ conducted by ~~an accredited~~ a veterinarian ~~authorized by the department, and such cattle are found to be free from brucellosis, a certificate, setting forth this fact, shall be issued by said veterinarian or the department, providing all rules under the plan adopted by the department for the control and eradication of brucellosis in cattle have been complied with~~. The report may be a copy of a test chart.

Sec. 8. Section 164.8, Code 1997, is amended to read as follows:

164.8 TEST AT AUCTION PREMISES.

~~Cattle~~ A designated animal purchased at an auction market ~~regardless of breed or classification~~ may be officially tested ~~for brucellosis~~ on the auction market premises, in the new owner's name at the owner's request and expense. This official test must be made within twenty-four hours from the time of sale. If ~~such~~ the test discloses reactors, the herd of origin shall be placed under quarantine.

Sec. 9. Section 164.9, Code 1997, is amended to read as follows:

164.9 RETEST BY ORDER OR REQUEST, EXPENSE.

The department may order a retest of ~~any breeding cattle~~ designated animals at any time, ~~when in the department's opinion, it~~ if the department determines that a retest is necessary. In case of reactors, one retest shall be granted the owner of the ~~cattle~~ designated animals by the department upon the request of the owner or owner's veterinarian before the ~~cattle are~~ designated animals are permanently marked as reactors~~, and the~~. The expense of the retest of reactors shall be borne in the same manner as provided in section 164.6.

Sec. 10. Section 164.10, Code 1997, is amended to read as follows:

164.10 REPORT OF LABORATORY TESTS.

A report of ~~such~~ tests conducted by a laboratory under this chapter shall be made in writing to the ~~chief of the division of animal industry~~ department within seven days immediately following the completion of the tests~~, upon blanks furnished by the~~. The department ~~and~~ shall supply forms for the report. The report shall be signed by the director of the laboratory or the person ~~making~~ conducting the test.

Sec. 11. Section 164.11, Code 1997, is amended to read as follows:

164.11 IDENTIFICATION MARK.

~~All cattle~~ A designated animal subjected to an official test ~~under the department~~ shall be plainly and permanently marked for identification in a manner authorized by the depart-

ment. ~~All native~~ Native grade ~~cattle~~ bovine carrying the calfhood vaccination and ~~all~~ calves vaccinated after importation from other states shall be tattooed in the ear. ~~All~~ Officially vaccinated purebred registered cattle must ~~be tattooed in the ear either with~~ receive a vaccination tattoo and either an official vaccination tag or ~~the~~ a purebred identification tattoo ~~and the same~~. The vaccination tattoo and the vaccination tag number or the purebred identification tattoo shall be evidenced on the official certificate of vaccination.

Sec. 12. Section 164.12, Code 1997, is amended to read as follows:

164.12 ~~CONDEMNED~~ QUARANTINED MARKING.

~~All cattle condemned~~ A designated animal which is quarantined as a result of a test for brucellosis shall be plainly and permanently marked for identification by ~~any qualified~~ a veterinarian making the test in a manner authorized by the department and to the extent applicable by the United States department of agriculture.

Sec. 13. Section 164.13, Code 1997, is amended to read as follows:

164.13 UNLAWFUL ACTS.

~~It shall be unlawful for any~~ An owner ~~to~~ shall not sell or transfer ownership of ~~any bovine~~ a designated animal, ~~or~~ allow the commingling of ~~cattle~~ designated animals belonging to two or more owners, or allow the commingling of ~~dairy or breeding cattle with cattle~~ designated animals with other designated animals under feeder quarantine on a ~~state approved~~ state-approved premises, unless ~~they~~ the commingled designated animals are accompanied by a negative brucellosis test report issued by ~~an accredited~~ a veterinarian, conducted within thirty days. The provisions of this section do not apply to the following:

1. ~~Calves~~ Bovine animals under ~~four~~ six months of age, spayed heifers, ~~and~~ or steers.

2. Official vaccinates of ~~beef breeds~~ bovine animals other than dairy cattle under twenty-four months of age ~~and of~~ or dairy ~~breeds~~ cattle under twenty months of age, if not ~~visibly parturient or~~ postparturient.

3. ~~Animals~~ Designated animals which are consigned directly to slaughter.

4. ~~Animals moved~~ Designated animals which are imported for exhibition purposes, if any of the following apply:

a. When under the test-eligible ages ~~specified in subsection 2 and~~ as provided by the department for designated animals other than bovine. For bovine the test-eligible ages are as provided in this section. The designated animal must be accompanied by an official vaccination certificate as provided by the department. A bovine animal which is six months or older must be accompanied with a vaccination certificate.

b. ~~Animals~~ Designated animals of any age when accompanied by a report of a negative brucellosis test conducted within thirty days.

c. Designated animals originating from a herd in a class free state or designated animals from a brucellosis-free herd.

5. ~~Animals~~ Designated animals originating from a herd in a class free state or designated animals from a certified brucellosis-free herd.

6. ~~Cattle~~ Designated animals moved to a state-approved premises~~, as defined in section 164.1, subsection 8, as provided by the department~~.

Sec. 14. Section 164.14, Code 1997, is amended to read as follows:

164.14 IMPORTED ~~CATTLE~~ DESIGNATED ANIMALS.

1. Female ~~cattle~~ designated animals other than female bovine animals, which are under an age established by the department, and female bovine animals over ~~four~~ six months ~~of age~~, and under eighteen months ~~not visibly parturient or postparturient~~ of age, may enter the state for feeding purposes to be consigned to a state-approved premises under quarantine, if the female designated animals are not postparturient. ~~Such cattle as well as~~ The designated native female animals that have been consigned to the ~~lot~~ state-approved premises may be released from the state-approved premises if they have been any of the following:

a. Consigned to slaughter.

b. Consigned to a federally approved market.

c. Consigned to another quarantined premises.

d. Tested negative ~~to~~ for brucellosis at the owner's expense. The test shall be made not less than sixty days after the last consignment to the premises and shall include all animals on the premises.

2. Female ~~cattle~~ designated animals, other than female bovine, over an age established by the department and female bovine over eighteen months of age may enter the state if ~~they~~ the designated animals are any of the following:

a. Consigned to a federally approved market.

b. Consigned to a slaughter plant for immediate slaughter.

c. Accompanied by an official health certificate showing a record of a negative brucellosis test, when required, accomplished within thirty days of importation.

Sec. 15. Section 164.15, Code 1997, is amended to read as follows:

164.15 QUARANTINED ~~CATTLE~~ DESIGNATED ANIMALS.

~~No cattle~~ A designated animal shall not be brought ~~in~~ into contact with ~~any~~ a condemned ~~cattle~~ designated animal held in quarantine. If ~~any cattle are~~ a designated animal is added to the quarantined lot, ~~said cattle~~ the designated animal shall become a part of the lot and held subject to the same ~~rules~~ requirements as applies to the quarantined designated animals.

Sec. 16. Section 164.16, Code 1997, is amended to read as follows:

164.16 MOVEMENT OR SLAUGHTER PERMIT.

~~No condemned cattle~~ A designated animal shall not be slaughtered, have ~~their~~ its location changed, or be moved from quarantine except ~~by~~ as authorized by an official written permit issued by the department or by a ~~licensed~~ veterinarian ~~authorized by the department~~.

Sec. 17. Section 164.17, Code 1997, is amended to read as follows:

164.17 ~~CONDEMNED~~ QUARANTINED FOR SLAUGHTER PERMIT.

When a written order has been issued by the department or its authorized representative for the removal of ~~condemned cattle~~ a quarantined designated animal to slaughter, ~~all~~ the ~~cattle~~ designated animal shall be tagged and handled within fifteen days after the date of testing~~; such cattle within~~. Within thirty days the designated animal shall be moved and slaughtered under the direct supervision of a duly authorized agent or representative of the United States department of agriculture at a time and place designated by the department. ~~Any~~ A designated animal ~~condemned~~ quarantined because of brucellosis shall be disposed of by its owner within a period not to exceed forty-five days from the date on which blood samples were drawn disclosing it as a reactor.

Sec. 18. Section 164.18, Code 1997, is amended to read as follows:

164.18 UNLAWFUL SALE.

~~No~~ A person shall not sell, offer for sale, or purchase ~~any cattle condemend~~ a designated animal which is quarantined as a result of an official test, except ~~under regulations issued~~ as provided by rules adopted by the department.

Sec. 19. Section 164.19, Code 1997, is amended to read as follows:

164.19 QUARANTINE.

The department may issue any quarantine ~~orders~~ order deemed necessary for the control and eradication of brucellosis and the proper enforcement of this chapter. ~~Any~~ A lot or group of ~~cattle~~ designated animals in which reactors have been disclosed shall be under quarantine along with any ~~cattle~~ designated animal from which the lot or group originated or commingled. ~~Such cattle~~ The designated animals may be sold for slaughter under permit, or returned to their place of origin. In ~~hardship cases~~ case of hardship the department may upon investigation of the case alter ~~any~~ a quarantine ~~orders deemed~~ order to the extent that the department determines that it is necessary to alleviate the hardship and protect the

industry and prospective purchasers. The department shall ~~promulgate~~ adopt rules ~~subject to provisions of~~ pursuant to chapter 17A necessary in order to administer this section.

Sec. 20. Section 164.20, Code 1997, is amended to read as follows:

164.20 APPRAISAL OF VALUE FOR BOVINE ANIMALS.

Before being slaughtered, ~~condemned cattle~~ quarantined bovine animals shall be appraised at their cash value for dairy and breeding purposes by the owner and a representative of the ~~state~~ department ~~of agriculture and land stewardship~~, ~~or~~ a representative of the United States department of agriculture, or by the owner and both of ~~such~~ the representatives. If these parties cannot agree as to the amount of the appraisal, ~~there shall be appointed~~ three competent and disinterested persons~~, one~~ shall be appointed to render a final appraisal. One person shall be appointed by the ~~state~~ department ~~of agriculture and land stewardship~~, one by the owner, and one by the first two appointed~~, to appraise such animals, which appraisal shall be final~~ persons.

Sec. 21. Section 164.21, Code 1997, is amended to read as follows:

164.21 AMOUNT OF INDEMNITY.

The owner of a bovine animal shall be indemnified for the bovine animal as provided in this section. The department shall certify the claim of the owner for ~~each~~ the bovine animal slaughtered in accordance with this chapter. An infected bovine animal herd may be completely depopulated and indemnity paid when, in the opinion of the department and the veterinary service of the United States department of agriculture, the disease cannot be adequately controlled by routine testing.

~~Indemnity~~ The owner shall ~~only~~ be ~~paid if~~ indemnified to the extent that money is available in the brucellosis and tuberculosis eradication fund as created in section 165.18 and ~~if indemnity payment~~ indemnification is also made by the United States department of agriculture. However, if the United States department of agriculture is unable to ~~pay indemnity~~ indemnify the owner, the ~~state~~ department may ~~still pay indemnity for condemned animals~~ indemnify the owner, if money is available.

In the case of individual payment, all ~~animals~~ cattle shall be individually appraised and the amount of indemnity shall be equal to the difference between the slaughter value and the appraisal price, less the amount of indemnity paid by the United States department of agriculture. Bison shall be appraised as if the bison are beef cattle. The total amount of indemnity paid by the brucellosis and tuberculosis eradication fund for a grade animal or a purebred animal shall not exceed two hundred dollars. However, if ~~a~~ purebred ~~animal is~~ cattle are purchased and owned for at least one year before testing and the owner can verify the actual cost, the ~~secretary of agriculture~~ department may ~~award the payment of an additional indemnification~~ further indemnify the owner. The amount of the indemnification shall not ~~to~~ exceed five hundred fifty dollars or the actual cost of the animal when purchased, whichever is less.

Sec. 22. Section 164.22, Code 1997, is amended to read as follows:

164.22 ~~FUNDS~~ MONEYS ADMINISTERED.

All ~~funds~~ moneys appropriated by the state for carrying out the provisions of this chapter shall be administered by the department for the payment of the indemnity, salaries, and other necessary expenses.

Sec. 23. Section 164.29, Code 1997, is amended to read as follows:

164.29 RECIPROCAL AGREEMENTS.

The ~~secretary of agriculture of the state of Iowa is hereby authorized and directed to~~ department to every extent practical shall enter into reciprocal agreements with other states to ~~the end~~ provide that ~~cattle~~ designated animals which are covered by certificates of vaccination in ~~the~~ this state ~~of Iowa~~ and other states may be transported and sold in interstate commerce between ~~the~~ this state ~~of Iowa~~ and ~~such~~ the other states ~~which enter into reciprocal agreements~~.

Sec. 24. Section 164.30, Code 1997, is amended to read as follows:

164.30 ~~BACK TAGGING CATTLE~~ TAGGING DESIGNATED ANIMALS RECEIVED FOR SALE OR SLAUGHTER.

1. ~~All bovine~~ The department shall provide requirements for tagging designated animals which are received for sale or shipment to a slaughtering establishment.

a. Bovine animals two years of age and older received for sale or shipment to a slaughtering establishment shall be identified with a back tag issued by the department. The back tag shall be affixed to the animal as directed by the department. ~~It shall be the duty of every~~

b. A livestock trucker ~~when~~ delivering a designated animal to an out-of-state ~~markets~~ market, ~~and every~~ livestock dealer, livestock market operator, ~~stockyards~~ stockyard operator, ~~and~~ or slaughtering establishment ~~to~~ shall identify ~~all such bovine animals~~ a designated animal which is not ~~bearing a back tag~~ tagged as provided in this section, at the time of taking possession or control of ~~such animals~~ the designated animal. A livestock trucker may be exempted from this requirement if the ~~animals are~~ designated animal's farm of origin is identified ~~as to the farm of origin~~ when delivered to a livestock market, ~~stockyards~~ stockyard, or slaughtering establishment which agrees to accept responsibility for ~~back tag identification~~ tagging the designated animal.

2. ~~Every~~ A person required to identify ~~animals~~ a designated animal in accordance with this section shall file ~~reports~~ a report of ~~such~~ the identification on forms and as specified by the department, including ~~thereon~~ the following for bovine animals:

a. The back-tag number and date of application~~; the~~.

b. The name, address, and county of residence of the person who owned or controlled the herd from which ~~such animals~~ the bovine animal originated~~; and whether~~.

c. The type of bovine animal. If the bovine animal is cattle, the person shall identify whether the animal was ~~of the~~ a beef or dairy type.

Each ~~such~~ report ~~should~~ shall cover all bovine animals identified during the preceding ~~week~~.

3. ~~The removal of back tags~~ A person shall ~~be restricted to personnel specifically~~ not remove a tag affixed to a designated animal, unless the person is authorized by the department, and removes the tag according to~~,~~ instructions and policies ~~issued~~ established by the department. The removal of ~~back tags~~ a tag by a person who is unauthorized ~~personnel~~ by the department shall be ~~considered~~ a violation of this section and subject to the penalties ~~as~~ provided in section 164.31.

Sec. 25. Section 164.31, Code 1997, is amended to read as follows:

164.31 PENALTIES.

~~Any~~ A person ~~found~~ guilty of violating ~~the provisions~~ a provision of this chapter ~~shall be deemed~~ is guilty of a simple misdemeanor.

Approved May 6, 1997

CHAPTER 125

CRIMINAL JUSTICE — MISCELLANEOUS PROVISIONS

S.F. 503

AN ACT relating to criminal justice, by providing for enhanced punishment for manufacturing methamphetamine in the presence of minors, providing restrictions on public nudity and actual or simulated public performance of sex acts in certain establishments, authorizing probation supervision and revocation by administrative parole and probation judges in the sixth judicial district, providing restitution for death of a victim of a crime, and providing penalties and an effective date.

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

Section 1. NEW SECTION. 124.401C MANUFACTURING METHAMPHETAMINE IN PRESENCE OF MINORS.

1. In addition to any other penalties provided in this chapter, a person who is eighteen years of age or older and who either directly or by extraction from natural substances, or independently by means of chemical processes, or both, unlawfully manufactures methamphetamine, its salts, isomers, and salts of its isomers in the presence of a minor shall be sentenced up to an additional term of confinement of five years.

2. For purposes of this section, the term "in the presence of a minor" shall mean, but is not limited to, any of the following:

a. When a minor is physically present during the activity.

b. When the activity is conducted in the residence of a minor.

c. When the activity is conducted in a building where minors can reasonably be expected to be present.

d. When the activity is conducted in a room offered to the public for overnight accommodation.

e. When the activity is conducted in any multiple-unit residential building.

Sec. 2. Section 728.1, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. "Place of business" means the premises of a business required to obtain a sales tax permit pursuant to chapter 422, the premises of a nonprofit or not-for-profit organization, and the premises of an establishment which is open to the public at large or where entrance is limited by a cover charge or membership requirement.

Sec. 3. Section 728.5, Code 1997, is amended to read as follows:

728.5 PUBLIC INDECENT EXPOSURE IN CERTAIN ESTABLISHMENTS.

~~A holder of a liquor license or beer permit or any~~ An owner, manager, or person who exercises direct control over ~~any licensed premises defined in section 123.3, subsection 20~~ a place of business required to obtain a sales tax permit shall be guilty of a serious misdemeanor under any of the following circumstances:

1. If such person ~~allow~~ allows or ~~permit~~ permits the actual or simulated public performance of any sex act upon or in such ~~licensed premises~~ place of business.

2. If such person ~~allow~~ allows or ~~permit~~ permits the exposure of the genitals or buttocks or female breast of any person who acts as a waiter or waitress.

3. If such person ~~allow~~ allows or ~~permit~~ permits the exposure of the genitals or female breast nipple of any person who acts as an entertainer, whether or not the owner of the ~~licensed premises~~ place of business in which the activity is performed employs or pays any compensation to such person to perform such activity.

4. If such person ~~allow~~ allows or ~~permit~~ permits any person to remain in or upon the ~~licensed premises~~ place of business who exposes to public view the person's genitals, pubic hair, or anus.

~~5. If such person allow or permit the displaying of moving pictures, films, or pictures~~

~~depicting any sex act or the display of the pubic hair, anus, or genitals upon or in such licensed premises.~~

~~6~~ 5. If such person advertises that any activity prohibited by this section is allowed or permitted in such ~~licensed premises~~ place of business.

~~7~~ 6. If such person allows or permits a minor to engage in or otherwise perform in a live act intended to arouse or satisfy the sexual desires or appeal to the prurient interests of patrons. However, if such person allows or permits a minor to participate in any act included in subsections 1 through 4, the person shall be guilty of an aggravated misdemeanor.

~~Provided that the~~ The provisions of this section shall not apply to a theater, concert hall, art center, museum, or similar establishment which is primarily devoted to the arts or theatrical performances and in which any of the circumstances contained in this section were permitted or allowed as part of such art exhibits or performances.

Sec. 4. Section 728.8, Code 1997, is amended to read as follows:

728.8 SUSPENSION OF LICENSES OR PERMITS.

Any person who knowingly permits a violation of section 728.2, 728.3, or 728.5, subsection ~~7~~ 6, to occur on premises under the person's control shall have all permits and licenses issued to the person under state or local law as a prerequisite for doing business on such premises revoked for a period of six months. The county attorney shall notify all agencies responsible for issuing licenses and permits of any conviction under section 728.2, 728.3, or 728.5, subsection ~~7~~ 6.

Sec. 5. Section 907.2, unnumbered paragraph 2, Code 1997, is amended to read as follows:

Probation officers employed by the judicial district department of correctional services, while performing the duties prescribed by that department, are peace officers. Probation officers shall investigate all persons referred to them for investigation by the director of the judicial district department of correctional services which employs them. They shall furnish to each person released under their supervision or committed to a community corrections residential facility operated by the judicial district department of correctional services, a written statement of the conditions of probation or commitment. They shall keep informed of each person's conduct and condition and shall use all suitable methods prescribed by the judicial district department of correctional services to aid and encourage the person to bring about improvements in the person's conduct and condition. Probation officers shall keep records of their work and, unless section 907.8A applies, shall make reports to the court when alleged violations occur and within no less than thirty days before the period of probation will expire. If section 907.8A applies, the probation officers shall make the reports of alleged violations to the administrative parole and probation judge within no less than thirty days before the period of probation will expire. Probation officers shall coordinate their work with other social welfare agencies which offer services of a corrective nature operating in the area to which they are assigned.

Sec. 6. Section 907.7, unnumbered paragraphs 1 and 2, Code 1997, are amended to read as follows:

The length of the probation shall be for such term as the court ~~may~~ shall fix but not to exceed five years if the offense is a felony or not to exceed two years if the offense is a misdemeanor.

The length of the probation shall not be less than one year if the offense is a misdemeanor and shall not be less than two years if the offense is a felony. However, the court or the administrative parole and probation judge, if section 907.8A applies, may subsequently reduce the length of the probation if the court or the administrative parole and probation judge determines that the purposes of probation have been fulfilled. The purposes of probation are to provide maximum opportunity for the rehabilitation of the defendant and to protect the community from further offenses by the defendant and others.

Sec. 7. Section 907.8, unnumbered paragraph 3, Code 1997, is amended to read as follows:

~~Jurisdiction of~~ Except as otherwise provided in section 907.8A, the court shall retain jurisdiction over these persons ~~shall remain with the sentencing court~~. Jurisdiction may be transferred to a court in another jurisdiction, or to the administrative parole and probation judge under section 907.8A, if a person's probation supervision is transferred to a judicial district department of correctional services in a district other than the district in which the person was sentenced.

Sec. 8. NEW SECTION. 907.8A SIXTH JUDICIAL DISTRICT — DETERMINATION OF ISSUES DURING PROBATIONARY PERIOD.

1. Except for those persons who are granted a deferred judgment or deferred sentence, for each adult, and each juvenile who has been prosecuted, convicted, and sentenced as an adult, who is released on probation by the court in the sixth judicial district, the jurisdiction of the sentencing court shall cease upon approval by the sentencing court of the conditions established by the judicial district department of correctional services. If a person is granted a deferred judgment or deferred sentence, jurisdiction shall be retained by the court.

2. All issues relating to whether the probationer has violated or fulfilled the terms and conditions of probation, including but not limited to express violations of a specific term of probation, new violations of the law, and changes of the term of probation as provided in sections 907.7, 908.11, and 910.4, which would otherwise be determined by the court, shall be determined instead by an administrative parole and probation judge. The administrative parole and probation judge, who shall be an attorney, shall be appointed by the board of parole, notwithstanding chapter 17A. The costs of employing the administrative parole and probation judge shall be borne by the board of parole.

A probation hearing conducted by an administrative parole and probation judge shall be conducted in the same manner as hearings regarding revocations or modifications of or discharge from parole. The hearing may be conducted electronically. The probation officer shall notify the county attorney at least five days prior to any probation hearing. The interests of the state shall be represented by the probation officer at the probation hearing, unless the county attorney or the county attorney's designee elects to assist the probation officer. The board of parole, the department of corrections, and the clerk of the district court in the sixth judicial district shall devise and implement a system for the filing of documents and records of probation hearings conducted under this section. The system shall allow for the electronic filing of records and documents where electronic filing is practicable.

3. Appeals from orders of the administrative parole and probation judge which pertain to the revocations or modifications of or discharge from probation shall be conducted in the manner provided in rules adopted by the board of parole.

Sec. 9. Section 907.9, Code 1997, is amended to read as follows:

907.9 DISCHARGE FROM PROBATION.

1. ~~At~~ Except as otherwise provided in section 907.8A, at any time that the court determines that the purposes of probation have been fulfilled, the court may order the discharge of a person from probation.

2. At any time that a probation officer determines that the purposes of probation have been fulfilled, the officer may order the discharge of a person from probation after approval of the district director~~,~~ and notification of the sentencing court, the administrative parole and probation judge if section 907.8A applies, and the county attorney who prosecuted the case.

3. The sentencing judge~~, unless the judge is no longer serving or is otherwise unable to,~~ or, if section 907.8A applies, the administrative parole and probation judge, may order a hearing on its own motion, or shall order a hearing upon the request of the county attorney, for review of such discharge. If the sentencing judge is no longer serving or unable to order such hearing, the chief judge of the district or the chief judge's designee shall order any

hearing pursuant to this section, if section 907.8A does not apply. Following the hearing, the court or the administrative parole and probation judge shall approve or rescind such discharge. If a hearing is not ordered within thirty days after notification by the probation officer, the person shall be discharged and the probation officer shall notify the state court administrator of such discharge.

4. At the expiration of the period of probation, ~~in cases where the court fixes the term of probation,~~ the court or, if section 907.8A applies, the administrative parole and probation judge, shall order the discharge of the person from probation, and the court or administrative parole and probation judge shall forward to the governor a recommendation for or against restoration of citizenship rights to that person. A person who has been discharged from probation shall no longer be held to answer for the person's offense. Upon discharge from probation, if judgment has been deferred under section 907.3, the court's criminal record with reference to the deferred judgment shall be expunged. The record maintained by the state court administrator as required by section 907.4 shall not be expunged. The court's record shall not be expunged in any other circumstances.

5. A probation officer or the director of the judicial district department of correctional services who acts in compliance with this section is acting in the course of the person's official duty and is not personally liable, either civilly or criminally, for the acts of a person discharged from probation by the officer after such discharge, unless the discharge constitutes willful disregard of the person's duty.

Sec. 10. Section 908.11, Code 1997, is amended to read as follows:

908.11 VIOLATION OF PROBATION.

1. A probation officer or the judicial district department of correctional services having probable cause to believe that any person released on probation has violated the conditions of probation shall proceed by arrest or summons as in the case of a parole violation.

2. ~~The~~ Except as otherwise provided in sections 907.8 and 907.8A, the functions of the liaison officer and the board of parole shall be performed by the judge or magistrate who placed the alleged violator on probation if that judge or magistrate is available, otherwise by another judge or magistrate who would have had jurisdiction to try the original offense.

3. If the probation officer proceeds by arrest and section 907.8A does not apply, any magistrate may receive the complaint, issue an arrest warrant, or conduct the initial appearance and probable cause hearing if it is not convenient for the judge who placed the alleged violator on probation to do so. The initial appearance, probable cause hearing, and probation revocation hearing, or any of them, may at the discretion of the court be merged into a single hearing when it appears that the alleged violator will not be prejudiced ~~thereby~~ by the merger.

4. If the person who is believed to have violated the conditions of probation was sentenced and placed on probation in the sixth judicial district under section 907.8A, or jurisdiction over the person was transferred to the sixth judicial district as a result of transfer of the person's probation supervision, the functions of the liaison officer and the board of parole shall be performed by the administrative parole and probation judge as provided in section 907.8A.

5. If the probation officer proceeds by arrest and section 907.8A applies, the administrative parole and probation judge may receive the complaint, issue an arrest warrant, or conduct the initial appearance and probable cause hearing. The initial appearance, probable cause hearing, and probation revocation hearing, or any of them, may, at the discretion of the administrative parole and probation judge, be merged into a single hearing when it appears that the alleged violator will not be prejudiced by the merger.

6. If the violation is established, the court or the administrative parole and probation judge may continue the probation with or without an alteration of the conditions of probation. If the defendant is an adult the court may hold the defendant in contempt of court and sentence the defendant to a jail term while continuing the probation, order the defendant to

be placed in a violator facility established pursuant to section 904.207 while continuing the probation, or revoke the probation and require the defendant to serve the sentence imposed or any lesser sentence, and, if imposition of sentence was deferred, may impose any sentence which might originally have been imposed. The administrative parole and probation judge may revoke the probation and require the defendant to serve the sentence which was originally imposed. The administrative parole and probation judge may grant credit against the sentence, for any time served while the defendant was on probation. The order of the administrative parole and probation judge shall become a final decision, unless the defendant appeals the decision to the board of parole within the time provided in rules adopted by the board. The appeal shall be conducted pursuant to rules adopted by the board and the record on appeal shall be the record made at the hearing conducted by the administrative parole and probation judge.

Sec. 11. NEW SECTION. 910.3B RESTITUTION FOR DEATH OF VICTIM.

1. In all criminal cases in which the offender is convicted of a felony in which the act or acts committed by the offender caused the death of another person, in addition to the amount determined to be payable and ordered to be paid to a victim for pecuniary damages, as defined under section 910.1, and determined under section 910.3, the court shall also order the offender to pay at least one hundred fifty thousand dollars in restitution to the victim's estate. The obligation to pay the additional amount shall not be dischargeable in any proceeding under the federal Bankruptcy Act. Payment of the additional amount shall have the same priority as payment of a victim's pecuniary damages under section 910.2, in the offender's plan for restitution.

2. An award under this section does not preclude or supersede the right of a victim's estate to bring a civil action against the offender for damages arising out of the same facts or event. However, no evidence relating to the entry of the judgment against the offender pursuant to this section or the amount of the award ordered pursuant to this section, shall be permitted to be introduced in any civil action for damages arising out of the same facts or event.

3. An offender who is ordered to pay a victim's estate under this section is precluded from denying the elements of the felony offense which resulted in the order for payment in any subsequent civil action for damages arising out of the same facts or event.

Sec. 12. Sections 906.16, 908.4, 908.5, 908.6, 908.7, 908.10, and 908.10A, Code 1997, are amended by striking from the sections the words "administrative parole judge" and inserting in lieu thereof the words "administrative parole and probation judge".

Sec. 13. EFFECTIVE DATE. Sections 2 through 4 of this Act, being deemed of immediate importance, take effect upon enactment.

Approved May 7, 1997

CHAPTER 126

JUVENILE JUSTICE AND YOUTHFUL OFFENDERS

S.F. 515

AN ACT relating to juvenile justice and youthful offenders, by making changes in provisions relating to illegal purchase or possession of alcohol by juveniles and youthful offenders, making changes relating to dramshop liability, providing for notification of possession of alcohol by persons under legal age, providing for the taking of fingerprints and photographs of certain juveniles, permitting victims to make oral victim impact statements in juvenile proceedings, making changes related to the supplying of alcohol to persons under the age of twenty-one, providing for sharing of information regarding delinquent juveniles and juveniles under the jurisdiction of various social services agencies, providing for shared jurisdiction between the adult and juvenile courts over youthful offenders, changing the criteria for placement in the state training school or other facility, making changes relating to state reimbursement for expenses of court-appointed attorneys in juvenile court, permitting the release of information relating to juveniles who have escaped from a detention facility, providing for notification of juvenile court authorities of unexcused absences or suspensions or expulsions of students who are on probation, providing for establishment of statewide peer review courts for youthful offenders, providing for bailiff and other law enforcement assistance to associate juvenile judges, including arrest or disposition or custody or adjudication data in criminal history data kept by the department of public safety, authorizing school officials to report possession or use of alcohol or controlled substances to law enforcement authorities, and providing for a legislative study.

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

Section 1. Section 123.3, subsection 19, Code 1997, is amended to read as follows:

19. "Legal age" means ~~nineteen~~ twenty-one years of age or more.

Sec. 2. Section 123.47, Code 1997, is amended to read as follows:

123.47 PERSONS UNDER ~~THE~~ LEGAL AGE ~~OF EIGHTEEN~~ — PENALTY.

1. A person shall not sell, give, or otherwise supply alcoholic liquor, wine, or beer to any person knowing or having reasonable cause to believe that person to be under ~~the~~ legal age ~~of eighteen, and a~~.

2. A person or persons under ~~the~~ legal 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~~ legal age ~~of eighteen~~ within a private home and with the knowledge, presence, and consent of the parent or guardian, for beverage or medicinal purposes or as administered to the person by either a physician or dentist for medicinal purposes and except to the extent that a person under ~~the~~ legal 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.

3. A person who is under legal age, 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~~, or possessing or having control of alcoholic liquor, wine, or beer, commits a simple misdemeanor punishable by a fine of one hundred dollars for the first offense. A second or subsequent offense shall be a serious misdemeanor punishable by a fine of two hundred dollars and the suspension of the person's motor vehicle operating privileges for a period not to exceed one year. The court may, in its discretion, order the person who is under legal age to perform community service work under section 909.3A, of an equivalent value to the fine imposed under this section. However, if the person who commits the violation of this section is under the age of eighteen, the matter shall be disposed of in the manner provided in chapter 232.

4. Except as otherwise provided in subsections 5 and 6, a person who is of legal age, other than a licensee or permittee, who sells, gives, or otherwise supplies alcoholic liquor, wine, or beer to a person who is under legal age in violation of this section commits a serious misdemeanor punishable by a minimum fine of five hundred dollars.

5. A person who is of legal age, other than a licensee or permittee, who sells, gives, or otherwise supplies alcoholic liquor, wine, or beer to a person who is under legal age in violation of this section which results in serious injury to any person commits an aggravated misdemeanor.

6. A person who is of legal age, other than a licensee or permittee, who sells, gives, or otherwise supplies alcoholic liquor, wine, or beer to a person who is under legal age in violation of this section which results in the death of any person commits a class "D" felony.

Sec. 3. Section 123.47B, Code 1997, is amended to read as follows:

123.47B PARENTAL AND SCHOOL NOTIFICATION — PERSONS UNDER ~~EIGHTEEN YEARS OF~~ LEGAL AGE.

1. 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.

2. The peace officer shall also make a reasonable effort to identify the elementary or secondary school which the person attends if the person is enrolled in elementary or secondary school and to notify the superintendent or the superintendent's designee of the school which the person attends, or the authorities in charge of the nonpublic school which the person attends, of the possession. 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. 4. Section 123.49, subsection 3, Code 1997, is amended to read as follows:

3. ~~No~~ A person under legal age shall not misrepresent the person's age for the purpose of purchasing or attempting to purchase any alcoholic beverage, wine, or beer from any licensee or permittee. If any person under legal age misrepresents the person's age, and the licensee or permittee establishes that the licensee or permittee made reasonable inquiry to determine whether the prospective purchaser was over legal age, the licensee or permittee is not guilty of selling alcoholic liquor, wine, or beer to ~~minors~~ a person under legal age.

Sec. 5. Section 123.50, subsection 1, Code 1997, is amended to read as follows:

1. Any person who violates any of the provisions of section 123.49, except subsection 2, paragraph "h", shall be guilty of a simple misdemeanor. A person who violates section 123.49, subsection 2, paragraph "h", commits a ~~simple~~ serious misdemeanor punishable ~~as a scheduled violation under section 805.8, subsection 10, paragraph "b"~~ by a fine of one thousand five hundred dollars. If the violation is committed by a person who is employed by a licensee or permittee, the licensee or permittee and the individual shall each be deemed to have committed the violation and shall each be punished as provided in this subsection.

Sec. 6. Section 123.50, subsection 4, Code 1997, is amended by striking the subsection.

Sec. 7. Section 123.92, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 123.49, subsection 1, any

person who is injured in person or property or means of support by an intoxicated person who is under legal age or resulting from the intoxication of a person who is under legal age, has a right of action for all damages actually sustained, severally or jointly, against a person who is not a licensee or permittee and who dispensed or gave any beer, wine, or intoxicating liquor to the intoxicated under-age person when the nonlicensee or nonpermittee who dispensed or gave the beer, wine, or intoxicating liquor to the under-age person knew or should have known the under-age person was intoxicated, or who dispensed or gave beer, wine, or intoxicating liquor to the under-age person to a point where the nonlicensee or nonpermittee knew or should have known that the under-age person would become intoxicated. If the injury was caused by an intoxicated person who is under legal age, a person who is not a licensee or permittee and who dispensed or gave beer, wine, or intoxicating liquor to the under-age person may establish as an affirmative defense that the intoxication did not contribute to the injurious action of the under-age person. For purposes of this paragraph, "dispensed" or "gave" means the act of physically presenting a receptacle containing beer, wine, or intoxicating liquor to the under-age person whose actions or intoxication results in the sustaining of damages by another person. However, a person who dispenses or gives beer, wine, or intoxicating liquor to an underage person shall only be liable for any damages if the person knew or should have known that the underage person was under legal age.

Sec. 8. Section 137C.25C, subsection 3, Code 1997, is amended to read as follows:

3. The owner or operator reasonably believes that the individual is using the premises for an unlawful purpose including, but not limited to, the unlawful use or possession of controlled substances or the use of the premises for the consumption of alcohol by an individual in violation of section 123.47 ~~or 123.47A~~.

Sec. 9. Section 216A.138, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. The plan shall include development of a resource guide outlining successful programs and practices established within this state which are designed to promote positive youth development and that assist delinquent and other at-risk youth in overcoming personal and social problems. The guide shall be made publicly available.

Sec. 10. Section 232.2, subsection 12, Code 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. The violation of section 123.47 which is committed by a child.

Sec. 11. Section 232.8, subsection 3, Code 1997, is amended to read as follows:

3. The juvenile court, after a hearing and in accordance with the provisions of section 232.45, may waive jurisdiction of a child alleged to have committed a public offense so that the child may be prosecuted as an adult or youthful offender for such offense in another court. If the child, except a child being prosecuted as a youthful offender, pleads guilty or is found guilty of a public offense in another court of this state that court may, with the consent of the child, defer judgment and without regard to restrictions placed upon deferred judgments for adults, place the child on probation for a period of not less than one year upon such conditions as it may require. Upon fulfillment of the conditions of probation the child shall be discharged without entry of judgment.

Sec. 12. Section 232.19, subsection 2, Code 1997, is amended to read as follows:

2. When a child is taken into custody as provided in subsection 1 the person taking the child into custody shall notify the child's parent, guardian, or custodian as soon as possible ~~and shall not~~. The person may place bodily restraints, such as handcuffs, on the child ~~unless~~ if the child physically resists; ~~or~~ threatens physical violence when being taken into custody; is being taken into custody for an alleged delinquent act of violence against a person; or when, in the reasonable judgment of the officer, the child presents a risk of injury

to the child or others. ~~However, if the child is thirteen years of age or older, the child may be restrained by metal handcuffs only, for the purpose of transportation in a vehicle which is not equipped with a rear seat cage for prisoner transport and if the child is being taken into custody for an alleged delinquent act of violence against a person.~~ The child may also be restrained by handcuffs or other restraints at any time after the child is taken into custody if the child has a known history of physical violence to others. Unless the child is placed in shelter care or detention in accordance with the provisions of section 232.21 or 232.22, the child shall be released to the child's parent, guardian, custodian, responsible adult relative, or other adult approved by the court upon the promise of such person to produce the child in court at such time as the court may direct.

Sec. 13. Section 232.19, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Information pertaining to a child who is at least ten years of age and who is taken into custody for a delinquent act which would be a public offense is a public record and is not confidential under section 232.147.

Sec. 14. Section 232.22, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 7. Notwithstanding any other provision of the Code to the contrary, a child shall not be placed in detention for a violation of section 123.47, or for failure to comply with a dispositional order which provides for performance of community service for a violation of section 123.47.

Sec. 15. NEW SECTION. 232.23 DETENTION — YOUTHFUL OFFENDERS.

1. After waiver of a child who will be prosecuted as a youthful offender, the child shall be held in a facility under section 232.22, subsection 2, paragraph "a" or "b", unless released in accordance with subsection 2.

2. a. The court shall determine, at the detention hearing under section 232.44, the amount of bail, appearance bond, or other conditions necessary for a child who has been waived for prosecution as a youthful offender to be released from detention or that the child should not be released from detention.

b. A child placed in detention or released under this subsection shall be supervised by a juvenile court officer or juvenile court services personnel.

c. An order under this section may be reviewed by the court upon motion of either party.

Sec. 16. Section 232.28, subsection 10, Code 1997, 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 who is at least ten years of age and who has committed a delinquent act which if committed by an adult would be ~~an aggravated misdemeanor or a felony shall be~~ a public offense is 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. 17. Section 232.28, subsection 11, Code 1997, is amended to read as follows:

11. If a complaint is filed under this section, alleging a child has committed a delinquent act, the alleged victim may file a signed victim impact statement with the juvenile court containing the information specified for a victim impact statement under section 910A.5. Unless the matter is disposed of at the preliminary inquiry conducted by the intake officer under section 232.28, the victim may also orally present a victim impact statement. The victim impact statement shall be considered by the court and the juvenile court officer handling the complaint in any proceeding or informal adjustment associated with the complaint.

Sec. 18. Section 232.28A, subsection 1, paragraph d, Code 1997, is amended to read as follows:

d. To be notified of the person's right to offer a written victim impact statement and to orally present the victim impact statement under sections 232.28 and 910A.5.

Sec. 19. Section 232.44, Code 1997, is amended to read as follows:

232.44 DETENTION OR SHELTER CARE HEARING — RELEASE FROM DETENTION UPON CHANGE OF CIRCUMSTANCE.

1. A hearing shall be held within forty-eight hours, excluding Saturdays, Sundays, and legal holidays, of the time of the child's admission to a shelter care facility, and within twenty-four hours, excluding Saturdays, Sundays, and legal holidays, of the time of a child's admission to a detention facility. If the hearing is not held within the time specified, the child shall be released from shelter care or detention. Prior to the hearing a petition shall be filed, except where the child is already under the supervision of a juvenile court under a prior judgment.

If the child is placed in a detention facility in a county other than the county in which the child resides or in which the delinquent act allegedly occurred but which is within the same judicial district, the hearing may take place in the county in which the detention facility is located. The child shall appear in person at the hearing required by this subsection.

2. The county attorney or a juvenile court officer may apply for a hearing at any time after the petition is filed to determine whether the child who is the subject of the petition should be placed in detention or shelter care. The court may upon the application or upon its own motion order such hearing. The court shall order a detention hearing for a child waived under section 232.45, subsection 6A, at the time of waiver.

3. A notice shall be served upon the child, the child's attorney, the child's guardian ad litem if any, and the child's known parent, guardian, or custodian not less than twelve hours before the time the hearing is scheduled to begin and in a manner calculated fairly to apprise the parties of the time, place, and purpose of the hearing. In the case of a hearing for a child waived for prosecution as a youthful offender, this notice may accompany the waiver order. If the court finds that there has been reasonably diligent effort to give notice to a parent, guardian, or custodian and that the effort has been unavailing, the hearing may proceed without the notice having been served.

4. At the hearing to determine whether detention or shelter care is authorized under section 232.21 or 232.22 the court shall admit only testimony and other evidence relevant to the determination of whether there is probable cause to believe the child has committed the act as alleged in the petition and to the determination of whether the placement of the child in detention or shelter care is authorized under section 232.21 or 232.22. At the hearing to determine whether a child who has been waived for prosecution as a youthful offender should be released from detention the court shall also admit evidence of the kind admissible to determine bond or bail under chapter 811, notwithstanding section 811.1. Any written reports or records made available to the court at the hearing shall be made available to the parties. A copy of the petition or waiver order shall be given to each of the parties at or before the hearing.

5. The court shall find release to be proper under the following circumstances:

a. If the court finds that there is not probable cause to believe that the child is a child within the jurisdiction of the court under this chapter, it shall release the child and dismiss the petition.

b. If the court finds that detention or shelter care is not authorized under section 232.21 or 232.22, or is authorized but not warranted in a particular case, the court shall order the child's release, and in so doing, may impose one or more of the following conditions:

(1) Place the child in the custody of a parent, guardian or custodian under that person's supervision, or under the supervision of an organization which agrees to supervise the child.

(2) Place restrictions on the child's travel, association, or place of residence during the period of release.

(3) Impose any other condition deemed reasonably necessary and consistent with the grounds for detaining children specified in section 232.21 or 232.22, including a condition requiring that the child return to custody as required.

(4) In the case of a child waived for prosecution as a youthful offender, require bail, an

appearance bond, or set other conditions consistent with this section or section 811.2.

c. An order releasing a child on conditions specified in this section may be amended at any time to impose equally or less restrictive conditions. The order may be amended to impose additional or more restrictive conditions, or to revoke the release, if the child has failed to conform to the conditions originally imposed.

6. If the court finds that there is probable cause to believe that the child is within the jurisdiction of the court under this chapter and that full-time detention or shelter care is authorized under section 232.21 or 232.22 or that detention is authorized under section 232.23, it may issue an order authorizing either shelter care or detention until the adjudicatory hearing or trial is held or for a period not exceeding seven days, whichever is shorter. However, in the case of a child placed in detention under section 232.23, this period may be extended by agreement of the parties and the court.

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 subsection may be held by telephone conference call.

8. A child held in a detention or shelter care facility pursuant to section 232.21 or 232.22 under order of court after a hearing may be released upon a showing that a change of circumstances makes continued detention unnecessary.

9. A written request for the release of the child, setting forth the changed circumstances, may be filed by the child, by a responsible adult on the child's behalf, by the child's custodian, or by the juvenile court officer.

10. Based upon the facts stated in the request for release the court may grant or deny the request without a hearing, or may order that a hearing be held at a date, time and place determined by the court. Notice of the hearing shall be given to the child and the child's custodian or counsel. Upon receiving evidence at the hearing, the court may release the child to the child's custodian or other suitable person, or may deny the request and remand the child to the detention or shelter care facility.

11. This section does not apply to a child placed in accordance with section 232.78, 232.79, or 232.95.

Sec. 20. Section 232.45, subsection 1, Code 1997, is amended to read as follows:

1. After the filing of a petition which alleges that a child has committed a delinquent act on the basis of an alleged commission of a public offense and before an adjudicatory hearing on the merits of the petition is held, the county attorney or the child may file a motion requesting the court to waive its jurisdiction over the child for the alleged commission of the public offense or for purpose of prosecution of the child as an adult or a youthful offender. If the county attorney and the child agree, a motion for waiver for the purpose of being prosecuted as a youthful offender may be heard by the district court as part of the proceedings under section 907.3A, or by the juvenile court as provided in this section. If the motion for waiver for purpose of being prosecuted as a youthful offender is made as a result of a conditional agreement between the county attorney and the child, the conditions of the agreement shall be disclosed to the court in the same manner as provided in rules 8 and 9 of the Iowa rules of criminal procedure.

Sec. 21. Section 232.45, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. At the conclusion of the waiver hearing and after considering the best interests of the child and the best interests of the community the court may, in order that the child may be prosecuted as a youthful offender, waive its jurisdiction over the child if all of the following apply:

a. The child is fifteen years of age or younger.

b. The court determines, or has previously determined in a detention hearing under section 232.44, that there is probable cause to believe that the child has committed a delinquent act which would constitute a public offense under section 232.8, subsection 1, paragraph "c", notwithstanding the application of that paragraph to children aged sixteen or older.

c. The court determines that the state has established that there are not reasonable prospects for rehabilitating the child, prior to the child's eighteenth birthday, if the juvenile court retains jurisdiction over the child and the child enters into a plea agreement, is a party to a consent decree, or is adjudicated to have committed the delinquent act.

The court shall retain jurisdiction over the child for the purpose of determining whether the child should be released from detention under section 232.23. If the court has been apprised of conditions of an agreement between the county attorney and the child which resulted in a motion for waiver for purposes of the child being prosecuted as a youthful offender, and the court finds that the conditions are in the best interests of the child, the conditions of the agreement shall constitute conditions of the waiver order.

Sec. 22. Section 232.45, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 7A. In making the determination required by subsection 6A, paragraph "c", the factors which the court shall consider include but are not limited to the following:

a. The nature of the alleged delinquent act and the circumstances under which it was committed.

b. The nature and extent of the child's prior contacts with juvenile authorities, including past efforts of such authorities to treat and rehabilitate the child and the response to such efforts.

c. The age of the child, the programs, facilities, and personnel available to the juvenile court for rehabilitation and treatment of the child, and the programs, facilities, and personnel which would be available to the district court after the child reaches the age of eighteen in the event the child is given youthful offender status.

Sec. 23. Section 232.45, subsection 10, Code 1997, is amended to read as follows:

10. If the court waives its jurisdiction over the child for the alleged commission of the public offense so that the child may be prosecuted as an adult or a youthful offender, the judge who made the waiver decision shall not preside at any subsequent proceedings in connection with that prosecution if the child objects.

Sec. 24. Section 232.45A, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 4. This section shall not apply to a child who was waived to the district court for the purpose of being prosecuted as a youthful offender.

Sec. 25. Section 232.50, subsection 1, Code 1997, is amended to read as follows:

1. As soon as practicable following the entry of an order of adjudication pursuant to section 232.47 or notification that the child has received a youthful offender deferred sentence pursuant to section 907.3A, the court shall hold a dispositional hearing in order to determine what disposition should be made of the matter.

Sec. 26. Section 232.52, subsection 1, Code 1997, is amended to read as follows:

1. Pursuant to a hearing as provided in section 232.50, the court shall enter the least restrictive dispositional order appropriate in view of the seriousness of the delinquent act, the child's culpability as indicated by the circumstances of the particular case, the age of the child, ~~and~~ the child's prior record, or the fact that the child has received a youthful offender deferred sentence under section 907.3A. The order shall specify the duration and the nature of the disposition, including the type of residence or confinement ordered and the individual, agency, department or facility in whom custody is vested. In the case of a child who has received a youthful offender deferred sentence, the initial duration of the dispositional order shall be until the child reaches the age of eighteen.

Sec. 27. Section 232.52, subsection 2, paragraph g, Code 1997, is amended to read as follows:

g. An order placing a child, other than a child who has committed a violation of section 123.47, in secure custody for not more than two days in a facility under section 232.22, subsection 2, paragraph "a" or "b".

Sec. 28. Section 232.54, Code 1997, is amended by adding the following new subsections:

NEW SUBSECTION. 7. With respect to a juvenile court dispositional order entered regarding a child who has received a youthful offender deferred sentence under section 907.3A, the dispositional order may be terminated prior to the child reaching the age of eighteen upon motion of the child, the person or agency to whom custody of the child has been transferred, or the county attorney following a hearing before the juvenile court if it is shown by clear and convincing evidence that it is in the best interests of the child and the community to terminate the order. The hearing may be waived if all parties to the proceeding agree. The dispositional order regarding a child who has received a youthful offender deferred sentence may also be terminated prior to the child reaching the age of eighteen upon motion of the county attorney, if the waiver of the child to district court was conditioned upon the terms of an agreement between the county attorney and the child* violates the terms of the agreement after the waiver order has been entered. The district court shall discharge the child's youthful offender status upon receiving a termination order under this section.

NEW SUBSECTION. 8. With respect to a dispositional order entered regarding a child who has received a youthful offender deferred sentence under section 907.3A, the juvenile court may, in the case of a child who violates the terms of the order, modify or terminate the order in accordance with the following:

a. After notice and hearing at which the facts of the child's violation of the terms of the order are found, the juvenile court may refuse to modify the order, modify the order and impose a more restrictive order, or, after an assessment of the child by a juvenile court officer in consultation with the judicial district department of correctional services and if the child is age fourteen or over, terminate the order and return the child to the supervision of the district court under chapter 907.

b. The juvenile court shall only terminate an order under this subsection if after considering the best interests of the child and the best interests of the community the court finds that the child should be returned to the supervision of the district court.

c. A youthful offender over whom the juvenile court has terminated the dispositional order under this subsection shall be treated in the manner of an adult who has been arrested for a violation of probation under section 908.11 for sentencing purposes only.

Sec. 29. Section 232.55, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. This section does not apply to dispositional orders entered regarding a child who has received a youthful offender deferred sentence under section 907.3A who is not discharged from probation before or upon the child's eighteenth birthday.

Sec. 30. NEW SECTION. 232.56 YOUTHFUL OFFENDERS — TRANSFER TO DISTRICT COURT SUPERVISION.

The juvenile court shall deliver a report, which includes an assessment of the child by a juvenile court officer after consulting with the judicial district department of correctional services, to the district court prior to the eighteenth birthday of a child who has received a youthful offender deferred sentence under section 907.3A. A hearing shall be held in the district court in accordance with section 907.3A to determine whether the child should be discharged from youthful offender status or whether the child shall continue under the supervision of the district court after the child's eighteenth birthday.

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* The additional words "and the child" probably intended

Sec. 31. Section 232.141, subsection 3, paragraph c, Code 1997, is amended to read as follows:

c. Costs incurred under subsection 2 which are not paid by the county under paragraphs "a" and "b" shall be reimbursed by the state. Reimbursement for the costs of compensation of an attorney appointed by the court to serve as counsel or guardian ad litem shall be made as provided in section 815.7. A county shall apply for reimbursement to the department of inspections and appeals which shall prescribe rules and forms to implement this subsection.

Sec. 32. Section 232.148, subsection 2, Code 1997, is amended to read as follows:

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 or juvenile 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.

Sec. 33. Section 232.148, subsection 5, paragraph b, Code 1997, is amended to read as follows:

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, or has not been placed on youthful offender status.

Sec. 34. Section 232.149, subsection 2, Code 1997, is amended to read as follows:

2. Records and files of a criminal or juvenile justice agency concerning a child 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~~, intelligence data, and law enforcement investigatory files is subject to the provisions of section 22.7 and chapter 692 and juvenile court social records, as defined in section 232.2, subsection 31, shall be deemed confidential criminal identification files under section 22.7, subsection 9. 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. 35. Section 232.149, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Notwithstanding subsection 2, if a juvenile who has been placed in detention under section 232.22, escapes from the facility, the criminal or juvenile justice agency may release the name of the juvenile, the facts surrounding the escape, and the offense or alleged offense which resulted in the placement of the juvenile in the facility.

Sec. 36. Section 232.150, subsection 1, Code 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. The person was not placed on youthful offender status, transferred back to district court after the youthful offender's eighteenth birthday, and sentenced for the offense which precipitated the youthful offender placement.

Sec. 37. NEW SECTION. 279.9B REPORTS TO JUVENILE AUTHORITIES.

The rules adopted under section 279.8 shall require, once school officials have been notified by a juvenile court officer that a student attending the school is under supervision or has been placed on probation, that school officials shall notify the juvenile court of each unexcused absence or suspension or expulsion of the student.

Sec. 38. NEW SECTION. 280.24 PROCEDURES FOR REPORTING DRUG OR ALCOHOL POSSESSION OR USE.

The board of directors of each public school and the authorities in charge of each accredited nonpublic school shall prescribe procedures to report any use or possession of alcoholic liquor, wine, or beer or any controlled substance on school premises to local law enforcement agencies, if the use or possession is in violation of school policy or state law. The procedures may include a provision which does not require a report when the school officials have determined that a school at-risk or other student assistance program would be jeopardized if a student self reports.

Sec. 39. NEW SECTION. 280.25 INFORMATION SHARING.

The board of directors of each public school and the authorities in charge of each accredited nonpublic school shall adopt a policy and the superintendent of each public school shall adopt rules which provide that the school district or school may share information contained within a student's permanent record pursuant to an interagency agreement with state and local agencies that are part of the juvenile justice system including the juvenile court, the department of human services, and local law enforcement authorities. The disclosure of information shall be directly related to the juvenile justice system's ability to effectively serve, prior to adjudication, the student whose records are being released. The purpose of the agreement shall be to reduce juvenile crime by promoting cooperation and collaboration and the sharing of appropriate information between the parties in a joint effort to improve school safety, reduce alcohol and illegal drug use, reduce truancy, reduce in-school and out-of-school suspensions, and to support alternatives to in-school and out-of-school suspensions and expulsions which provide structured and well-supervised educational programs supplemented by coordinated and appropriate services designed to correct behaviors that lead to truancy, suspension, and expulsions and to support students in successfully completing their education. Information shared under the agreement shall be used solely for determining the programs and services appropriate to the needs of the juvenile or the juvenile's family, or coordinating the delivery of programs and services to the juvenile or the juvenile's family. Information shared under the agreement is not admissible in any court proceedings which take place prior to a disposition hearing, unless written consent is obtained from a student's parent, guardian, or legal or actual custodian. The interagency agreement shall provide, and each signatory agency to the agreement shall certify in the agreement, that confidential information shared between the parties to the agreement shall remain confidential and shall not be shared with any other person, unless otherwise provided by law.

A school or school district entering into an interagency agreement under this section shall adopt a policy implementing the provisions of the interagency agreement. The policy shall include, but not be limited to, the provisions of the interagency agreement and the procedures to be used by the school or school district to share information from the student's permanent record with participating agencies. The policy shall be published in the student handbook.

Sec. 40. Section 321.216B, Code 1997, is amended to read as follows:

321.216B USE OF MOTOR VEHICLE LICENSE OR NONOPERATOR'S IDENTIFICATION CARD BY UNDERAGE PERSON TO OBTAIN ALCOHOL.

A person who is under the age of twenty-one, who alters or displays or has in the person's possession a fictitious or fraudulently altered motor vehicle license or nonoperator's identification card and who uses the license to violate or attempt to violate section 123.47 ~~or 123.47A~~, commits a simple misdemeanor punishable by a fine of one hundred dollars. The court shall forward a copy of the conviction or order of adjudication under section 232.47 to the department.

Sec. 41. Section 331.653, subsection 4, Code 1997, is amended to read as follows:

4. Provide bailiff and other law enforcement service to the district judges, district associate judges, and associate juvenile judges, and judicial magistrates of the county upon request.

Sec. 42. Section 331.653, subsection 58, Code 1997, is amended to read as follows:

58. Report information on crimes committed and delinquent acts committed, which would be ~~an~~ a serious or 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~~ a serious or 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~~ a serious or aggravated misdemeanor or felony if committed by an adult, filed in any court as provided in section 692.15.

Sec. 43. Section 602.1211, subsection 4, Code 1997, is amended to read as follows:

4. A chief judge may designate other public officers to accept bond money or security under section 232.23 or 811.2 at times when the office of the clerk of court is not open.

Sec. 44. Section 602.6110, Code 1997, is amended to read as follows:

602.6110 PEER REVIEW COURT ~~— PILOT PROJECTS~~.

1. A peer review court ~~is~~ may be established ~~as a pilot program~~ in each judicial district to divert certain youthful offenders from the criminal or juvenile justice systems. The court shall consist of a qualified adult to act as judge ~~with~~ while the duties of prosecutor, defense counsel, court attendant, clerk, and jury ~~composed of~~ shall be performed by persons ~~ten~~ twelve through seventeen years of age.

2. The jurisdiction of the peer review court extends to those persons ten through seventeen years of age who have committed misdemeanor offenses, or delinquent acts which would be misdemeanor offenses if committed by an adult, ~~and who have entered a plea of guilty~~ who have admitted involvement in the misdemeanor or delinquent act, ~~entered~~ and who meet the criteria established for entering into an informal adjustment agreement~~, or agreed to the entry of a consent decree to~~ for those offenses ~~in district or juvenile court~~. Those persons may ~~then~~ elect to appear before the peer review court ~~to receive sentence~~ for a determination of the terms and conditions of the informal adjustment or may elect to proceed with the informal or formal procedures established in chapter 232.

3. The peer review court shall not determine guilt or innocence and any statements or admissions made by the person before the peer review court are not admissible in any formal proceedings involving the same person. The peer review court shall only determine the ~~sentence for~~ terms and conditions of the informal adjustment for the offense. The ~~sentence~~ terms and conditions may consist of fines, restrictions for damages, attendance at treatment programs, or community service work or any combination of these penalties as appropriate to the offense or delinquent act committed. A person appearing before the peer review court may also be required to serve as a juror on the court as a part of the person's sentence.

~~3.~~ 4. ~~Subject to the agreement of the chief judge of the judicial district, the supreme court shall designate two judicial districts in which to locate a peer review court pilot project.~~ The chief judge of ~~the~~ each judicial district which establishes a peer review court shall appoint a peer review court advisory board. The advisory board shall adopt rules for the peer review court advisory program, shall appoint persons to serve on the peer review court, and shall supervise the expenditure of funds appropriated to the program. Rules adopted shall include procedures which are designed to eliminate the influence of prejudice and racial and economic discrimination in the procedures and decisions of the peer review court.

Sec. 45. Section 602.8102, subsection 125, Code 1997, 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~~ a serious or 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. 46. Section 692.1, subsections 1 and 9, Code 1997, are amended to read as follows:

1. "Adjudication data" means information that an adjudication of delinquency for an act which would be ~~an~~ a serious or 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.

9. "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~~ a serious or 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. 47. Section 724.26, Code 1997, is amended to read as follows:

724.26 RECEIPT, TRANSPORTATION, AND DOMINION AND CONTROL OF FIREARMS AND OFFENSIVE WEAPONS BY FELONS.

A person who is convicted of a felony in a state or federal court, or who is adjudicated delinquent on the basis of conduct that would constitute a felony if committed by an adult, and who knowingly has under the person's dominion and control, receives, or transports or causes to be transported a firearm or offensive weapon is guilty of a class "D" felony.

Sec. 48. Section 805.8, subsection 10, paragraphs a and b, Code 1997, are amended by striking the paragraphs.

Sec. 49. Section 805.16, subsection 1, Code 1997, is amended to read as follows:

1. Except as provided in subsection 2 of this section, a peace officer shall issue a police citation or uniform citation and complaint, in lieu of making a warrantless arrest, to a person under eighteen years of age accused of committing a simple misdemeanor under chapter 321, 321G, 461A, 461B, 462A, 481A, 481B, 483A, 484A, 484B, ~~section 123.47,~~ or a local ordinance not subject to the jurisdiction of the juvenile court, and shall not detain or confine the person in a facility regulated under chapter 356 or 356A.

Sec. 50. Section 815.7, Code 1997, is amended to read as follows:

815.7 FEES TO ATTORNEYS.

An attorney who has not entered into a contract authorized under section 13B.4 and who is appointed by the court to represent any person charged with a crime in this state or to serve as counsel or guardian ad litem to a person in juvenile court in this state shall be entitled to a reasonable compensation which shall be the ordinary and customary charges for like services in the community to be decided in each case by a judge of the district court or of the juvenile court, as applicable, including such sum or sums as the court may determine are necessary for investigation in the interests of justice and in the event of appeal the cost of obtaining the transcript of the trial and the printing of the trial record and necessary briefs in behalf of the defendant. However, the reasonable compensation awarded an attorney shall not be calculated based upon an hourly rate that exceeds the rate a contract attorney as provided in section 13B.4 would receive in a similar case. Such attorney need not follow the case into another county or into the appellate court unless so directed by the court at the request of the defendant, where grounds for further litigation are not capricious or unreasonable, but if such attorney does so, the attorney's fee shall be determined accordingly. Only one attorney fee shall be so awarded in any one case except that in class "A" felony cases, two may be authorized.

Sec. 51. NEW SECTION. 907.3A YOUTHFUL OFFENDER DEFERRED SENTENCE — YOUTHFUL OFFENDER STATUS.

1. Notwithstanding section 907.3 but subject to any conditions of the waiver order, the trial court shall, upon a plea of guilty or a verdict of guilty, defer sentence of a youthful offender over whom the juvenile court has waived jurisdiction pursuant to section 232.45,

subsection 6A, and place the juvenile on youthful offender status. The court shall transfer supervision of the youthful offender to the juvenile court for disposition in accordance with section 232.52. The court shall require supervision of the youthful offender in accordance with section 232.54, subsection 8 or subsection 2, of this section. Notwithstanding section 901.2, a presentence investigation shall not be ordered by the court subsequent to an entry of a plea of guilty or verdict of guilty or prior to deferral of sentence of a youthful offender under this section.

2. The court shall hold a hearing prior to a youthful offender's eighteenth birthday to determine whether the youthful offender shall continue on youthful offender status after the youthful offender's eighteenth birthday under the supervision of the court or be discharged. The court shall review the report of the juvenile court regarding the youthful offender and shall hear evidence by or on behalf of the youthful offender, by the county attorney, and by the person or agency to whom custody of the youthful offender was transferred. The court shall make its decision after considering the services available to the youthful offender, the evidence presented, the juvenile court's report, the interests of the youthful offender, and interests of the community.

3. Notwithstanding any provision of the Code which prescribes a mandatory minimum sentence for the offense committed by the youthful offender, following transfer of the youthful offender from the juvenile court back to the court having jurisdiction over the criminal proceedings involving the youthful offender, the court may continue the youthful offender deferred sentence or enter a sentence, which may be a suspended sentence. Notwithstanding anything in section 907.7 to the contrary, if the district court either continues the youthful offender deferred sentence or enters a sentence, suspends the sentence, and places the youthful offender on probation, the term of formal supervision shall commence upon entry of the order by the district court and may continue for a period not to exceed five years. If the district court enters a sentence of confinement, and the youthful offender was previously placed in secure confinement by the juvenile court under the terms of the initial disposition order or any modification to the initial disposition order, the person shall receive credit for any time spent in secure confinement. During any period of probation imposed by the district court, a youthful offender who violates the terms of probation is subject to section 908.11.

Sec. 52. Section 908.11, Code 1997, is amended to read as follows:

908.11 VIOLATION OF PROBATION.

A probation officer or the judicial district department of correctional services having probable cause to believe that any person released on probation has violated the conditions of probation shall proceed by arrest or summons as in the case of a parole violation. The functions of the liaison officer and the board of parole shall be performed by the judge or magistrate who placed the alleged violator on probation if that judge or magistrate is available, otherwise by another judge or magistrate who would have had jurisdiction to try the original offense. If the probation officer proceeds by arrest, any magistrate may receive the complaint, issue an arrest warrant, or conduct the initial appearance and probable cause hearing if it is not convenient for the judge who placed the alleged violator on probation to do so. The initial appearance, probable cause hearing, and probation revocation hearing, or any of them, may at the discretion of the court be merged into a single hearing when it appears that the alleged violator will not be prejudiced thereby. If the violation is established, the court may continue the probation or youthful offender status with or without an alteration of the conditions of probation or a youthful offender status. If the defendant is an adult or a youthful offender the court may hold the defendant in contempt of court and sentence the defendant to a jail term while continuing the probation or youthful offender status, order the defendant to be placed in a violator facility established pursuant to section 904.207 while continuing the probation or youthful offender status, or revoke the probation or youthful offender status and require the defendant to serve the sentence imposed or any lesser sentence, and, if imposition of sentence was deferred, may impose any sentence which might originally have been imposed.

Sec. 53. Section 910A.5, subsection 3, Code 1997, is amended to read as follows:

3. If a complaint is filed under section 232.28, alleging a child has committed a delinquent act, the alleged victim may file a signed victim impact statement with the juvenile court as provided by section 232.28. The victim impact statement shall be considered by the court and the juvenile court officer handling the complaint in any proceeding or informal adjustment associated with the complaint. Unless the matter is disposed of at the preliminary inquiry conducted by the intake officer under section 232.28, the victim may also be allowed to orally present the victim impact statement.

Sec. 54. Section 123.47A, Code 1997, is repealed.

Sec. 55. JUVENILE JUSTICE INTERIM STUDY. The legislative council is requested to establish an interim study committee consisting of members of both political parties from both houses of the general assembly to review and consider the need for improvements in the laws and programs established to reform juvenile delinquents and reduce juvenile crime. The study may include but is not limited to the review of the need for improvements in the current juvenile justice system, the youthful offender program, the programs established to combat substance abuse by juveniles, and the coordination of programs and information between the juvenile and adult criminal justice systems. The committee shall submit its findings, together with any recommendations, in a report to the general assembly which convenes in January 1998.

Approved May 7, 1997

CHAPTER 127

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION STANDARDS

S.F. 528

AN ACT relating to the cleanup and reuse of contaminated property, environmental remediation standards and review procedures, participation in the remediation of contaminated property, liability for the voluntary cleanup of contaminated property, liability protections, and establishing a land recycling fund.

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

SUBCHAPTER 1
GENERAL PROVISIONS

Section 1. NEW SECTION. 455H.101 SHORT TITLE.

This chapter shall be known and may be cited as the "Iowa Land Recycling and Environmental Remediation Standards Act".

Sec. 2. NEW SECTION. 455H.102 SCOPE.

The environmental remediation standards established under this chapter shall be used for any response action or other site assessment or remediation that is conducted at a site enrolled pursuant to this chapter notwithstanding provisions regarding water quality in chapter 455B, division III; hazardous conditions in chapter 455B, division IV, part 4; hazardous waste and substance management in chapter 455B, division IV, part 5; underground storage tanks, other than petroleum underground storage tanks, in chapter 455B, division IV, part 8; contaminated sites in chapter 455B, division VIII; and groundwater protection in chapter 455E.

Sec. 3. NEW SECTION. 455H.103 DEFINITIONS.

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

1. "Affected area" means any real property affected, suspected of being affected, or modeled to be likely affected by a release occurring at an enrolled site.

2. "Affiliate" means a corporate parent, subsidiary, or predecessor of a participant, a co-owner or co-operator of a participant, a spouse, parent, or child of a participant, an affiliated corporation or enterprise of a participant, or any other person substantially involved in the legal affairs or management of a participant, as defined by the department.

3. "Background levels" means concentrations of hazardous substances naturally occurring and generally present in the environment in the vicinity of an enrolled site or an affected area and not the result of releases.

4. "Commission" means the environmental protection commission created under section 455A.6.

5. "Department" means the department of natural resources created under section 455A.2.

6. "Director" means the director of the department of natural resources appointed under section 455A.3.

7. "Enrolled site" means any property which has been or is suspected to be the site of or affected by a release and which has been enrolled pursuant to this chapter by a participant.

8. "Hazardous substance" has the same meaning as defined in section 455B.381.

9. "Noncancer health risk" means the potential for adverse systemic or toxic effects caused by exposure to noncarcinogenic hazardous substances expressed as the hazard quotient for a hazardous substance. A hazard quotient is the ratio of the level of exposure of a hazardous substance over a specified time period to a reference dose for a similar exposure period.

10. "Participant" means any person who enrolls property pursuant to this chapter. A participant is a participant only to the extent the participant complies with the requirements of this chapter.

11. "Protected groundwater source" means a saturated bed, formation, or group of formations which has a hydraulic conductivity of at least forty-four-hundredths meters per day and a total dissolved solids concentration of less than two thousand five hundred milligrams per liter.

12. "Protected party" means any of the following:

a. A participant, including, but not limited to, a development authority or fiduciary.

b. A person who develops or otherwise occupies an enrolled site after the issuance of a no further action letter.

c. A successor or assignee of a protected party, as to an enrolled site of a protected party.

d. A lender which practices commercial lending including, but not limited to, providing financial services, holding of security interests, workout practices, and foreclosure or the recovery of funds from the sale of an enrolled site.

e. A parent corporation or subsidiary of a participant.

f. A co-owner or co-operator, either by joint tenancy or a tenancy in common, or any other party sharing a legal relationship with the participant.

g. A holder of a beneficial interest of a land trust or inter vivos trust, whether revocable or irrevocable, as to any interests in an enrolled site.

h. A mortgagee or trustee of a deed of trust existing as to an enrolled site as of the date of issuance of a no further action letter.

i. A transferee of the participant whether the transfer is by purchase, eminent domain, assignment, bankruptcy proceeding, partition, dissolution of marriage, settlement or adjudication of any civil action, charitable gift, or bequest, in conjunction with the acquisition of title to the enrolled site.

j. An heir or devisee of a participant.

k. A government agency or political subdivision which acquires an enrolled site through voluntary or involuntary means, including, but not limited to, abandonment, tax foreclosure, eminent domain, or escheat.

13. "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment of a hazardous substance, including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance, but excludes all of the following:

a. Any release which results in exposure to persons solely within a workplace, with respect to a claim which such persons may assert against the employer of such persons.

b. Emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine.

c. The release of source, by-product, or special nuclear material from a nuclear incident, as those terms are defined in the federal Atomic Energy Act of 1954, if such release is subject to requirements with respect to financial protection established by the nuclear regulatory commission under 42 U.S.C. § 2210 or, for the purposes of 42 U.S.C. § 9604 or any other response action, any release of source, by-product, or special nuclear material from any processing site designated under 42 U.S.C. § 7912(a)(1) or 7942(a).

d. The use of pesticides in accordance with the product label.

14. "Response action" means an action taken to reduce, minimize, eliminate, clean up, control, assess, or monitor a release to protect the public health and safety or the environment. "Response action" includes, but is not limited to, investigation, excavation, removal, disposal, cleansing of groundwaters or surface waters, natural biodegradation, institutional controls, technological controls, or site management practices.

15. "Technical advisory committee" means the technical advisory committee created under section 455H.502.

Sec. 4. NEW SECTION. 455H.104 DECLARATION OF POLICY.

The general assembly finds and declares all of the following:

1. Some real property in Iowa is not put to its highest productive use because it is contaminated or it is perceived to be contaminated as a result of past activity on the property. The reuse of these sites is an important component of a sound land-use policy that will prevent the needless development of prime farmland and open-space and natural areas, and reduce public expenditures for installing new infrastructure.

2. Incentives should be put in place to encourage capable persons to voluntarily develop and implement cleanup plans.

3. The safe reuse of property should be encouraged through the adoption of environmental remediation standards developed through an open process which take into account the risks associated with any release at the site. Any remediation standards adopted by this state must provide for the protection of the public health and safety and the environment.

Sec. 5. NEW SECTION. 455H.105 DUTIES OF THE COMMISSION.

The commission shall do all of the following:

1. Adopt rules pertaining to the assessment, evaluation, and cleanup of the presence of hazardous substances which allow participants to carry out response actions using background standards, statewide standards, or site-specific cleanup standards pursuant to this chapter.

2. Adopt rules establishing statewide standards and criteria for determination of background standards and site specific cleanup standards.

3. Adopt rules establishing a program intended to encourage and enhance assessment, evaluation, and cleanup of sites which may have been the site of or affected by a release.

4. Adopt rules establishing a program to administer the land recycling fund established in section 455H.401.

5. Adopt rules establishing requirements for the submission, performance, and verification of site assessments, cleanup plans, and certifications of completion. The rules shall provide that all site assessments, cleanup plans, and certifications of completion submitted by a participant shall be prepared by or under the supervision of an appropriately trained

professional, including a groundwater professional certified pursuant to section 455G.18.

6. Adopt rules for public notice of the proposed verification of a certificate of completion by the department where the certificate of completion is conditioned on the use of an institutional or technological control.

Sec. 6. NEW SECTION. 455H.106 AUTHORITY OF THE DEPARTMENT.

The department shall do all of the following:

1. Enter into agreements or issue orders in connection with the enrollment of property into a program established pursuant to this chapter.

2. Issue no further action letters upon the demonstration of compliance with applicable standards for an affected area by a participant.

3. Enter into agreements or issue orders providing for institutional and technological controls to assure compliance with applicable standards pursuant to this chapter.

4. Take actions necessary, including the revocation, suspension, or modification of permits or agreements, the issuance of orders, and the initiation of administrative or judicial proceedings, to enforce the provisions of this chapter and any agreements, covenants, easements, or orders issued pursuant to this chapter.

Sec. 7. NEW SECTION. 455H.107 LAND RECYCLING PROGRAM.

1. A person may enroll property in the land recycling program pursuant to this chapter to carry out a response action in accordance with rules adopted by the commission which outline the eligibility for enrollment. The eligibility rules shall reasonably encourage the enrollment of all sites potentially eligible to participate under this chapter and shall not take into account any amounts the department may be reimbursed under this chapter.

2. All participants shall enter into an agreement with the department to reimburse the department for actual costs incurred by the department in reviewing documents submitted as a part of the enrollment of the site. This fee shall not exceed seven thousand five hundred dollars per enrolled site. An agreement entered into under this subsection must allow the department access to the enrolled site and must require a demonstration of the participant's ability to carry out a response action reasonably associated with the enrolled site.

3. All of the following shall not be enrolled in the land recycling program:

a. Property for which corrective action is needed or has been taken for petroleum underground storage tanks under chapter 455B, division IV, part 8. However, such property may be enrolled to address hazardous substances other than petroleum from underground storage tanks.

b. Property which has been placed or is proposed to be included on the national priorities list established pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 et seq.

c. An animal feeding operation structure as defined in section 455B.161.

4. If the site cleanup assessment demonstrates that the release on the enrolled site has affected additional property, all property, which is shown to be affected by the release on the enrolled site, shall be enrolled in addition to the enrolled site.

5. Following enrollment of the property in the land recycling program, the participant shall proceed on a timely basis to carry out response actions in accordance with the rules implementing this chapter.

6. Once the participant has demonstrated the affected area is in compliance with the standards described in subchapter 2, the department shall proceed on a timely basis and issue a no further action letter pursuant to section 455H.301.

7. The participant may withdraw the enrolled site from further participation in the land recycling program at any time upon written notice to the department. Any participant who withdraws an enrolled site from further participation in the program shall not be entitled to any refund or credit for the enrollment fee paid pursuant to this section and shall, subject to the limitation on fees in subsection 2, be liable for any costs actually incurred by the department. The department or court may determine that a participant who withdraws prior to

completion of all response actions identified for the enrolled site forfeits all benefits and immunities provided by this chapter as to the enrolled site. If it is deemed necessary and appropriate by the department, a participant who withdraws shall stabilize the enrolled site in accordance with a plan approved by the department.

SUBCHAPTER 2
RESPONSE ACTION STANDARDS AND REVIEW PROCEDURES

Sec. 8. NEW SECTION. 455H.201 CLEANUP STANDARDS.

1. A participant carrying out a response action shall take such response actions as necessary to assure that conditions in the affected area comply with any of the following, as applicable:

a. Background standards established pursuant to section 455H.202.

b. Statewide standards established pursuant to section 455H.203.

c. Site-specific cleanup standards established pursuant to section 455H.204.

Any remediation standard which is applied must provide for the protection of the public health and safety and the environment.

2. A participant may use a combination of these standards to implement a site remediation plan and may propose to use the site-specific cleanup standards whether or not efforts have been made to comply with the background or statewide standards.

3. Until rules setting out requirements for background standards, statewide standards, or site-specific cleanup standards are finally adopted by the commission and effective, participants may utilize site-specific cleanup standards for any hazardous substance utilizing the procedures set out in the department's rules implementing risk-based corrective action for underground storage tanks and, where relevant, the United States environmental protection agency's guidance regarding risk assessment for superfund sites.

4. The standards may be complied with through a combination of response actions that may include, but are not limited to, treatment, removal, technological or institutional controls, and natural attenuation and other natural mechanisms, and can include the use of innovative or other demonstrated measures.

Sec. 9. NEW SECTION. 455H.202 BACKGROUND STANDARDS.

1. Methods to identify background standards shall be adopted by the commission after consideration of the joint recommendations of the department and the technical advisory committee.

2. The demonstration that the affected area meets the background standard shall be documented by the participant in the following manner:

a. Compliance with the background standard shall be demonstrated by collection and analysis of representative samples from environmental media of concern.

b. A final report that documents compliance with the background standard shall be submitted to the department and shall include, as appropriate, all of the following:

(1) A description of procedures and conclusions of the site investigation to characterize the nature, extent, direction, volume, and composition of hazardous substances.

(2) The basis for selecting environmental media of concern, descriptions of removal or decontamination procedures performed in remediation, and summaries of sampling methodology and analytical results which demonstrate that the background standard has been complied with.

(3) The basis for determining the background levels.

Sec. 10. NEW SECTION. 455H.203 STATEWIDE STANDARDS.

1. Statewide standards shall be adopted by the commission after consideration of the joint recommendations of the department and the technical advisory committee. The standards must provide for the protection of the public health and safety and the environment.

2. In establishing these standards, all of the following shall be considered:

a. Separate standards shall be established for hazardous substances in soil, in groundwater which is a protected groundwater source, and in groundwater which is not a protected groundwater source.

b. In groundwater which is a protected groundwater source, the standards shall be no more protective than the least restrictive of the maximum contaminant levels established pursuant to the department's drinking water standards, a standard reflecting an increased cancer risk of one in one million, or a standard reflecting a noncancer health risk of one. An affected area shall not be required to be cleaned up to concentration levels below or more restrictive than background levels.

c. In groundwater which is not a protected groundwater source, the standards shall be no more protective than the least restrictive of a standard reflecting an increased cancer risk of one in ten thousand or a standard reflecting a noncancer health risk of one. An affected area shall not be required to be cleaned up to levels below or more restrictive than background levels.

d. In soil, the standards shall be no more protective than the least restrictive of a standard reflecting an increased cancer risk of one in one million or a standard reflecting a noncancer health risk of one. An affected area shall not be required to be cleaned up to concentration levels below or more restrictive than background levels.

3. The demonstration that the affected area meets the statewide standard shall be documented by the participant, as appropriate, in the following manner:

a. Compliance with cleanup levels shall be demonstrated by collection and analysis of representative samples from the environmental medium of concern.

b. A final report that documents compliance with the statewide standard shall be submitted to the department which includes, as appropriate, the descriptions of procedures and conclusions of the site investigation to characterize the nature, extent, direction, rate of movement at the site and cumulative effects, if any, volume, composition, and concentration of hazardous substances in environmental media, the basis for selecting environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, descriptions of removal or treatment procedures performed in remediation, and summaries of sampling methodology and analytical results which demonstrate that hazardous substances have been removed or treated to applicable levels.

Sec. 11. NEW SECTION. 455H.204 SITE-SPECIFIC CLEANUP STANDARDS.

1. Procedures to establish site-specific cleanup standards shall be adopted by the commission after consideration of the joint recommendations of the department and the technical advisory committee. Site-specific cleanup standards must provide for the protection of the public health and safety and the environment.

2. Site-specific cleanup standards and appropriate response actions shall take into account all of the following provided, however, that an affected area shall not be required to be cleaned up to levels below or more restrictive than background levels, and in groundwater which is not a protected groundwater source, to a concentration level which presents an increased cancer risk of less than one in ten thousand:

a. The most appropriate exposure scenarios based on current or probable future residential, commercial, industrial, or other industry accepted scenarios.

b. Exposure pathway characterizations including contaminant sources, transport mechanisms, and exposure pathways.

c. Affected human or environmental receptors and exposure scenarios based on current or probable projected use scenarios.

d. Risk-based corrective action assessment principles which identify risks presented to the public health and safety or the environment by each released hazardous substance 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' standards applied to nonpetroleum and petroleum hazardous substances.

e. Other relevant site-specific risk-related factors such as the feasibility of available tech-

nologies, existing background levels, current and planned future uses, ecological, aesthetic, and other relevant criteria, and the applicability and availability of technological and institutional controls.

f. Cleanup shall not be required in an affected area that does not present any of the following:

(1) 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.

(2) An increased noncancer health risk at the point of exposure of greater than one.

3. The concentration of a hazardous substance in an environmental medium of concern at an affected area where the site-specific standard has been selected shall not be required to meet the site-specific standard if the site-specific standard is numerically less than the background level. In such cases, the background level shall apply.

4. Any participant electing to comply with site-specific standards established by this section shall submit, as appropriate, all of the following reports and evaluations for review and approval by the department:

a. A site-specific risk assessment report and a cleanup plan. The site-specific risk assessment report must include, as appropriate, all of the following:

(1) Documentation and descriptions of procedures and conclusions from the site investigation to characterize the nature, extent, direction, rate of movement, volume, and composition of hazardous substances.

(2) The concentration of hazardous substances in environmental media of concern, including summaries of sampling methodology and analytical results.

(3) A fate and transport analysis to demonstrate that no exposure pathways exist.

If no exposure pathways exist, a risk assessment report and a cleanup plan are not required and no remedy is required to be proposed or completed.

b. A final report demonstrating compliance with site-specific cleanup standards has been completed in accordance with the cleanup plan.

c. This section does not preclude a participant from submitting a site-specific risk assessment report and cleanup plan at one time to the department for review.

5. Upon submission of either a site-specific risk assessment report or a cleanup plan to the department, the department shall notify the participant of any deficiencies in the report or plan in a timely manner.

6. Owners and operators of underground storage tanks other than petroleum underground storage tanks, aboveground storage tanks, and pipelines which contain or have contained petroleum shall comply with the corrective action rules issued pursuant to chapter 455B, division IV, part 8, to satisfy the requirements of this section.

Sec. 12. NEW SECTION. 455H.205 VARIANCES.

1. A participant may apply to the department for a variance from any applicable provision of this chapter.

2. The department may issue a variance from applicable standards only if the participant demonstrates all of the following:

a. The participant demonstrates either of the following:

(1) It is technically infeasible to comply with the applicable standards.

(2) The cost of complying with the applicable standards exceeds the benefits.

b. The proposed alternative standard or set of standards in the terms and conditions set forth in the application will result in an improvement of environmental conditions in the affected area and ensure that the public health and safety will be protected.

c. The establishment of and compliance with the alternative standard or set of standards in the terms and conditions is necessary to promote, protect, preserve, or enhance employment opportunities or the reuse of the enrolled site.

3. If requested by a participant, the department may issue a variance from any other provision of this chapter if the department determines that the variance would be consistent with the declaration of policy of this chapter and is reasonable under the circumstances.

Sec. 13. NEW SECTION. 455H.206 INSTITUTIONAL AND TECHNOLOGICAL CONTROLS.

1. In achieving compliance with the cleanup standards under this chapter, a participant may use an institutional or technological control. The director may require reasonable proof of financial assurance where necessary to assure a technological control remains effective.

2. An institutional or technological control includes any of the following:

a. A state or federal law or regulation.

b. An ordinance of any political subdivision of the state.

c. A contractual obligation recorded and executed in a manner satisfying chapter 558.

d. A control which the participant can demonstrate reduces or manages the risk from a release through the period necessary to comply with the applicable standards.

e. An environmental protection easement.

3. If the department's determination of compliance with applicable standards pursuant to subchapter 3 is conditioned on a restriction in the use of any real estate in the affected area, the participant must utilize an institutional control. If the restriction in use is to limit the use to nonresidential use, the participant must use an environmental protection easement as the institutional control. Environmental protection easements may also be used to implement other institutional or technological controls. An environmental protection easement must be granted by the fee title owners of the relevant real estate. The participant shall furnish to the department abstracts of title and other documents sufficient to enable the department to determine that the easements will be enforceable. An environmental protection easement shall be in a form provided by rule of the department. An environmental protection easement must provide all of the following:

a. The easement names the state, acting through the department, as grantee.

b. The easement identifies the activity either being restricted or required through the institutional or technological control.

c. The easement runs with the land, binding the owner of the land and the owner's successors and assigns.

d. The easement shall include an acknowledgment by the director of acceptance of the easement by the department.

e. The easement is filed in the office of the recorder of the county in which the real estate is located and in any central registry which may be created by the director.

4. If the use of an institutional or technological control is confirmed in a no further action letter issued pursuant to section 455H.301, the institutional or technological control may be enforced in district court by the department, a political subdivision of this state, the participant, or any successor in interest to the participant. An environmental protection easement granted pursuant to subsection 3 shall be enforceable in perpetuity notwithstanding sections 614.24 through 614.38. After the recording of the easement, each instrument transferring an interest in the area affected by the easement shall include a specific reference to the recorded easement. If a transfer instrument fails to include a specific reference to the recorded easement, the transferor may lose any of the benefits provided by this chapter.

5. An institutional or technological control, except for an environmental protection easement, may be removed, discontinued, modified, or terminated by the participant or a successor in interest to the participant upon a demonstration that the control no longer is required to assure compliance with the applicable standard. Upon review and approval by the department, the department shall issue an amendment to its no further action letter approving the removal, discontinuance, modification, or termination of an institutional or technological control which is no longer needed.

6. An environmental protection easement granted pursuant to subsection 3 may be released or amended only by a release or amendment of the easement executed by the director and filed with the county recorder. The department may determine that any person who intentionally violates an environmental protection easement or other technological or institutional control contained in a no further action letter loses any of the benefits provided

by this chapter as to the affected area. In the event the technological or institutional controls fail to achieve compliance with the applicable standards, the participant shall undertake an additional response action sufficient to demonstrate to the department compliance with applicable standards. Failure to proceed in a timely manner in performing the additional response action may result in termination of the participant's enrollment in the land recycling program.

Sec. 14. NEW SECTION. 455H.207 RESPONSE ACTION PERMITTING REQUIREMENTS.

1. A participant who would be otherwise required to obtain a permit, license, plan approval, or other approval from the department under any provision of the Code may obtain a consolidated standards permit for the activities in connection with the response action for which the permit, license, plan approval, or other approval is required. The consolidated standards permit shall encompass all the substantive requirements applicable to those activities under any applicable federal or state statute, rule, or regulation and any agreements the director had entered into with the United States environmental protection agency under those statutes, rules, or regulations.

2. In addition to any other notice or hearing requirements of relevant chapters, at least ten days prior to issuing a permit under this section, the director shall publish a notice of the proposed permit which contains a general description of the activities to be conducted in the affected area under the permit. The notice shall be published in the official newspaper, as designated by the county board of supervisors pursuant to section 349.1, of the county in which the site is located. A person may submit written or oral comments on or objections to the permit. After considering the comments and objections, the director shall approve or deny the application for the consolidated standards permit.

3. A participant issued a consolidated standards permit under this section in connection with a particular activity is not required to obtain a permit, license, plan approval, or other approval from the department in connection with any activity under the applicable provisions of the Code or rules. A participant who obtains a consolidated standards permit for a particular activity is deemed to be in compliance with the requirement to obtain from the department a permit, license, plan approval, or other approval in connection with the activity under the applicable provisions of the Code or rules. A violation of the conditions of the consolidated standards permit shall be deemed to be a violation of the applicable statute, rule, or regulation under which approval of activities in connection with a response action would have been required and is subject to enforcement in the same manner and to the same extent as a violation of the applicable statute, rule, or regulation would have been.

SUBCHAPTER 3
EFFECTS OF PARTICIPATION

Sec. 15. NEW SECTION. 455H.301 NO FURTHER ACTION LETTERS.

1. Once a participant demonstrates that an affected area meets applicable standards and the department has certified that the participant has met all requirements for completion, the department shall promptly issue a no further action letter to the participant.

2. A no further action letter shall state that the participant and any protected party are not required to take any further action at the site related to any hazardous substance for which compliance with applicable standards is demonstrated by the participant in accordance with applicable standards, except for continuing requirements specified in the no further action letter. If the participant was a person having control over a hazardous substance, as that phrase is defined in section 455B.381, at the time of the release, a no further action letter may provide that a further response action may be required, where appropriate, to protect against an imminent and substantial threat to public health, safety, and welfare. A protected party who was a person having control over a hazardous substance, as that phrase is defined in section 455B.381, at the time of the release, may be required by the department to

conduct a further response action, where appropriate, to protect against an imminent and substantial threat to public health, safety, and welfare.

If a person transfers property to an affiliate in order for that person or the affiliate to obtain a benefit to which the transferor would not otherwise be eligible under this chapter or to avoid an obligation under this chapter, the affiliate shall be subject to the same obligations and obtain the same level of benefits as those available to the transferor under this chapter.

A no further action letter shall be void if the department demonstrates by clear, satisfactory, and convincing evidence that any approval under this chapter was obtained by fraud or material misrepresentation, knowing failure to disclose material information, or false certification to the department.

3. The department shall provide, upon request, a no further action letter as to the affected area to each protected party.

4. The department shall condition the no further action letter upon compliance with any institutional or technological controls relied upon by the participant to demonstrate compliance with the applicable standards.

5. A no further action letter shall be in a form recordable in county real estate records as provided in chapter 558.

Sec. 16. NEW SECTION. 455H.302 COVENANTS NOT TO SUE.

Upon issuance of a no further action letter pursuant to section 455H.301, a covenant not to sue arises by operation of law. The covenant releases the participant and each protected party from liability to the state, in the state's capacity as a regulator administering environmental programs, to perform additional environmental assessment, remedial activity, or response action with regard to the release of a hazardous substance for which the participant and each protected party has complied with the requirements of this chapter.

Sec. 17. NEW SECTION. 455H.303 CESSATION OF STATUTORY LIABILITY.

Upon issuance of a no further action letter pursuant to section 455H.301, except as provided in that section, the participant and each protected party shall no longer have liability under chapter 455A, under chapter 455B other than liability for petroleum underground storage tanks, or under chapters 455D and 455E to the state or to any other person as to any condition at the affected area with regard to hazardous substances for which compliance with applicable standards was demonstrated by the participant in accordance with this chapter and for which the department has provided a certificate of completion.

Sec. 18. NEW SECTION. 455H.304 LIMITATION OF LIABILITY.

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

a. "Environmental harm" means injury, death, loss, or threatened loss to a person or property caused by exposure to or the release of a hazardous substance.

b. "Environmental claim" means a civil action for damages for environmental harm and includes a civil action under this chapter for recovery of the costs of conducting a response action, but does not include a civil action for damages for a breach of contract or another agreement between persons or for a breach of a warranty that exists pursuant to the Code or common law of this state.

2. Except as may be required in accordance with obligations incurred pursuant to participation in the land recycling program established in this chapter, all of the following, or any officer or employee thereof, are relieved of any further liability for any environmental claim resulting from the presence of hazardous substances at, or the release of hazardous substances from, an enrolled site where a response action is being or has been conducted under this chapter, unless an action or omission of the person, state agency, political subdivision, or public utility, or an officer or employee thereof, constitutes willful or wanton misconduct or intentionally tortious conduct:

a. A contractor working for another person in conducting any response action under this chapter.

b. A state agency or political subdivision that is conducting a voluntary response action

or a maintenance activity on lands, easements, or rights-of-way owned, leased, or otherwise held by the state agency or political subdivision.

c. A state agency when an officer or employee of the state agency provides technical assistance to a participant undertaking a response action under this chapter or rules adopted pursuant to this chapter, or to a contractor, officer, or employee of the agency, in connection with the response action.

d. A public utility, as defined in section 476.1, which is performing work in any of the following:

(1) An easement or right-of-way of a public utility across an affected area where a response action is being or has been conducted and where the public utility is constructing or has main or distribution lines above or below the surface of the ground for purposes of maintaining the easement or right-of-way for construction, repair, or replacement of any of the following:

(a) Main or distribution lines above or below the surface of the ground.

(b) Poles, towers, foundations, or other structures supporting or sustaining any such lines.

(c) Appurtenances to poles, towers, foundations, or other structures supporting or sustaining any such lines.

(2) An affected area where a response action is being conducted that is necessary to establish or maintain utility service to the property, including, without limitation, the construction, repair, or replacement of any of the following:

(a) Main or distribution lines above or below the surface of the ground.

(b) Poles, towers, foundations, or other structures supporting or sustaining any such lines.

(c) Appurtenances to poles, towers, foundations, or other structures supporting or sustaining any such lines.

3. This section does not create, and shall not be construed to create, a new cause of action against or substantive legal right against a person, state agency, political subdivision, or public utility, or an officer or employee thereof.

4. This section does not affect, and shall not be construed as affecting, any immunities from civil liability or defenses established by another section of the Code or available at common law, to which a person, state agency, political subdivision, or public utility, or officer or employee thereof, may be entitled under circumstances not covered by this section.

Sec. 19. NEW SECTION. 455H.305 PARTICIPATION NOT DEEMED AN ADMISSION OF LIABILITY.

1. Enrolling a site pursuant to this chapter or participating in a response action does not constitute an admission of liability under the statutes of this state, the rules adopted pursuant to the statutes, or the ordinances and resolutions of a political subdivision, or an admission of civil liability under the Code or common law of this state.

2. The fact that a person has become a participant in a response action under this chapter is not admissible in any civil, criminal, or administrative proceeding initiated or brought under any law of this state other than to enforce this chapter.

3. All information, documents, reports, data produced, and any sample collected as a result of enrolling any property under this chapter are not admissible against the person undertaking the response action, and are not discoverable in any civil or administrative proceeding against the participant undertaking the response action except in a judicial or administrative proceeding initiated to enforce this chapter in connection with an alleged violation thereof. This prohibition against admissibility does not apply to any person whose covenant not to sue has been revoked under this chapter.

4. Enrolling a site pursuant to this chapter or participating in a response action shall not be construed to be an acknowledgment that the conditions at the affected area identified and addressed by the response action constitute a threat or danger to public health or safety or the environment.

Sec. 20. NEW SECTION. 455H.306 LIABILITY PROTECTIONS.

The protections from liability afforded under this chapter shall be in addition to the exclusions to any liability protections afforded participants under any other provision of the Code.

Sec. 21. NEW SECTION. 455H.307 LIABILITY FOR NEW RELEASE OR BEYOND AFFECTED AREA.

Protections afforded in this chapter shall not relieve a person from liability for a release of a hazardous substance occurring at the enrolled site after the issuance of a no further action letter or from liability for any condition outside the affected area addressed in the cleanup plan and no further action letter.

Sec. 22. NEW SECTION. 455H.308 RELATIONSHIP TO FEDERAL LAW.

The liability protection and immunities afforded under this chapter extend only to liability or potential liability arising under state law. It is not intended to provide any relief as to liability or potential liability arising under federal law. This section shall not be construed as precluding any agreement with a federal agency by which it agrees to provide liability protection based on participation and completion of a cleanup plan under this chapter.

Sec. 23. NEW SECTION. 455H.309 INCREMENTAL PROPERTY TAXES.

1. To encourage economic development and the recycling of contaminated land to promote the purposes of this chapter, cities and counties may provide by ordinance that the costs of carrying out response actions under this chapter are to be reimbursed, in whole or in part, by incremental property taxes over a six-year period. A city or county which implements the option provided for under this section shall provide that taxes levied on property enrolled in the land recycling program under this chapter each year by or for the benefit of the state, city, county, school district, or other taxing district shall be divided as provided in section 403.19, subsections 1 and 2, in the same manner as if the enrolled property was taxable property in an urban renewal project. Incremental property taxes collected under this section shall be placed in a special fund of the city or county. A participant shall be reimbursed with moneys from the special fund for costs associated with carrying out a response action in accordance with rules adopted by the commission. Beginning in the fourth of the six years of collecting incremental property taxes, the city or county shall begin decreasing by twenty-five percent each year the amount of incremental property taxes computed under this section.

SUBCHAPTER 4
LAND RECYCLING FUND

Sec. 24. NEW SECTION. 455H.401 LAND RECYCLING FUND.

1. A land recycling fund is created within the state treasury under the control of the commission. Moneys received from fees, general revenue, federal funds, gifts, bequests, donations, or other moneys so designated shall be deposited in the fund. Any unexpended balance in the land recycling fund at the end of each fiscal year shall be retained in the fund, notwithstanding section 8.33.

2. The commission may use the land recycling fund to provide for all of the following:

a. Financial assistance to political subdivisions of the state for activities related to an enrolled site.

b. Financial assistance and incentives for qualifying enrolled sites.

c. Funding for any other purpose consistent with this chapter and deemed appropriate by the commission.

SUBCHAPTER 5
MISCELLANEOUS PROVISIONS

Sec. 25. NEW SECTION. 455H.501 RULEMAKING.

In developing rules to implement this chapter, the commission shall do all of the following:

1. Direct the department to work jointly with the technical advisory committee.

2. Require that by July 1, 1998, the department and the technical advisory committee submit rules to implement this chapter and a report describing those rules to the commission.

3. Adopt rules to implement and administer this chapter by October 1, 1998.

Sec. 26. NEW SECTION. 455H.502 TECHNICAL ADVISORY COMMITTEE.

1. The technical advisory committee shall consist of a representative of each of the following organizations:

a. The Iowa environmental council.

b. The consulting engineers council.

c. The Iowa association of business and industry.

d. The agribusiness association of Iowa.

e. An engineer employed by a city or county which is appointed jointly by the Iowa league of cities and Iowa state association of counties.

f. The department of economic development.

g. The center for health effects of environmental contamination.

h. The Iowa state university of science and technology college of engineering.

i. The groundwater professional association.

2. The technical advisory committee shall do all of the following:

a. Work jointly with the department to develop rules to implement this chapter. The rules shall include, but not be limited to, rules relating to the prioritization of enrolled sites.

b. Prepare with the department a joint report by January 1, 1998, for the general assembly regarding the status of the rule drafting.

c. Prepare a joint report with the department regarding the proposed rules to be submitted to the commission.

d. Select a chairperson and vice chairperson from among its members to preside at its meetings.

e. Cease functioning once rules fully implementing this chapter are in effect.

3. The members of the technical advisory committee shall be reimbursed for their actual expenses in accordance with section 7E.6, subsection 2, for performing the official duties of the advisory committee.

Sec. 27. NEW SECTION. 455H.503 RECORDKEEPING REQUIREMENTS.

The director shall maintain a record of the affected areas or portion of affected areas for which no further action letters were issued under section 455H.301 and which involve institutional or technological controls that restrict the use of any of the enrolled sites to comply with applicable standards. The records pertaining to those sites shall indicate the applicable use restrictions.

Sec. 28. NEW SECTION. 455H.504 TRANSFERABILITY OF PARTICIPATION BENEFITS.

A no further action letter, a covenant not to sue, and any agreement authorized to be entered into and entered into under this chapter and the rules adopted pursuant to this chapter may be transferred by the participant or a later recipient to any other person by assignment or in conjunction with the acquisition of title to the enrolled site to which the document applies.

Sec. 29. NEW SECTION. 455H.505 EMERGENCY RESPONSE.

The provisions of this chapter shall not prevent or impede the immediate response of the department or a participant to an emergency which involves an imminent or actual release of a hazardous substance which threatens public health and safety or the environment. The emergency response action taken by the participant shall comply with the provisions of this chapter and the participant shall not be prejudiced by the mitigation measures undertaken to that point.

Sec. 30. NEW SECTION. 455H.506 INTERIM RESPONSE.

The provisions of this chapter shall not prevent or impede a participant from undertaking mitigation measures to prevent significant impacts on human health or the environment. A response action for the site shall not be prejudiced by the mitigation measures undertaken prior to enrolling a property in the land recycling program. The effects of any interim mitigation measure shall be taken into account in the department's evaluation of the participant's compliance with applicable standards.

Sec. 31. NEW SECTION. 455H.507 TRANSITION FROM EXISTING PROGRAMS.

Except for any enrolled site which is the subject of an enforcement action by an agency of the state or the federal government prior to the effective date of this Act, for any property where actions similar to a response action have commenced pursuant to any provision of chapter 455B prior to the effective date of this Act, the person carrying out the action shall elect within ninety days following the final adoption of rules implementing this chapter to either continue to proceed in accordance with the laws and rules in effect prior to the effective date of this Act or to proceed pursuant to this chapter.

Sec. 32. NEW SECTION. 455H.508 PARTICIPANT SHIELD.

A participant shall not be subject to either a civil enforcement action by an agency of this state or a political subdivision of this state, or an action filed pursuant to section 455B.112 regarding any release, response action, or condition which is the subject of the response action. This protection is contingent on the participant proceeding on a due and timely basis to carry out the response action.

Sec. 33. NEW SECTION. 455H.509 REMOVAL OF A SITE FROM THE REGISTRY LISTING.

An enrolled site listed on the registry of confirmed hazardous waste or hazardous substance disposal sites, established pursuant to section 455B.426, which has completed a response action as to the conditions which led to its original listing on the registry, shall be removed from the registry listing, once a letter of no further action has been issued pursuant to section 455H.301.

Sec. 34. NEW SECTION. 455H.510 RELATIONSHIP TO FEDERAL PROGRAMS.

The provisions of this chapter shall not prevent the department from enforcing both specific numerical cleanup standards and monitoring of compliance requirements specifically required to be enforced by the federal government as a condition of the receipt of program authorization, delegation, primacy, or federal funds.

Sec. 35. NEW SECTION. 455H.511 FEDERAL STRINGENCY.

Any rules or standards established pursuant to this chapter shall be no more stringent than those required under any comparable federal law or regulation.

Approved May 7, 1997

CHAPTER 128

JUDICIAL ADMINISTRATION

S.F. 281

AN ACT relating to judicial administration.

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

Section 1. Section 602.5203, Code 1997, is amended to read as follows:

602.5203 LAW CLERKS.

The court of appeals may employ ~~not more than six~~ attorneys or graduates of a reputable law school to act as legal assistants to the court.

Sec. 2. Section 602.8103, subsection 4, paragraph i, Code 1997, is amended to read as follows:

i. Court files, as provided by rules prescribed by the supreme court, ten years after final disposition in civil cases, or ten years after expiration of all sentences in criminal cases. For purposes of this paragraph, "purging" means the removal and destruction of documents in the court file which have no legal, administrative, or historical value. Purging shall be done without reproduction of the removed documents. For purposes of this paragraph, "civil cases" does not include ~~divorce, dissolution of marriage, child support, or paternity cases, or~~ juvenile, mental health, probate, or adoption proceedings.

Sec. 3. Section 602.8107, subsection 5, unnumbered paragraph 1, Code 1997, is amended to read as follows:

If a county attorney does not file the notice and list of cases required in section 331.756, subsection 5, the judicial department may assign ~~obligations~~ cases 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.

Sec. 4. Section 692A.5, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The court may order an appropriate law enforcement agency or the county attorney to assist the court in performing the requirements of subsection 1.

Sec. 5. Section 907.4, Code 1997, is amended to read as follows:

907.4 DEFERRED JUDGMENT DOCKET.

A deferment of judgment under section 907.3 shall be reported promptly by the clerk of the district court, or the clerk's designee, to the state court administrator ~~who shall maintain~~ for entry in the deferred judgment docket. The docket shall contain a permanent record of the deferred judgment including the name and date of birth of the defendant, the district court docket number, the nature of the offense, and the date of the deferred judgment. Before granting deferred judgment in any case, the court shall request of the state court administrator a search of the deferred judgment docket and shall consider any prior record of a deferred judgment against the defendant. The permanent record provided for in this section is a confidential record exempted from public access under section 22.7 and shall be available only to justices of the supreme court, judges of the court of appeals, district judges, district associate judges, judicial magistrates, clerks of the district court, and county attorneys requesting information pursuant to this section, or the designee of a justice, judge, magistrate, clerk, or county attorney.

Approved May 7, 1997

CHAPTER 129

INTERSTATE EMERGENCY MANAGEMENT ASSISTANCE COMPACT

S.F. 358

AN ACT relating to the adoption of the interstate emergency management assistance compact.

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

Section 1. Section 29C.21, Code 1997, is amended by striking the section and inserting in lieu thereof the following:

29C.21 EMERGENCY MANAGEMENT ASSISTANCE COMPACT.

The interstate emergency management assistance compact is entered into with all other states which enter into the compact in substantially the following form:

ARTICLE I — PURPOSE AND AUTHORITIES

This compact is made and entered into by and between the participating member states which enact this compact, hereinafter called party states. For the purposes of this agreement, the term "states" is taken to mean the several states, the Commonwealth of Puerto Rico, the District of Columbia, and all United States territorial possessions.

The purpose of this compact is to provide for mutual assistance between the states entering into this compact in managing any emergency or disaster that is duly declared by the governor of the affected state, whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resource shortages, community disorders, insurgency, or enemy attack.

This compact shall also provide for mutual cooperation in emergency-related exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party states or subdivisions of party states during emergencies, such actions occurring outside actual declared emergency periods. Mutual assistance in this compact may include the use of the states' national guard forces, either in accordance with the national guard mutual assistance compact or by mutual agreement between states.

ARTICLE II — GENERAL IMPLEMENTATION

Each party state entering into this compact recognizes many emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential in managing these and other emergencies under this compact. Each state further recognizes that there will be emergencies which require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency. This is because few, if any, individual states have all the resources they may need in all types of emergencies or the capability of delivering resources to areas where emergencies exist.

The prompt, full, and effective utilization of resources of the participating states, including any resources on hand or available from the federal government or any other source, that are essential to the safety, care, and welfare of the people in the event of any emergency or disaster declared by a party state, shall be the underlying principle on which all articles of this compact shall be understood.

On behalf of the governor of each state participating in the compact, the legally designated state official who is assigned responsibility for emergency management will be responsible for formulation of the appropriate interstate mutual aid plans and procedures necessary to implement this compact.

ARTICLE III — PARTY STATE RESPONSIBILITIES

1. It shall be the responsibility of each party state to formulate procedural plans and programs for interstate cooperation in the performance of the responsibilities listed in this article. In formulating such plans, and in carrying them out, the party states, insofar as practical, shall:

a. Review individual state hazards analyses and, to the extent reasonably possible, determine all those potential emergencies the party states might jointly suffer, whether due to natural disaster, technological hazard, man-made disaster, emergency aspects of resource shortages, civil disorders, insurgency, or enemy attack.

b. Review party states' individual emergency plans and develop a plan which will determine the mechanism for the interstate management and provision of assistance concerning any potential emergency.

c. Develop interstate procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans.

d. Assist in warning communities adjacent to or crossing the state boundaries.

e. Protect and assure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue, and critical lifeline equipment, services, and resources, both human and material.

f. Inventory and set procedures for the interstate loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness.

g. Provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that restrict the implementation of the above responsibilities.

2. The authorized representative of a party state may request assistance of another party state by contacting the authorized representative of that state. The provisions of this agreement shall only apply to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request shall be confirmed in writing within thirty days of the verbal request. Requests shall provide all of the following:

a. A description of the emergency service function for which assistance is needed, such as but not limited to fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue.

b. The amount and type of personnel, equipment, materials and supplies needed, and a reasonable estimate of the length of time they will be needed.

c. The specific place and time for staging of the assisting party's response and a point of contact at that location.

3. There shall be frequent consultation between state officials who have assigned emergency management responsibilities and other appropriate representatives of the party states with affected jurisdictions and the United States government, with free exchange of information, plans, and resource records relating to emergency capabilities.

ARTICLE IV — LIMITATIONS

Any party state requested to render mutual aid or conduct exercises and training for mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof, provided that it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for such state. Each party state shall afford to the emergency forces of any party state, while operating within its state limits under the terms and conditions of this compact, the same powers, except that of arrest unless specifically authorized by the receiving state, duties, rights, and privileges as are afforded forces of the state in which they are performing emergency services. Emergency forces will continue under the command and control of their regular leaders, but the organizational units will come under

the operational control of the emergency services authorities of the state receiving assistance. These conditions may be activated, as needed, only subsequent to a declaration of a state of emergency or disaster by the governor of the party state that is to receive assistance or commencement of exercises or training for mutual aid and shall continue so long as the exercises or training for mutual aid are in progress, the state of emergency or disaster remains in effect, or loaned resources remain in the receiving state, whichever is longer.

ARTICLE V — LICENSES AND PERMITS

Whenever any person holds a license, certificate, or other permit issued by any state party to the compact evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving party state, such person shall be deemed licensed, certified, or permitted by the state requesting assistance to render aid involving such skill to meet a declared emergency or disaster, subject to such limitations and conditions as the governor of the requesting state may prescribe by executive order or otherwise.

ARTICLE VI — LIABILITY

Officers or employees of a party state rendering aid in another state pursuant to this compact shall be considered agents of the requesting state for tort liability and immunity purposes; and no party state or its officers or employees rendering aid in another state pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

ARTICLE VII — SUPPLEMENTARY AGREEMENTS

Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two or more states may differ from that among the states that are party hereto, this instrument contains elements of a broad base common to all states, and nothing herein contained shall preclude any state from entering into supplementary agreements with another state or affect any other agreements already in force between states. Supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies.

ARTICLE VIII — COMPENSATION

Each party state shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that state and representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within their own state.

ARTICLE IX — REIMBURSEMENT

Any party state rendering aid in another state pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to or expense incurred in the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with such requests; provided that any aiding party state may assume in whole or in part such loss, damage, expense, or other cost, or may

loan such equipment or donate such services to the receiving party state without charge or cost; and provided further, that any two or more party states may enter into supplementary agreements establishing a different allocation of costs among those states. Article VIII expenses shall not be reimbursable under this provision.

ARTICLE X — EVACUATION

Plans for the orderly evacuation and interstate reception of portions of the civilian population as the result of any emergency or disaster of sufficient proportions to so warrant, shall be worked out and maintained between the party states and the emergency management or services directors of the various jurisdictions where any type of incident requiring evacuations might occur. Such plans shall be put into effect by request of the state from which evacuees come and shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends, and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. Such plans shall provide that the party state receiving evacuees and the party state from which the evacuees come shall mutually agree as to reimbursement of out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines and medical care, and like items. Such expenditures shall be reimbursed as agreed by the party state from which the evacuees come. After the termination of the emergency or disaster, the party state from which the evacuees come shall assume the responsibility for the ultimate support of repatriation of such evacuees.

ARTICLE XI — IMPLEMENTATION

1. This compact shall become operative immediately upon its enactment into law by any two states; thereafter, this compact shall become effective as to any other state upon its enactment by such state.

2. Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until thirty days after the governor of the withdrawing state has given notice in writing of such withdrawal to the governors of all other party states. Such action shall not relieve the withdrawing state from obligations assumed hereunder prior to the effective date of withdrawal.

3. Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party states and with the federal emergency management agency and other appropriate agencies of the United States government.

ARTICLE XII — VALIDITY

This Act* shall be construed to effectuate the purposes stated in Article I hereof. If any provision of this compact is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of this Act* and the applicability thereof to other persons and circumstances shall not be affected thereby.

ARTICLE XIII — ADDITIONAL PROVISIONS

Nothing in this compact shall authorize or permit the use of military force by the national guard of a state at any place outside that state in any emergency for which the president is authorized by law to call into federal service the militia, or for any purpose for which the use

* The word "compact" probably intended

of the army or the air force would in the absence of express statutory authorization be prohibited under section 1385 of Title 18, United States Code.

Approved May 7, 1997

CHAPTER 130

DESIGNATION OF CERTAIN CORRECTIONAL FACILITIES

S.F. 442

AN ACT relating to the designation of certain correctional facilities.

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

Section 1. Section 602.6201, subsection 3, paragraph b, Code 1997, is amended to read as follows:

b. All other judicial election districts are entitled to the number of judgeships equal to the average, rounded to the nearest whole number, of the following two quotients, each rounded to the nearest hundredth:

(1) The combined civil and criminal filings in the election district divided by four hundred fifty.

(2) The election district's population divided by forty thousand.

However, the judicial election district in which the Iowa state penitentiary at Fort Madison is located is entitled to one additional judgeship.

Sec. 2. Section 904.102, subsection 2, Code 1997, is amended to read as follows:

2. ~~Iowa~~ Anamosa state ~~men's reformatory~~ penitentiary.

Sec. 3. Section 904.102, subsection 8, Code 1997, is amended to read as follows:

8. ~~Correctional release~~ Newton correctional facility.*

Sec. 4. Section 904.102, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 8A. Fort Dodge correctional facility.

Sec. 5. Section 904.206, Code 1997, is amended by striking the section and inserting in lieu thereof the following:

904.206 NEWTON CORRECTIONAL FACILITY.

The correctional facility at Newton shall be utilized as a correctional facility. The facility shall include minimum security facilities and violator facilities pursuant to section 904.207.

Sec. 6. Section 904.904, Code 1997, is amended to read as follows:

904.904 HOUSING FACILITIES — HALFWAY HOUSES.

Unless the inmate ~~is transferred to the correctional release center, or~~ returns after working hours to the institution under jurisdiction of the department of corrections, the department of corrections shall contract with a judicial district department of correctional services for the quartering and supervision of the inmate in local housing facilities. The board of parole shall include as a specific term or condition in the work release plan of any inmate the place where the inmate is to be housed when not on the work assignment. The board of parole shall not place an inmate on work release for longer than six months in any twelve-month period unless approval is given by a majority of the full board of parole. Inmates may be temporarily released to the supervision of a responsible person to partici-

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* "~~Correctional release center~~ Newton correctional facility" probably intended

pate in family and selected community, religious, educational, social, civic, and recreational activities when it is determined that the participation will directly facilitate the release transition from institution to community. The department of corrections shall provide a copy of the work release plan and a copy of any restitution plan of payment to the judicial district department of correctional services quartering and supervising the inmate.

Approved May 7, 1997

CHAPTER 131

REDUCTION OF CRIMINAL SENTENCES FOR GOOD BEHAVIOR

H.F. 226

AN ACT relating to computation of time by which criminal sentences may be reduced for good behavior and providing for limited retroactive applicability.

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

Section 1. Section 901.8, Code 1997, is amended to read as follows:

901.8 CONSECUTIVE SENTENCES.

If a person is sentenced for two or more separate offenses, the sentencing judge may order the second or further sentence to begin at the expiration of the first or succeeding sentence. If a person is sentenced for escape under section 719.4 or for a crime committed while confined in a detention facility or penal institution, the sentencing judge shall order the sentence to begin at the expiration of any existing sentence. If the person is presently in the custody of the director of the Iowa department of corrections, the sentence shall be served at the facility or institution in which the person is already confined unless the person is transferred by the director. ~~If~~ Except as otherwise provided in section 903A.7, if consecutive sentences are specified in the order of commitment, the several terms shall be construed as one continuous term of imprisonment.

Sec. 2. Section 903A.2, Code 1997, is amended by striking the section and inserting in lieu thereof the following:

903A.2 GOOD TIME.

1. Each inmate committed to the custody of the director of the department of corrections is eligible for a reduction of sentence for good behavior in the manner provided in this section. For purposes of calculating the amount of time by which an inmate's sentence may be reduced, inmates shall be grouped into the following two sentencing categories:

a. Category "A" sentences are those sentences which are not subject to a maximum accumulation of good time of fifteen percent of the total sentence of confinement under section 902.12. To the extent provided in subsection 5, category "A" sentences also include life sentences imposed under section 902.1. An inmate of an institution under the control of the department of corrections who is serving a category "A" sentence is eligible for a reduction of sentence equal to one day for each day of good conduct while committed to one of the department's institutions. In addition, each inmate who is serving a category "A" sentence is eligible for an additional reduction of up to five days per month if the inmate participates satisfactorily in any of the following activities:

(1) Employment in the institution.

(2) Iowa state industries.

(3) An employment program established by the director.

(4) A treatment program established by the director.

(5) An inmate educational program approved by the director.

b. Category "B" sentences are those sentences which are subject to a maximum accumulation of good time of fifteen percent of the total sentence of confinement under section 902.12. An inmate of an institution under the control of the department of corrections who is serving a category "B" sentence is eligible for a reduction of sentence equal to fifteen eighty-fifths of a day for each day of good conduct by the inmate.

2. Good time earned pursuant to this section may be forfeited in the manner prescribed in section 903A.3.

3. Time served in a jail or another facility prior to actual placement in an institution under the control of the department of corrections and credited against the sentence by the court shall accrue for the purpose of reduction of sentence under this section. Time which elapses during an escape shall not accrue for purposes of reduction of sentence under this section.

4. Time which elapses between the date on which a person is incarcerated, based upon a determination of the board of parole that a violation of parole has occurred, and the date on which the violation of parole was committed shall not accrue for purposes of reduction of sentence under this section.

5. Good time accrued by inmates serving life sentences imposed under section 902.1 shall not reduce the life sentence, but shall be credited against the inmate's sentence if the life sentence is commuted to a term of years under section 902.2.

Sec. 3. Section 903A.7, Code 1997, is amended by striking the section and inserting in lieu thereof the following:

903A.7 SEPARATE SENTENCES.

Consecutive multiple sentences that are within the same category under section 903A.2 shall be construed as one continuous sentence for purposes of calculating reductions of sentence for good time. If a person is sentenced to serve sentences of both categories, category "B" sentences shall be served before category "A" sentences are served, and good time earned against the category "B" sentences shall not be used to reduce the category "A" sentences. If an inmate serving a category "A" sentence is sentenced to serve a category "B" sentence, the category "A" sentence shall be interrupted, and no further good time shall accrue against that sentence until the category "B" sentence is completed.

Sec. 4. RETROACTIVE APPLICABILITY. This Act shall apply retroactively to the computation of reductions in criminal sentences for good behavior for persons sentenced to category "B" sentences on or after July 1, 1996.

Approved May 7, 1997

CHAPTER 132

UNEMPLOYMENT COMPENSATION — EMPLOYEES OF TEMPORARY EMPLOYMENT FIRMS

H.F. 236

AN ACT relating to eligibility for unemployment compensation benefits for temporary employees of a temporary employment firm.

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

Section 1. Section 96.5, subsection 1, Code 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. j. The individual is a temporary employee of a temporary employment firm who notifies the temporary employment firm of completion of an employment assignment and who seeks reassignment. Failure of the individual to notify the temporary employment firm of completion of an employment assignment within three working days of the completion of each employment assignment under a contract of hire shall be deemed a voluntary quit unless the individual was not advised in writing of the duty to notify the temporary employment firm upon completion of an employment assignment or the individual had good cause for not contacting the temporary employment firm within three working days and notified the firm at the first reasonable opportunity thereafter.

To show that the employee was advised in writing of the notification requirement of this paragraph, the temporary employment firm shall advise the temporary employee by requiring the temporary employee, at the time of employment with the temporary employment firm, to read and sign a document that provides a clear and concise explanation of the notification requirement and the consequences of a failure to notify. The document shall be separate from any contract of employment and a copy of the signed document shall be provided to the temporary employee.

For purposes of this paragraph:

(1) "Temporary employee" means an individual who is employed by a temporary employment firm to provide services to clients to supplement their work force during absences, seasonal workloads, temporary skill or labor market shortages, and for special assignments and projects.

(2) "Temporary employment firm" means a person engaged in the business of employing temporary employees.

Approved May 7, 1997

CHAPTER 133

INCOME TAX EXEMPTION FOR CERTAIN MILITARY PAY

H.F. 355

AN ACT relating to the tax exemption of active duty pay of national guard or armed forces military reserve personnel for certain foreign service and providing an effective date.

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

Section 1. Section 422.7, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 25. Subtract to the extent included, active duty pay received by a person in the national guard or armed forces military reserve for service performed on or after November 21, 1995, pursuant to military orders related to peacekeeping in Bosnia-Herzegovina.

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

Approved May 7, 1997

CHAPTER 134

COLLEGE STUDENT AID — OSTEOPATHIC STUDENTS

H.F. 410

AN ACT relating to programs administered by the college student aid commission and establishing an osteopathic physician recruitment program.

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

Section 1. Section 261.19, Code 1997, is amended by striking the section and inserting in lieu thereof the following:

261.19 OSTEOPATHIC PHYSICIAN RECRUITMENT PROGRAM.

1. A physician recruitment program is established, to be administered by the college student aid commission, for the university of osteopathic medicine and health sciences of Des Moines, Iowa. The program shall consist of a forgivable loan program and a tuition scholarship program for students and a loan repayment program for physicians. The commission shall regularly adjust the physician service requirement under each aspect of the program to provide, to the extent possible, an equal financial benefit for each period of service required. From funds appropriated for purposes of the program by the general assembly, the commission shall pay a fee to the university of osteopathic medicine and health sciences for the administration of the program. A portion of the fee shall be paid by the commission to the university based upon the number of physicians recruited under subsection 4.

2. A forgivable loan may be awarded to a resident of Iowa who is enrolled at the university of osteopathic medicine and health sciences if the student agrees to practice in this state for a period of time to be determined by the commission at the time the loan is awarded. Forgivable loans to eligible students shall not become due and interest on the loan shall not accrue until after the student completes a residency program. If the student completes the period of practice established by the commission and agreed to by the student, the loan amount shall be forgiven. The loan amount shall not be forgiven if the osteopathic physician fails to complete the required time period of practice in this state or fails to satisfactorily continue in the university's program of medical education.

3. A student enrolled at the university of osteopathic medicine and health sciences shall be eligible for a tuition scholarship for the student's study at the university. The scholarship shall be for an amount not to exceed the annual tuition at the university. A student who receives a tuition scholarship shall not be eligible for the loan repayment program provided for by this section. A student who receives a tuition scholarship shall agree to practice in an eligible rural community in this state for a period of time to be determined by the commission at the time the scholarship is awarded. The student shall repay the scholarship to the commission if the student fails to practice in a medically underserved rural community in this state for the required period of time.

4. A physician shall be eligible for the physician loan repayment program if the physician agrees to practice in an eligible rural community in this state. The university of osteopathic medicine and health sciences shall recruit and place physicians in rural communities which have agreed to provide additional funds for the physician's loan repayment. The contract for the loan repayment shall stipulate the time period the physician shall practice in an eligible rural community in this state. In addition, the contract shall stipulate that the physician repay any funds paid on the physician's loan by the commission if the physician fails to practice in an eligible rural community in this state for the required period of time. For purposes of this subsection, "eligible rural community" means a medically underserved rural community which agrees to match state funds provided on at least a dollar-for-dollar basis for the loan repayment of a physician who practices in the community.

5. The commission shall adopt rules pursuant to chapter 17A to administer this section.

Sec. 2. Sections 261.18 and 261.19A, Code 1997, are repealed.

Approved May 7, 1997

CHAPTER 135

INTERNAL REVENUE CODE REFERENCES AND INCOME TAX PROVISIONS

S.F. 129

AN ACT updating the Iowa Code references to the Internal Revenue Code and providing a retroactive applicability date and an effective date.

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

Section 1. Section 15.335, unnumbered paragraph 1, Code 1997, is amended to read as follows:

An eligible business may claim a corporate tax credit for increasing research activities in this state during the period the eligible business is participating in the program. The credit equals six and one-half percent of the state's apportioned share of the qualifying expenditures for increasing research activities. The state's apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in this state to total qualified research expenditures. The credit allowed in this section is in addition to the credit authorized in section 422.33, subsection 5. If the eligible business is a partnership, subchapter S corporation, limited liability company, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, subchapter S corporation, limited liability company, or estate or trust. For purposes of this section, "qualifying expenditures for increasing research activities" means the qualifying expenditures as defined for the federal credit for increasing research activities which would be allowable under section 41 of the Internal Revenue Code in effect on January 1, ~~1994~~ 1997.

Sec. 2. Section 15A.9, subsection 8, unnumbered paragraph 2, Code 1997, 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, ~~1996~~ 1997. The credit authorized in this subsection is in lieu of the credit authorized in section 422.33, subsection 5.

Sec. 3. Section 422.3, subsection 4, Code 1997, 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 ~~March 20, 1996~~ January 1, 1997, whichever is applicable.

Sec. 4. Section 422.7, subsection 8, Code 1997, is amended to read as follows:

8. Subtract the amount of the ~~jobs~~ work opportunity tax credit allowable for the tax year under section 51 of the Internal Revenue Code to the extent that the credit increased federal adjusted gross income.

Sec. 5. Section 422.9, subsection 2, Code 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. Add the amount of the mortgage interest credit allowable for the tax year under section 25 of the Internal Revenue Code to the extent the credit decreased the amount of interest deductible under section 163(g) of the Internal Revenue Code.

Sec. 6. Section 422.10, unnumbered paragraph 1, Code 1997, 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, ~~1995~~ 1997.

Sec. 7. Section 422.33, subsection 5, unnumbered paragraph 1, Code 1997, 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, ~~1995~~ 1997.

Sec. 8. Section 422.35, subsection 5, Code 1997, is amended to read as follows:

5. Subtract the amount of the ~~jobs~~ work opportunity tax credit allowable for the tax year under section 51 of the Internal Revenue Code to the extent that the credit increased federal taxable income.

Sec. 9. This Act applies retroactively to January 1, 1996, for tax years beginning on or after that date.

Sec. 10. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 9, 1997

CHAPTER 136

SALE OF CIGARETTES AND TOBACCO PRODUCTS
THROUGH VENDING MACHINES

S.F. 163

AN ACT relating to the sale of cigarettes and tobacco products through vending machines.

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

Section 1. Section 453A.36, subsection 6, Code 1997, is amended to read as follows:

6. Any sales of cigarettes or tobacco products made through a cigarette vending machine are subject to rules and penalties relative to retail sales of cigarettes and tobacco products provided for in this chapter. No cigarettes shall be sold through any cigarette vending machine unless the cigarettes have been properly stamped or metered as provided by this division, and in case of violation of this provision, the permit of the dealer authorizing retail sales of cigarettes shall be canceled. Payment of the license fee as provided in section 453A.13 authorizes a cigarette vendor to sell cigarettes or tobacco products through vending machines~~, provided that the following conditions are met: the machines are located in places where the machines are under the supervision of a person of legal age who is responsible for prevention of purchase by minors from the machines; the machines are equipped with a lock-out device under the control of a person of legal age who shall directly regulate the sale of items through the machines, and which shall include a mechanism to prevent the machines from functioning if the power source for the lock-out device fails or if the lock-out device is disabled, and a mechanism to ensure that only one pack of cigarettes or one tobacco product is dispensed at a time; and the location where the machines are placed is covered by a local retail permit~~. ~~However, a lock-out device is not required for machines operated in the following locations, if the machines are not to be placed in a doorway or other area readily accessible to minors: a commercial establishment holding a class "C" liquor license or a class "B" beer permit under chapter 123, if the establishment is not also licensed as a food service establishment under chapter 137B; a private facility not open to the public; or a workplace not open to the public.~~ However, cigarettes or tobacco products shall not be sold through a vending machine unless the vending machine is located in a place where the retailer ensures that no person younger than eighteen years of age is present or permitted to enter at any time. This section does not require a retail licensee to buy a cigarette vendor's permit if the retail licensee is in fact the owner of the cigarette vending machines and the machines are operated in the location described in the retail permit.

Approved May 9, 1997

CHAPTER 137

USE AND DISPOSAL OF SEWAGE SLUDGE

S.F. 214

AN ACT relating to the regulation of the use and disposal of sewage sludge and providing a penalty.

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

Section 1. Section 455B.171, subsection 7, Code 1997, is amended to read as follows:

7. "Disposal system" means a system for disposing of sewage, industrial waste, ~~and~~ or

other wastes ~~and~~, or for the use or disposal of sewage sludge. "Disposal system" includes sewer systems, treatment works, point sources, ~~and~~ dispersal systems, and any systems designed for the usage or disposal of sewage sludge.

Sec. 2. Section 455B.171, Code 1997, is amended by adding the following new subsections:

NEW SUBSECTION. 25A. "Septage" means the liquid and solid material pumped from a septic tank, cesspool, or similar domestic sewage treatment system, or from a holding tank, when the system is cleaned or maintained.

NEW SUBSECTION. 26A. "Sewage sludge" means any solid, semisolid, or liquid residue removed during the treatment of municipal waste water or domestic sewage. "Sewage sludge" includes, but is not limited to, solids removed during primary, secondary, or advanced waste water treatment, scum septage, portable toilet pumpings, type III marine device pumpings as defined in 33 C.F.R. part 159, and sewage sludge products. "Sewage sludge" does not include grit, screenings, or ash generated during the incineration of sewage sludge.

Sec. 3. Section 455B.172, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 9. Any county ordinance related to sewage sludge which is in effect on March 1, 1997, shall not be preempted by any provision of section 455B.171, 455B.174, 455B.183, or 455B.304.

Sec. 4. Section 455B.174, subsection 4, paragraph a, unnumbered paragraph 1, Code 1997, is amended to read as follows:

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

Sec. 5. Section 455B.183, subsection 1, Code 1997, is amended to read as follows:

1. The construction, installation, or modification of any disposal system or public water supply system or part thereof or any extension or addition thereto except those sewer extensions and water supply distribution system extensions that are subject to review and approval by a city or county public works department pursuant to this section, the use or disposal of sewage sludge, and private sewage disposal systems. A permit shall be issued for the construction, installation, or modification of a public water supply system or part of a system if a qualified, registered engineer certifies to the department that the plans for the system or part of the system meet the requirements of state and federal law or regulations. The permit shall state that approval is based only upon the engineer's certification that the system's design meets the requirements of all applicable state and federal laws and regulations and the review of the department shall be advisory.

Sec. 6. Section 455B.183, subsection 3, unnumbered paragraph 1, Code 1997, is amended to read as follows:

The operation of any waste disposal system or public water supply system or any part of or extension or addition to the system. This provision does not apply to a pretreatment system the effluent of which is to be discharged directly to another disposal system for final treatment and disposal, a ~~semi-public~~ semipublic sewage disposal system, the construction of which has been approved by the department and which does not discharge into water of the state or a private sewage disposal system which does not discharge into a water of the state. Sludge from a semipublic or private sewage disposal system shall be disposed of in accordance with the rules adopted by the department pursuant to chapter 17A. The exemption of this paragraph shall not apply to any industrial waste discharges.

Sec. 7. Section 455B.304, subsection 2, Code 1997, is amended to read as follows:

2. The commission shall adopt rules that allow the use of wet or dry sludge from publicly owned treatment works for land application. A sale of wet or dry sludge for the purpose of land application shall be accompanied by a written agreement signed by both parties which contains a general analysis of the contents of the sludge. The heavy metal content of the sludge shall not exceed that allowed by rules of the commission. An owner of a publicly owned treatment works which sells wet or dry sludge ~~is not subject to criminal liability for acts or omissions in connection with a sale, and~~ is not subject to any action by the purchaser to recover damages for harm to person or property caused by sludge that is delivered pursuant to a sale unless it is a result of a violation of the written agreement or if the heavy metal content of the sludge exceeds that allowed by rules of the commission. Nothing in this section shall provide immunity to any person from action by the department pursuant to section 455B.307. The rules ~~promulgated~~ adopted under this subsection shall be generally consistent with those rules of the department existing on January 1, 1982, regarding the land application of municipal sewage sludge except that they may provide for different methods of application for wet sludge*.

Approved May 9, 1997

CHAPTER 138

HEALTHY FAMILIES PROGRAM

S.F. 526

AN ACT providing for the establishment of a healthy opportunities for parents to experience success-healthy families Iowa program by the Iowa department of public health.

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

Section 1. Section 135.106, Code 1997, is amended by striking the section and inserting in lieu thereof the following:

135.106 IOWA HEALTHY FAMILY PROGRAM — ESTABLISHED.

1. The Iowa department of public health shall establish a healthy opportunities for parents to experience success (HOPES)-healthy families Iowa (HFI) program to provide services to families and children during the prenatal through preschool years. The program shall be designed to do all of the following:

a. Promote optimal child health and development.

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* The words "and dry sludge" appeared in the 1997 Code and were included in the bill as introduced and passed by the general assembly

b. Improve family coping skills and functioning.

c. Promote positive parenting skills and intrafamilial interaction.

d. Prevent child abuse and neglect and infant mortality and morbidity.

2. The HOPES program shall be developed by the Iowa department of public health, and may be implemented, in whole or in part, by contracting with a nonprofit child abuse prevention organization, local nonprofit certified home health program or other local nonprofit organizations, and shall include, but is not limited to, all of the following components:

a. Identification of barriers to positive birth outcomes, encouragement of collaboration and cooperation among providers of health care, social and human services, and other services to pregnant women and infants, and encouragement of pregnant women and women of childbearing age to seek health care and other services which promote positive birth outcomes.

b. Provision of community-based home-visiting family support to pregnant women and new parents who are identified through a standardized screening process to be at high risk for problems with successfully parenting their child.

c. Provision by family support workers of individual guidance, information, and access to health care and other services through care coordination and community outreach, including transportation.

d. Provision of systematic screening, prenatally or upon the birth of a child, to identify high-risk families.

e. Interviewing by a HOPES program worker or hospital social worker of families identified as high risk and encouragement of acceptance of family support services.

f. Provision of services including, but not limited to, home visits, support services, and instruction in child care and development.

g. Individualization of the intensity and scope of services based upon the family's needs, goals, and level of risk.

h. Assistance by a family support worker to participating families in creating a link to a "medical home" in order to promote preventive health care.

i. Evaluation and reporting on the program, including an evaluation of the program's success in reducing participants' risk factors and provision of services and recommendations for changes in or expansion of the program.

j. Provision of continuous follow-up contact with a family served by the program until identified children reach age three or age four in cases of continued high need or until the family attains its individualized goals for health, functioning, and self-sufficiency.

k. Provision or employment of family support workers who have experience as a parent, knowledge of health care services, social and human services or related community services and have participated in a structured training program.

l. Provision of a training program that meets established standards for the education of family support workers. The structured training program shall include at a minimum the fundamentals of child health and development, dynamics of child abuse and neglect, and principles of effective parenting and parenting education.

m. Provision of crisis child care through utilization of existing child care services to participants in the program.

n. Program criteria shall include a required match of one dollar provided by the organization contracting to deliver services for each two dollars provided by the state grant. This requirement shall not restrict the department from providing unmatched grant funds to communities to plan new or expanded programs for HOPES. The department shall establish a limit on the amount of administrative costs that can be supported with state funds.

o. Involvement with the community assessment and planning process in the community served by HOPES programs to enhance collaboration and integration of family support programs.

p. Collaboration, to the greatest extent possible, with other family support programs funded or operated by the state.

q. Utilization of private party, third party, and medical assistance for reimbursement to defray the costs of services provided by the program to the extent possible.

3. It is the intent of the general assembly to provide communities with the discretion and authority to redesign existing local programs and services targeted at and assisting families expecting babies and families with children who are newborn through five years of age. The Iowa department of public health, department of human services, department of education, and other state agencies and programs, as appropriate, shall provide technical assistance and support to communities desiring to redesign their local programs and shall facilitate the consolidation of existing state funding appropriated and made available to the community for family support services. Funds which are consolidated in accordance with this subsection shall be used to support the redesigned service delivery system. In redesigning services, communities are encouraged to implement a single uniform family risk assessment mechanism and shall demonstrate the potential for improved outcomes for children and families. Requests by local communities for the redesigning of services shall be submitted to and subject to joint approval of the Iowa department of public health, department of human services, and department of education based on the innovation zones principles established in section 8A.2.

Approved May 9, 1997

CHAPTER 139

FINANCIAL LIABILITY COVERAGE FOR MOTOR VEHICLES

H.F. 514

AN ACT relating to financial liability coverage and registration requirements for motor vehicles in this state, providing for the seizure of motor vehicle registration plates, and providing penalties and effective dates.

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

Section 1. Section 321.1, Code 1997, is amended by adding the following new subsections:

NEW SUBSECTION. 24A. "Financial liability coverage" means any of the following:

a. An owner's policy of liability insurance which is issued by an insurance carrier authorized to do business in Iowa to or for the benefit of the person named in the policy as insured, and insuring the person named as insured and any person using an insured motor vehicle with the express or implied permission of the named insured against loss from liability imposed by law for damages arising out of the ownership, maintenance, or use of an insured motor vehicle within the United States of America or Canada, but subject to minimum limits, exclusive of interest and costs, in the amounts specified in section 321A.21 or specified in another provision of the Code, whichever is greater.

b. A bond filed with the department pursuant to section 321A.24.

c. A valid certificate of deposit of money or security issued by the treasurer of state pursuant to section 321A.25.

d. A valid certificate of self-insurance issued by the department pursuant to section 321A.34.

NEW SUBSECTION. 54A. "Proof of financial liability coverage card" means either a liability insurance card issued under section 321.20B, a bond insurance card issued under section 321A.24, a security insurance card issued under section 321A.25, or a self-insurance card issued under section 321A.34.

Sec. 2. NEW SECTION. 321.20B PROOF OF SECURITY AGAINST LIABILITY.

1. Notwithstanding chapter 321A, which requires certain persons to maintain proof of financial responsibility, a person shall not drive a motor vehicle which is registered in this state on the highways of this state unless financial liability coverage, as defined in section 321.1, subsection 24A, is in effect for the motor vehicle and unless the driver has in the motor vehicle the proof of financial liability coverage card issued for the motor vehicle.

This subsection does not apply to the operator of a motor vehicle owned or leased to the United States, this state, or any political subdivision of this state or to a motor vehicle which is subject to section 325.26, 327.15, 327A.5, or 327B.6.

2. a. An insurance company transacting business in this state shall issue to its insured owners of motor vehicles registered in this state a financial liability coverage card for each registered motor vehicle insured. Each financial liability coverage card shall identify the registration number of the motor vehicle insured and shall indicate the expiration date of the applicable insurance coverage. The financial liability coverage card shall also contain the name and address of the insurer, the name of the insured, the type of coverage provided, and an emergency telephone number of the insurer.

b. The insurance division and the department, as appropriate, shall adopt rules regarding the contents of a financial liability coverage card to be issued pursuant to this section. Notwithstanding the provisions of this section, a fleet owner shall not be required to maintain in each vehicle a financial liability coverage card with the individual registration number of the vehicle included on the card. Such fleet owner shall be required to maintain a financial liability coverage card in each vehicle in the fleet including information deemed appropriate by the commissioner of insurance or the director, as applicable.

3. If the financial liability coverage for a motor vehicle which is registered in this state is canceled or terminated effective prior to the expiration date indicated on the financial liability coverage card issued for the vehicle, the person to whom the financial liability coverage card was issued shall destroy the card.

4. If a peace officer stops a motor vehicle and the driver is unable to provide proof of financial liability coverage, the peace officer shall do one of the following:

a. Issue a warning memorandum to the driver.

b. Issue a citation and remove the motor vehicle's license plates and registration from the motor vehicle which has been operated on the highways of this state without financial liability coverage being in effect for the motor vehicle. Upon removing the license plates and registration the peace officer shall forward the plates to the county treasurer of the county in which the plates were issued. An owner or driver of a motor vehicle who is charged with a violation of subsection 1 and whose license plates and registration have been removed is subject to the following:

(1) An owner or driver who produces to the county treasurer, within thirty days of the time the person's license plates and registration are removed, proof that financial liability coverage was in effect for the motor vehicle at the time the person was stopped and cited, shall be assessed a fifteen dollar administrative fee by the county treasurer who shall return the license plates and registration to the person after payment of the fee.

(2) An owner or driver who is unable to show that financial liability coverage was in effect for the motor vehicle at the time the person was stopped and cited, and signs an admission of violation on the citation, may do either of the following:

(a) Sign an admission of violation on the citation and remit to the clerk of court a scheduled fine of two hundred fifty dollars. Upon payment of the fine, payment of a fifteen dollar administrative fee to the county treasurer, and providing proof of financial liability coverage to the county treasurer, the treasurer shall issue new license plates and registration to the person.

(b) Request an appearance before the court on the matter. If the matter goes before the court, and the owner or driver is found guilty of a violation of subsection 1, the court may impose a fine of two hundred fifty dollars, or the court may order the person to perform

unpaid community service instead of the fine. Upon the payment of the fine or the entry of the order for unpaid community service, the county treasurer shall issue new license plates and registration to the person upon the person providing proof of financial liability coverage and paying a fifteen dollar administrative fee to the county treasurer.

(3) An owner or driver who fails to provide to the county treasurer, within thirty days of the time the person's registration plates are removed, proof that financial liability coverage was in effect for the motor vehicle at the time the person was stopped and cited, and does not sign an admission of violation on the citation, shall not have the person's license plates or registration returned.

c. Issue a citation and impound the motor vehicle. A vehicle which is impounded may be claimed by a person if the owner provides proof of financial liability coverage and pays any applicable fine and the costs of towing and storage for the motor vehicle. If the motor vehicle is not claimed within thirty days after impoundment, the motor vehicle may be treated as an abandoned vehicle pursuant to section 321.89.

4A. The department shall establish by rule standardized criteria for determining whether to impound a vehicle or remove the license plates and registration under subsection 4. The department shall provide a copy of such criteria to local jurisdictions for use in developing local standardized criteria for such actions when taken by a peace officer associated with a local law enforcement agency.

5. This section applies to a motor vehicle subject to registration under this chapter other than a motor vehicle identified in section 321.18, subsections 1 through 6, and subsection 8.

6. This section does not apply to a motor vehicle owned by a motor vehicle dealer licensed pursuant to chapter 322.

7. The director of transportation and the commissioner of insurance shall adopt rules pursuant to chapter 17A to administer this section.

Sec. 3. Section 321.54, unnumbered paragraph 1, Code 1997, is amended to read as follows:

Nonresident owners of foreign vehicles operated within this state for the intrastate transportation of persons or property for compensation or for the intrastate transportation of merchandise shall register and maintain financial liability coverage as required under section 321.20B for each ~~such~~ vehicle and pay the same fees ~~therefor as is~~ required ~~with reference to~~ for like vehicles owned by residents of this state.

Sec. 4. Section 321.55, Code 1997, is amended to read as follows:

321.55 REGISTRATION REQUIRED FOR CERTAIN VEHICLES OWNED OR OPERATED BY NONRESIDENTS.

A nonresident owner or operator engaged in remunerative employment within the state or carrying on business within the state and owning or operating a motor vehicle, trailer, or semitrailer within the state shall register and maintain financial liability coverage as required under section 321.20B for each ~~such~~ vehicle and pay the same fees for registration as are paid for like vehicles owned by residents of this state. However, this paragraph does not apply to a person commuting from the person's residence in another state or whose employment is seasonal or temporary, not exceeding ninety days.

A nonresident owner of a motor vehicle operated within the state by a resident of the state shall register the vehicle and shall maintain financial liability coverage as required under section 321.20B for the vehicle. The nonresident owner shall pay the same fees for registration as are paid for like vehicles owned by residents of this state. However, registration under this paragraph ~~does not apply to~~ is not required for vehicles being operated by residents temporarily, not exceeding ninety days. It is unlawful for a resident to operate within the state an unregistered motor vehicle required to be registered under this paragraph.

Sec. 5. Section 321.57, unnumbered paragraph 1, Code 1997, is amended to read as follows:

A dealer owning any vehicle of a type otherwise required to be registered ~~hereunder~~ under this chapter may operate or move the ~~same~~ vehicle upon the highways solely for purposes of transporting, testing, demonstrating, or selling the ~~same~~ vehicle without registering ~~each such~~ the vehicle, upon condition that ~~any such~~ the vehicle display in the manner prescribed in sections 321.37 and 321.38 a special plate issued to ~~such~~ the owner as provided in sections 321.58 to 321.62. ~~In addition to the foregoing, a~~ However, if the vehicle is a motor vehicle the dealer, if subject to section 321.20B, shall maintain financial liability coverage for the motor vehicle as required under section 321.20B. A new car dealer or a used car dealer may operate or move upon the highways ~~any~~ a new or used car or trailer owned by the dealer for either private or business purposes without registering ~~the same providing, (1) such~~ it if the new or used car or trailer is in the dealer's inventory and is continuously offered for sale at retail, and ~~(2)~~ there is displayed ~~thereon~~ on it a special plate issued to ~~such~~ the dealer as provided in sections 321.58 to 321.62.

Sec. 6. Section 321.492, unnumbered paragraph 1, Code 1997, is amended to read as follows:

~~Any~~ A peace officer is authorized to stop ~~any~~ a vehicle to require exhibition of the driver's motor vehicle license, to serve a summons or memorandum of traffic violation, to inspect the condition of the vehicle, to inspect the vehicle with reference to size, weight, cargo, log book, bills of lading or other manifest of employment, tires, and safety equipment, or to inspect the registration certificate, the compensation certificate, travel order, or permit of the vehicle.

Sec. 7. Section 321.492, Code 1997, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 1:

NEW UNNUMBERED PARAGRAPH. A peace officer having probable cause to stop a vehicle may require exhibition of the proof of insurance card issued for the vehicle if the vehicle is a motor vehicle registered in this state.

Sec. 8. Section 321A.24, subsection 1, Code 1997, is amended to read as follows:

1. a. Proof of financial responsibility may be evidenced by the bond of a surety company duly authorized to transact business within this state, or a bond with at least two individual sureties each owning real estate within this state, and together having equities equal in value to at least twice the amount of the bond, which real estate shall be scheduled in the bond approved by a judge or clerk of ~~a~~ the district court ~~of record~~, and which ~~said~~ bond shall be conditioned for payment of the amounts specified in section 321A.1, subsection 10.

b. ~~Such~~ The bond shall be filed with the department and ~~shall~~ is not ~~be~~ cancelable except after ten days' written notice to the department. ~~Such~~ The director shall issue to the person filing the bond a bond insurance card for each motor vehicle registered by the person in the state. The bond insurance card shall state the name and address of the person and the motor vehicle registration number of the vehicle for which the card is issued.

c. The bond ~~shall constitute~~ constitutes a lien in favor of the state upon the real estate so scheduled of any surety, which lien ~~shall exist~~ exists in favor of any holder of a final judgment against the person who has filed ~~such~~ the bond, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damage because of injury to or destruction of property, including the loss of use ~~thereof~~ of the property, resulting from the ownership, maintenance, use, or operation of a motor vehicle after ~~such~~ the bond was filed, upon the filing of notice to that effect by the department in the office of the proper clerk of the district court of the county where ~~such~~ the real estate ~~shall be~~ is located. ~~Any~~ An individual surety ~~so~~ scheduling real estate security shall furnish satisfactory evidence of title ~~thereto~~ to the property and the nature and extent of all encumbrances ~~thereon~~ on the property and the value of the surety's interest ~~therein~~ in the property, in ~~such~~ the manner ~~as~~ the judge or clerk of the district court ~~of record~~ approving the bond ~~may require~~ requires. The notice filed by the department shall contain, in addition to any other matters deemed by the department to be pertinent, ~~contain~~ a legal description of the real estate ~~so~~ scheduled, the name of the holder of the record title, the amount for which it stands

as security, and the name of the person in whose behalf proof is so being made. Upon the filing of ~~such~~ the notice the clerk of the district court ~~of such county~~ shall retain the ~~same~~ notice as part of the records of ~~such~~ the court and enter upon the encumbrance book the date and hour of filing, the name of the surety, the name of the record titleholder, the description of the real estate, and the further notation that a lien is charged on ~~such~~ the real estate pursuant to the filed notice ~~filed hereunder~~. From and after the entry of the ~~foregoing~~ notice upon the encumbrance book all persons ~~whomsoever shall be~~ are charged with notice ~~thereof~~ of it.

d. If the bond is canceled, the person who filed the bond shall surrender to the director all bond insurance cards issued to the person.

Sec. 9. Section 321A.25, subsection 1, Code 1997, is amended to read as follows:

1. ~~With respect to accidents occurring on or after January 1, 1981, and before January 1, 1983, proof of financial responsibility may be evidenced by the certificate of the state treasurer that the person named in the certificate has deposited with the treasurer forty thousand dollars in cash, or securities such as may legally be purchased by a state bank or for trust funds of a market value of forty thousand dollars; and with respect to accidents occurring on or after January 1, 1983, proof~~ Proof of financial responsibility may be evidenced by the certificate of the ~~state~~ treasurer of state that the person named in the certificate has deposited with the treasurer of state fifty-five thousand dollars in cash, or securities ~~such as~~ which may legally be purchased by a state bank or ~~for~~ trust funds of a market value of fifty-five thousand dollars. The treasurer of state shall promptly notify the director of transportation of the name and address of the person to whom the certificate has been issued. Upon receipt of the notification, the director of transportation shall issue to the person a security insurance card for each motor vehicle registered in this state by the person. The security insurance card shall state the name and address of the person and the registration number of the motor vehicle for which the card is issued. The ~~state~~ treasurer of state shall not accept a deposit and issue a certificate for it and the department shall not accept the certificate unless accompanied by evidence that there are no unsatisfied judgments of any character against the depositor in the county where the depositor resides.

Sec. 10. Section 321A.32, subsection 3, Code 1997, is amended to read as follows:

3. ~~Any~~ A person who ~~shall forge~~ forges or, without authority, ~~sign any~~ signs a notice provided for under section 321A.5 that a policy or bond is in effect, or any evidence of ~~proof of~~ financial responsibility, or any evidence of financial liability coverage as defined in section 321.1, or who files or offers for filing any such notice or evidence ~~of proof~~ knowing or having reason to believe that it is forged or signed without authority, ~~shall be~~ is guilty of a serious misdemeanor.

Sec. 11. Section 321A.34, subsections 2 and 3, Code 1997, are amended to read as follows:

2. The department may, ~~in the department's discretion,~~ upon the application of such a person, issue a certificate of self-insurance ~~when~~ if the department is satisfied that ~~such~~ the person ~~is possessed~~ has and will continue to ~~be possessed of~~ have the ability to pay judgments obtained against ~~such~~ the person for damages arising out of the ownership, maintenance, or use of any vehicle owned by ~~such~~ the person. A person issued a certificate of self-insurance pursuant to this section shall maintain a financial liability coverage card as provided in section 321.20B, subsection 2, paragraph "b".

3. Upon not less than five days' notice and a hearing pursuant to ~~such~~ the notice, the department may upon reasonable grounds cancel a certificate of self-insurance. Failure to pay ~~any~~ a judgment for damages arising out of the ownership, maintenance, or use of any vehicle owned by ~~such~~ the self-insurer within thirty days after ~~such~~ the judgment ~~shall have become~~ becomes final ~~shall constitute~~ constitutes a reasonable ground for the cancellation of a certificate of self-insurance. Upon the cancellation of a certificate of self-insurance, the

person who was issued the certificate shall surrender to the director all self-insurance cards issued to the person.

Sec. 12. Section 322.4, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 7A. Proof that the applicant has financial liability coverage as defined in section 321.1, except that such coverage shall be in limits of not less than one hundred thousand dollars because of bodily injury to or death of one person in any one accident and, subject to the limit for one person, three hundred thousand dollars because of bodily injury to or death of two or more persons in any one accident, and fifty thousand dollars because of injury to or destruction of property of others in any one accident.

Sec. 13. Section 322.8, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A supplemental statement shall include any change in the licensee's financial liability coverage.

Sec. 14. Section 326.25, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Upon a determination that the motor vehicle does not have financial liability coverage as required under section 321.20B.

Sec. 15. Section 805.8, subsection 2, Code 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. ad. If, in connection with a motor vehicle accident, a person is charged and found guilty of a violation of section 321.20B, subsection 1, the scheduled fine is one hundred dollars.

Sec. 16. Section 805.8, subsection 2, Code 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. af. If, in connection with a motor vehicle accident, a person is charged and found guilty of a violation of section 321.20B, subsection 1, the scheduled fine is five hundred dollars, otherwise the scheduled fine for a violation of section 321.20B, subsection 1, is two hundred fifty dollars. Notwithstanding section 805.12, fines collected pursuant to this paragraph shall be submitted to the state court administrator and distributed fifty percent to the victim compensation fund established in section 912.14, twenty-five percent to the county in which such fine is imposed, and twenty-five percent to the general fund of the state.

Sec. 17. EFFECTIVE DATES — RULES — NOTIFICATION. Sections 1 through 15 of this Act take effect January 1, 1998. However, in order to implement this Act, the insurance division of the department of commerce and the director of transportation shall each adopt rules as required under this Act. The treasurer of state shall notify the director of transportation of the names and addresses of persons who are issued valid certificates under section 321A.25, subsection 1, Code 1997, by November 1, 1997, and after that date the treasurer of state shall notify the director of transportation as required under section 9 of this Act. Insurance carriers authorized to do business in this state and the director of transportation shall distribute proof of insurance cards as required under this Act by December 1, 1997.

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

Section 16 of this Act takes effect July 1, 1999.

Sec. 18. CONDITIONAL EFFECTIVENESS PROVISION. Notwithstanding section 17 of this Act, sections 1 through 11 and 14 and 15 of this Act shall not take effect unless an appropriation is made in accordance with section 25B.2, subsection 3.

Sec. 19. Section 805.8, subsection 2, paragraph "ad", as enacted by this Act, is amended by striking the paragraph effective July 1, 1999.

Approved May 9, 1997

CHAPTER 140

FEES CHARGED PRISONERS FOR ROOM AND BOARD

S.F. 184

AN ACT relating to collection of fees charged prisoners for room and board, by providing for the entry of judgment against the prisoner and enforcement of the judgment through writ of execution, and providing for an effective date.

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

Section 1. Section 356.7, subsections 1, 2, and 3, Code 1997, are amended to read as follows:

1. The county sheriff may charge a prisoner who is eighteen years of age or older and who has been convicted of a criminal offense for the room and board provided to the prisoner while in the custody of the county sheriff. Moneys collected by the sheriff under this section shall be credited to the county general fund and distributed as provided in this section. If a prisoner who has been convicted of a criminal offense fails to pay for the room and board, the sheriff may file a room and board reimbursement ~~lien~~ claim with the district court as provided in subsection 2. The county attorney may file the room and board reimbursement ~~lien~~ claim on behalf of the sheriff and the county. This section does not apply to prisoners who are paying for their room and board by court order pursuant to sections 356.26 through 356.35.

2. The sheriff or the county attorney, on behalf of the sheriff, may file a room and board reimbursement ~~lien~~ claim with the clerk of the district court which shall include all of the following information, if known:

a. The name, ~~and~~ date of birth, and social security number of the person ~~whose property or other interests are~~ who is the subject ~~to~~ of the ~~lien~~ claim.

b. The present address of the residence and principal place of business of the person named in the ~~lien~~ claim.

c. The criminal proceeding pursuant to which the ~~lien~~ claim is filed, including the name of the court, the title of the action, and the court's file number.

d. The name and office address of the sheriff or the name and office address of the county attorney who is filing the ~~lien~~ claim on behalf of the sheriff.

e. A statement that the notice is being filed pursuant to this section.

f. The amount of room and board ~~reimbursement~~ charges the person ~~has been ordered to pay or is likely to be ordered to pay~~ owes.

g. If the sheriff wishes to have the amount of the claim for charges owed included within the amount of restitution determined to be owed by the person, a request that the amount owed be included within the order for payment of restitution by the person.

3. ~~The filing of a~~ Upon receipt of a claim for room and board reimbursement ~~lien in accordance with this section creates a lien~~, the court shall approve the claim in favor of the sheriff or the county ~~in any personal or real property~~ for the amount owed by the prisoner as identified in the ~~lien to the extent of the interest held in that property by the person named in the lien~~ claim and any fees or charges associated with the filing or processing of the claim with the court. The sheriff may choose to enforce the claim in the manner provided in chapter 626. Once approved by the court, the claim for the amount owed by the person shall have the force and effect of a judgment for purposes of enforcement by the sheriff. However, irrespective of whether the judgment lien for the amount of the claim has been perfected, the claim shall not have priority over competing claims for child support obligations owed by the person.

Sec. 2. Section 910.1, subsection 4, Code 1997, is amended to read as follows:

4. "Restitution" means payment of pecuniary damages to a victim in an amount and in the manner provided by the offender's plan of restitution. "Restitution" also includes fines,

penalties, and surcharges, the contribution of funds to a local anticrime organization which provided assistance to law enforcement in an offender's case, the payment of crime victim compensation program reimbursements, court costs including correctional fees approved pursuant to section 356.7, court-appointed attorney's fees, or the expense of a public defender, and the performance of a public service by an offender in an amount set by the court when the offender cannot reasonably pay all or part of the court costs including correctional fees approved pursuant to section 356.7, court-appointed attorney's fees, or the expense of a public defender.

Sec. 3. Section 910.2, Code 1997, is amended to read as follows:

910.2 RESTITUTION OR COMMUNITY SERVICE TO BE ORDERED BY SENTENCING COURT.

In all criminal cases 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 including correctional fees approved pursuant to section 356.7, court-appointed attorney's fees, or the expense of a public defender when applicable, or contribution to a local anticrime organization. However, victims shall be paid in full before fines, penalties, and surcharges, crime victim compensation program reimbursement, court costs including correctional fees approved pursuant to section 356.7, court-appointed attorney's fees, the expenses of a public defender, or contribution to a local anticrime organization 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 including correctional fees approved pursuant to section 356.7, court-appointed attorney's fees, or the expense of a public defender, and contribution to a local anticrime organization.

When the offender is not reasonably able to pay all or a part of the crime victim compensation program reimbursement, court costs including correctional fees approved pursuant to section 356.7, court-appointed attorney's fees, the expense of a public defender, or contribution to a local anticrime organization, the court may require the offender in lieu of that portion of the crime victim compensation program reimbursement, court costs including correctional fees approved pursuant to section 356.7, court-appointed attorney's fees, expense of a public defender, or contribution to a local anticrime organization 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 which, for payment of court-appointed attorney's fees or expenses of a public defender, shall be approximately equivalent in value to those costs. The judicial district department of correctional services shall provide for the assignment of the offender to a public agency or private nonprofit agency to perform the required service.

Sec. 4. Section 910.3, Code 1997, is amended to read as follows:

910.3 DETERMINATION OF AMOUNT OF RESTITUTION.

The county attorney shall prepare a statement of pecuniary damages to victims of the defendant and, if applicable, any award by the crime victim compensation program and shall provide the statement to the presentence investigator or submit the statement to the court at the time of sentencing. The clerk of court shall prepare a statement of court-appointed attorney's fees, the expense of a public defender, and court costs including correctional fees claimed by a sheriff pursuant to section 356.7, which shall be provided to the presentence investigator or submitted to the court at the time of sentencing. If these statements are provided to the presentence investigator, they shall become a part of the presentence report.

If pecuniary damage amounts are not available at the time of sentencing, the county attorney shall provide a statement of pecuniary damages incurred up to that time to the clerk of court. The statement shall be provided no later than thirty days after sentencing. If a defendant believes no person suffered pecuniary damages, the defendant shall so state. If the defendant has any mental or physical impairment which would limit or prohibit the performance of a public service, the defendant shall so state. The court may order a mental or physical examination, or both, of the defendant to determine a proper course of action. At the time of sentencing or at a later date to be determined by the court, the court shall set out the amount of restitution including the amount of public service to be performed as restitution and the persons to whom restitution must be paid. If the full amount of restitution cannot be determined at the time of sentencing, the court shall issue a temporary order determining a reasonable amount for restitution identified up to that time. At a later date as determined by the court, the court shall issue a permanent, supplemental order, setting the full amount of restitution. The court shall enter further supplemental orders, if necessary. These court orders shall be known as the plan of restitution.

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

Approved May 14, 1997

CHAPTER 141

HUNTING DEER WITH PISTOL OR REVOLVER

H.F. 142

AN ACT relating to the hunting of deer with a pistol or revolver and providing a penalty.

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

Section 1. Section 481A.48, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The commission shall establish one or more pistol or revolver seasons for hunting deer as separate firearm seasons or to coincide with one or more other firearm deer hunting seasons. Any pistol or revolver firing a magnum three hundred fifty-seven thousandths of one inch caliber or larger, centerfire, straight wall ammunition propelling an expanding-type bullet is legal for hunting deer during the pistol or revolver seasons. The commission shall adopt rules to allow black powder pistols or revolvers for hunting deer. The rules shall not allow pistols or revolvers with shoulder stock or long-barrel modifications. The barrel length of a pistol or revolver use for deer hunting shall be at least four inches. The rules may limit types of ammunition. A person who is sixteen years of age or less shall not hunt deer with a pistol or revolver. A person possessing a prohibited pistol or revolver while hunting deer commits a scheduled violation under section 805.8, subsection 5, paragraph "h".

Sec. 2. Section 805.8, subsection 5, paragraph h, Code 1997, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (5) Possession of a prohibited pistol or revolver while hunting deer, the scheduled fine is one hundred dollars.

Approved May 14, 1997

CHAPTER 142

DETERMINATION OF ANNUAL SALARIES FOR DEPUTY SHERIFFS

H.F. 515

AN ACT relating to the determination of annual salaries for deputy sheriffs.

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

Section 1. Section 331.904, subsection 2, Code 1997, is amended by striking the subsection and inserting in lieu thereof the following:

2. Each deputy sheriff shall receive an annual base salary as follows:

a. The annual base salary of a first or second deputy sheriff shall not exceed eighty-five percent of the annual base salary of the sheriff.

b. The annual base salary of any other deputy sheriff shall not exceed the annual base salary of the first or second deputy sheriff.

c. The sheriff shall set the annual base salary of each deputy sheriff who is classified as exempt under the federal Fair Labor Standards Act of 1938, as amended, subject to the limitations specified in paragraphs "a" and "b". The sheriff shall certify the annual base salaries of the exempt deputy sheriffs to the board and, if the limitations of paragraphs "a" and "b" are not exceeded, the board shall certify the annual base salaries to the county auditor.

d. The board shall set the annual base salaries of any deputy sheriffs who are not classified as exempt under the federal Fair Labor Standards Act of 1938, as amended. Upon certification by the sheriff, the board shall review, and may modify, the annual base salaries of the deputy sheriffs who are not classified as exempt. The annual base salaries set by the board are subject to the limitations specified in paragraphs "a" and "b".

e. As used in this subsection, "base salary" means the basic compensation excluding overtime pay, longevity pay, shift differential pay, or other supplement pay and fringe benefits.

Approved May 14, 1997

CHAPTER 143

SEED AND VENTURE CAPITAL — CAPITAL INVESTMENT BOARD — TAX CREDITS

H.F. 722

AN ACT relating to establishing a capital investment board, tax credits, termination of the Iowa seed capital corporation, establishing a capital transition board, and providing an effective date.

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

Section 1. NEW SECTION. 15E.181 PURPOSE.

The purpose of this division is to enhance the quality of life for citizens of the state by encouraging the creation of new jobs, industry, products, and wealth through the increased availability and accessibility to capital, particularly at the seed capital and venture capital investment stages.

Sec. 2. NEW SECTION. 15E.182 IOWA CAPITAL INVESTMENT BOARD.

1. An Iowa capital investment board is established and shall be composed of the following members:

a. The treasurer of state.

b. The director of the department.

c. Three members selected by the governor and confirmed by the senate pursuant to section 2.32.

2. a. The three members selected by the governor shall serve six-year staggered terms as determined by the governor. A vacancy shall be filled by the governor for the remaining portion of the unexpired term. A member is eligible for reappointment.

b. Members of the board are entitled to receive a per diem as specified in section 7E.6 for each day spent in performance of duties as members and shall be reimbursed for all actual and necessary expenses incurred in the performance of duties as members.

c. The board shall annually elect a chairperson from among its members.

3. The Iowa capital investment board shall do the following:

a. Facilitate public and private investment in a series of state, regional, or national seed and venture capital funds willing to invest in Iowa seed and venture capital opportunities. Funds selected for investment must focus on economic or industry sectors targeted for development by the state. To the extent feasible, priority shall be given to state funds before consideration of regional or national funds. In selecting funds for investment, the board shall seek to maximize benefits which inure to seed and venture capital opportunities in Iowa.

b. Facilitate the creation of a small business investment company to maximize the leverage from available federal and private sources for investment in seed and venture stage companies in the state.

c. Coordinate with other existing publicly created or supported seed and venture investment funds to gain the highest investment leverage with the lowest possible administrative costs for the state.

d. Report annually to the governor and the general assembly on the investments made pursuant to this division, the current and anticipated value of such investments, the current and anticipated value of any tax credits given, and the estimated current and anticipated impact such investments have on the state.

e. Conduct an annual risk analysis which matches the current and anticipated value of investments made pursuant to this division with the current and anticipated value of any tax credits given. If the anticipated value of any tax credits given exceeds the anticipated value of investments, the department shall establish a reserve account within the strategic investment fund sufficient to cover such losses to the general fund of the state in the event of the termination of the Iowa capital investment board.

4. If tax credits are used to facilitate investment pursuant to subsection 3, paragraph "a" or "b", the tax credits shall only be redeemed for the amount of principal invested, and only based on losses at the time of the termination or insolvency of the Iowa capital investment board.

5. The general assembly is not obligated to appropriate any moneys to pay for any defaults or to appropriate any moneys to be credited to the board programs beyond the tax credits approved in section 15E.183, and the board in administering this section shall not give or lend the credit of the state of Iowa.

6. On or before July 1, 1998, the Iowa capital investment board shall select and appoint, through a competitive selection process and based on criteria established by the board, an executive director to conduct the affairs of the board. To the extent feasible, the selection of any fund managers, investment advisors, or other consultants shall also be through a competitive selection process and based on criteria established by the board.

7. The Iowa capital investment board shall adopt procedures, policies, and rules pursuant

to chapter 17A, and other administrative measures necessary to carry out the purpose of this division and administer the programs and business of the board.

Sec. 3. NEW SECTION. 15E.183 TAX CREDITS.

1. For tax years beginning on or after January 1, 1997, there shall be allowed a tax credit against the taxes imposed in chapter 422, divisions II and III, for net losses incurred by the Iowa capital investment board. The aggregate amount of tax credits issued under this section shall not exceed thirty million dollars. An individual may claim the credit of a partnership, limited liability company, 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 from the partnership, limited liability company, subchapter S corporation, estate, or trust. A taxpayer shall not claim tax credits under this section which exceed the total amount invested by the taxpayer in the Iowa capital investment board. Any tax credit in excess of the taxpayer's liability for the tax year may be credited to the tax liability for the following three years or until depleted, whichever is earlier. A tax credit shall not be carried back to the tax year prior to the tax year in which the termination or insolvency of the Iowa capital investment board occurs. A tax credit shall not be refunded.

a. The Iowa capital investment board shall furnish to each person making an investment in the Iowa capital investment board during the preceding year a written statement showing the name of the investor, taxpayer identification number, the total amount of investment in the Iowa capital investment board made by such person, and such other information as the director of revenue and finance may require. The statement shall be attached to the income tax return of such person in order to qualify for the tax credit.

b. The taxpayer making the original investment in the Iowa capital investment board may, during the year of the termination or insolvency of the Iowa capital investment board or during the three years following such termination or insolvency, transfer any unused tax credit to another taxpayer who may use the tax credit against the taxes imposed under chapter 422, divisions II and III, for any tax year the original investor could have claimed the tax credit.

2. The department of revenue and finance shall, in consultation with the Iowa capital transition board, develop a system for the registration, issuance, transfer, or redemption of tax credits issued by the state under this section. The department shall also, in consultation with the Iowa capital transition board, adopt any other policies, procedures, or rules pursuant to chapter 17A necessary for the administration of tax credits issued by the state under this section.

Sec. 4. NEW SECTION. 15E.184 SUPPORT.

The department shall provide staff assistance, physical facilities, and other support as necessary.

Sec. 5. TERMINATION OF THE IOWA SEED CAPITAL CORPORATION. On or before June 30, 1998, the board of directors of the Iowa seed capital corporation shall wind up the affairs of the corporation, including the transfer of remaining assets and liabilities to the Iowa capital investment board, termination of staff, and dissolution of the corporation. In the event that the remaining assets and liabilities cannot be transferred to the Iowa capital investment board, the board of directors of the Iowa seed capital corporation shall liquidate all assets, settle existing liabilities, and transfer remaining moneys to the general fund of the state.

Sec. 6. IOWA CAPITAL TRANSITION BOARD.

1. The Iowa capital transition board is created to coordinate the transition from the state's present seed and venture capital activity to the opportunities provided by the Iowa capital investment board.

2. The membership on the Iowa capital transition board shall consist of all of the following members:

a. The treasurer of state.

b. The director of the department.

c. The director of the department of personnel.

d. The chairperson of the board of directors of the Iowa seed capital corporation.

e. Three other private citizen members selected by a majority of the Iowa capital transition board members designated in paragraphs "a" through "d". Selection shall be based on established experience, expertise, and background in the areas of venture capital investments, entrepreneurial businesses, and seed and venture capital issues in general.

3. The Iowa capital transition board shall select a chairperson from among its members once all of the members of the board have been selected.

4. The duties of the Iowa capital transition board shall include, but are not limited to, the following:

a. Advise and consult with the department of revenue and finance in the development of the capital tax credits system.

b. Advise and consult with the board of directors of the Iowa seed capital corporation in the transition of Iowa seed capital corporation assets and liabilities to the Iowa capital investment board.

c. Advise and consult with the board of directors of the department of economic development on the coordination of existing department financial assistance programs with the seed and venture capital opportunities provided by this division.

d. Provide recommendations to the Iowa capital investment board regarding the carrying out of the Iowa capital investment board's duties.

5. The department of economic development shall provide the board with staff assistance, physical facilities, and other support as necessary.

6. The existence of the Iowa capital transition board shall be terminated on July 1, 1998, unless the board is terminated at an earlier time by a majority vote of the members.

Sec. 7. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 14, 1997

CHAPTER 144

ENTERPRISE ZONES

H.F. 724

AN ACT relating to investments in counties and cities by providing for the establishment of enterprise zones in areas of counties and cities for which tax incentives and assistance are available for eligible businesses locating or located in the enterprise zone.

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

Section 1. NEW SECTION. 15E.181 INTENT.

It is the intent of the general assembly that this division be administered in a manner to promote new economic development in economically distressed areas by encouraging communities to target resources in ways that attract productive private investment.

Sec. 2. NEW SECTION. 15E.182 ENTERPRISE ZONES.

1. A county may create an economic development enterprise zone as authorized in this division, subject to certification by the department of economic development, by designating up to one percent of the county area for that purpose. A county may establish more than one enterprise zone.

2. A city with a population of twenty-four thousand or more, as shown by the 1990 certified federal census, may create an economic development enterprise zone as authorized in this division, subject to certification by the department of economic development, by designating one or more contiguous census tracts, as determined in the most recent federal census or designating other geographic units approved by the department of economic development, for that purpose. If there is an area in the city which meets the requirements for eligibility for an urban or rural enterprise community under Title XIII of the federal Omnibus Budget Reconciliation Act of 1993, such area shall be designated by the state an economic development enterprise zone. The area meeting the requirements for eligibility for an urban or rural enterprise community shall not be included for the purpose of determining the area limitation pursuant to subsection 3. In creating an enterprise zone, a city with a population of twenty-four thousand or more, as shown by the 1990 certified federal census, may designate as part of the area tracts or approved geographic units located in a contiguous city if such tracts or approved geographic units meet the criteria and the city agrees to being included. The city may establish more than one enterprise zone. Reference in this division to "city" means a city with a population of twenty-four thousand or more, as shown by the 1990 certified federal census.

3. A county or city may apply to the department for an area to be certified as an enterprise zone at any time prior to July 1, 2000. However, the total amount of land designated as enterprise zones under subsections 1 and 2 shall not exceed in the aggregate one percent of the total county area.

4. An enterprise zone designation shall remain in effect for ten years following the date of certification. Any state or local incentives or assistance that may be conferred must be conferred before the designation expires. However, the benefits of the incentive or assistance may continue beyond the expiration.

Sec. 3. NEW SECTION. 15E.183 ELIGIBLE BUSINESS.

1. A business which is or will be located in an enterprise zone is eligible to receive incentives and assistance under this division if the business has not closed or reduced its operation in one area of the state and relocated substantially the same operation into the enterprise zone and if the business meets all of the following:

a. Is not a retail business.

b. Pays at least eighty percent of the cost of a standard medical and dental insurance plan for all full-time employees.

c. Pays an average wage that is at or greater than ninety percent of the lesser of the average county wage or average regional wage, as determined by the department. However, the wage paid by the business shall not be less than seven dollars and fifty cents per hour.

d. Creates at least ten full-time positions and maintains them for at least ten years. For an existing business in counties with a population of ten thousand or less, the commission may adopt a provision that allows the business to create at least five initial jobs with the additional jobs to be added in five years. The business shall include in its strategic plan the timeline for job creation. If the existing business fails to meet the ten-job creation requirement within the five-year period all incentives or assistance will cease immediately.

e. Makes a capital investment of at least five hundred thousand dollars. If the business will be occupying a vacant building suitable for industrial use, the fair market value of the building and land, not to exceed two hundred fifty thousand dollars, shall be counted toward the capital investment requirement. An existing business that has been operating in the enterprise zone for at least five years is exempt from the capital investment requirement of

this paragraph of up to two hundred fifty thousand dollars of the fair market value, as established by an appraisal, of the building and land.

2. In addition to meeting the requirements under subsection 1, an eligible business shall provide the enterprise zone commission with all of the following:

a. The long-term strategic plan for the business which shall include labor and infrastructure needs.

b. Information dealing with the benefits the business will bring to the area.

c. Examples of why the business should be considered or would be considered a good business enterprise.

d. The impact the business will have on other businesses in competition with it.

e. An affidavit that it has not, within the last five years, violated state or federal environmental and worker safety statutes, rules, and regulations or if such violation has occurred that there were mitigating circumstances or such violations did not seriously affect public health or safety or the environment.

3. If a business has received incentives or assistance under section 15E.186 and fails to maintain the requirements of subsection 1 to be an eligible business, the business is subject to repayment of all or a portion of the incentives and assistance that it has received. The city or county, as applicable, shall have the authority to take action to recover the value of taxes not collected as a result of the exemption provided by the community to the business. The department of revenue and finance shall have the authority to recover the value of state taxes or incentives provided under section 15E.186. The value of state incentives provided under section 15E.186 includes applicable interest and penalties. The department of economic development and the city and county, as applicable, shall enter into agreement with the business specifying the method for determining the amount of incentives or assistance paid which will be repaid in the event of failure to maintain the requirements of subsection 1. In addition, a business that fails to maintain the requirements of subsection 1 shall not receive incentives or assistance for each year during which the business is not in compliance.

Sec. 4. NEW SECTION. 15E.184 DISTRESS CRITERIA.

1. An enterprise zone may be designated by a county which meets at least two of the following criteria:

a. The county has an average weekly wage that ranks among the bottom twenty-five counties in the state based on the 1995 annual average weekly wage for employees in private business.

b. The county has a family poverty rate that ranks among the top twenty-five counties in the state based on the 1990 census.

c. The county has experienced a percentage population loss that ranks among the top twenty-five counties in the state between 1990 and 1995.

d. The county has a percentage of persons sixty-five years of age or older that ranks among the top twenty-five counties in the state based on the 1990 census.

2. An enterprise zone may be designated by a city which meets at least two of the following criteria:

a. The area has a per capita income of nine thousand six hundred dollars or less based on the 1990 census.

b. The area has a family poverty rate of twelve percent or higher based on the 1990 census.

c. Ten percent or more of the housing units are vacant in the area.

d. The valuations of each class of property in the designated area is seventy-five percent or less of the citywide average for that classification based upon the most recent valuations for property tax purposes.

e. The area is a blighted area, as defined in section 403.17.

3. The department of economic development shall certify eligible enterprise zones that meet the requirements of subsection 1 upon request by the county or subsection 2 upon request by the city, as applicable.

Sec. 5. NEW SECTION. 15E.185 ENTERPRISE ZONE COMMISSION.

1. A county in which an eligible enterprise zone is certified shall establish an enterprise zone commission to review applications from qualified businesses located within or requesting to locate within an enterprise zone to receive incentives or assistance as provided in section 15E.186. The commission shall consist of nine members. Five of these members shall consist of one representative of the board of supervisors, one member with economic development expertise chosen by the department of economic development, one representative of the county zoning board, one member of the local community college board of directors, and one representative of the local workforce development center. These five members shall select the remaining four members. If the enterprise zone consists of an area meeting the requirements for eligibility for an urban or rural enterprise community under Title XIII of the federal Omnibus Budget Reconciliation Act of 1993, one of the remaining four members shall be a representative of that zone. However, if the enterprise zone qualifies under the city criteria, one of the four members shall be a representative of an international labor organization and if an enterprise zone is located in any city, a representative, chosen by the city council, of each such city may be a member of the commission. A county shall have only one enterprise zone commission.

2. The commission may adopt more stringent requirements, including requirements related to compensation and benefits, for a business to be eligible for incentives or assistance than provided in section 15E.183. The commission may develop as an additional requirement that preference in hiring be given to individuals who live within the enterprise zone. The commission shall work with the local workforce development center to determine the labor availability in the area.

3. If the enterprise zone commission determines that a business qualifies for inclusion in an enterprise zone and is eligible to receive incentives or assistance as provided in section 15E.186, the commission shall submit an application for incentives or assistance to the department of economic development. The department may approve, defer, or deny the application.

4. In making its decision, the commission or department shall consider the impact of the eligible business on other businesses in competition with it and compare the compensation package of businesses in competition with the business being considered for incentives or assistance. The commission or department shall make a good faith effort to identify existing Iowa businesses within an industry in competition with the business being considered for incentives or assistance. The commission or department shall also make a good faith effort to determine the probability that the proposed incentives or assistance will displace employees of existing businesses. In determining the impact on businesses in competition with the business seeking incentives or assistance, jobs created as a result of other jobs being displaced elsewhere in the state shall not be considered direct jobs created.

However, if the commission or department finds that an eligible business has a record of violations of the law, including but not limited to environmental and worker safety statutes, rules, and regulations, over a period of time that tends to show a consistent pattern, the eligible business shall not qualify for incentives or assistance under section 15E.186, unless the commission or department finds that the violations did not seriously affect public health or safety or the environment, or if it did that there were mitigating circumstances. In making the findings and determinations regarding violations, mitigating circumstances, and whether an eligible business is eligible for incentives or assistance under section 15E.186, the commission or department shall be exempt from chapter 17A. If requested by the commission or department, the business shall provide copies of materials documenting the type of violation, any fees or penalties assessed, court filings, final disposition of any findings and any other information which would assist the commission or department in assessing the nature of any violation.

5. A business that is approved to receive incentives or assistance shall, for the length of its designation as an enterprise zone business, certify annually to the county or city, as appli-

cable, and the department of economic development its compliance with the requirements of section 15E.183.

Sec. 6. NEW SECTION. 15E.186 INCENTIVES — ASSISTANCE.

For purposes of determining the incentives or assistance provided in this section, "eligible business" means a business which has been approved to receive incentives and assistance by the department of economic development pursuant to application as provided in section 15E.185. The incentives and assistance provided under this division for businesses located in enterprise zones shall be for a period not to exceed ten years and shall include all of the following:

1. New jobs credit from withholding, as provided in section 15.331.
2. Sales, services, and use tax refund, as provided in section 15.331A.
3. Investment tax credit, as provided in section 15.333.
4. Research activities credit, as provided in section 15.335.
5. The county or city for which an eligible enterprise zone is certified may exempt from all property taxation all or a portion of the value added to the property upon which an eligible business locates or expands in an enterprise zone and which is used in the operation of the eligible business. The amount of value added for purposes of this subsection shall be the amount of the increase in assessed valuation of the property following the location or expansion of the business in the enterprise zone. The exemption may be allowed for a period not to exceed ten years beginning the year the eligible business enters into an agreement with the county or city to locate or expand operations in an enterprise zone.

Approved May 14, 1997

CHAPTER 145

LOCAL OPTION SALES AND SERVICES TAXES

H.F. 729

AN ACT relating to reporting and depositing of local option sales and services taxes to the department of revenue and finance by retailers and increasing the amount of estimated distribution and frequency of distribution to cities and counties by the department of revenue and finance.

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

Section 1. Section 422B.9, Code 1997, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 4:

NEW UNNUMBERED PARAGRAPH. Frequency of deposits and quarterly reports of a local sales and services tax with the department of revenue and finance are governed by the tax provisions in section 422.52. Local tax collections shall not be included in computation of the total tax to determine frequency of filing under section 422.52.

Sec. 2. Section 422B.10, subsection 2, Code 1997, is amended to read as follows:

2. a. The director of revenue and finance within fifteen days of the beginning of each fiscal year shall send to each city or county where the local option tax is imposed, an estimate of the amount of tax moneys each city or county will receive for the year and for each ~~quarter~~ month of the year. At the end of each ~~quarter~~ month, the director may revise the estimates for the year and remaining ~~quarters~~ months.

b. The director of revenue and finance shall remit ~~ninety~~ ninety-five percent of the estimate tax receipts for the city or county to the city or county ~~after the end of each quarter no later than the following dates: November 10, February 10, May 10, and August 10~~ on or before August 31 of the fiscal year and on or before the last day of each following month.

c. The director of revenue and finance shall remit a final payment of the remainder of tax moneys due the city or county for the fiscal year before ~~the due date for the payment of the first quarter~~ November 10 of the next fiscal year. If an overpayment has resulted during the previous fiscal year, the first payment of the new fiscal year shall be adjusted to reflect any overpayment.

Approved May 15, 1997

CHAPTER 146

PROPERTY TAX ON CERTAIN DONATED PROPERTY

S.F. 83

AN ACT relating to property taxation of property given to the state or a political subdivision upon which a life estate is retained.

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

Section 1. NEW SECTION. 427.2A TAXATION OF LIFE ESTATE PROPERTY.

Real estate donated to the state or a political subdivision of the state or any agency of the state or political subdivision, for which the donor retains a life estate, or provides for another to possess a life estate shall continue to be subject to property taxation and special assessment to the same extent as the property was so subject during the fiscal year in which the donation was made. The real property shall continue to be taxed until the fiscal year following the fiscal year during which the life estate terminates. Upon termination of the life estate, the real estate shall be subject to taxation as otherwise provided by law.

This section applies to property donated on or after July 1, 1992, for purposes of property taxes or special assessments due and payable in fiscal years beginning on or after July 1, 1997.

Nothing in this section allows or requires the imposition and collection of property taxes or special assessments on donated property payable in any fiscal year during the period beginning July 1, 1992, and ending June 30, 1997, and nothing in this section requires the payment of refunds of property taxes or special assessments paid on donated property in any fiscal year during the period beginning July 1, 1992, and ending June 30, 1997.

Approved May 19, 1997

CHAPTER 147

MOTOR VEHICLE OPERATION — PARKING — LITTERING

S.F. 177

AN ACT relating to motor vehicle operator prohibitions and restrictions including careless driving, littering, blood alcohol test certificates, and by establishing or making existing penalties applicable.

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

Section 1. Section 321.236, subsection 1, paragraph a, Code 1997, is amended to read as follows:

a. May be charged and collected upon a simple notice of a fine payable to the city clerk or clerk of the district court, if authorized by ordinance. The fine shall not exceed five dollars except for snow route parking violations in which case the fine shall not exceed twenty-five dollars. The fine may be increased up to ten dollars if the parking violation is not paid within thirty days of the date upon which the violation occurred, if authorized by ordinance. Violations of section 321L.4, subsection 2, may be charged and collected upon a simple notice of a ~~fifty~~ one hundred dollar fine payable to the city clerk or clerk of the district court, if authorized by ordinance. No costs or other charges shall be assessed. All fines collected by a city pursuant to this paragraph shall be retained by the city and all fines collected by a county pursuant to this paragraph shall be retained by the county.

Sec. 2. NEW SECTION. 321.277A CARELESS DRIVING.

A person commits careless driving if the person intentionally operates a motor vehicle on a public road or highway in any one of the following ways:

1. Creates or causes unnecessary tire squealing, skidding, or sliding upon acceleration or stopping.
2. Simulates a temporary race.
3. Causes any wheel or wheels to unnecessarily lose contact with the ground.
4. Causes the vehicle to unnecessarily turn abruptly or sway.

Sec. 3. Section 321.369, Code 1997, is amended to read as follows:

321.369 PUTTING DEBRIS ON HIGHWAY.

~~No~~ A person shall not throw or deposit upon ~~any~~ a highway any glass bottle, glass, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris. ~~No~~ A person shall not throw or deposit upon a highway a substance likely to injure any person, animal, or vehicle upon ~~such~~ the highway ~~shall be thrown or deposited by any person upon any highway~~. ~~Any~~ A person who violates ~~any provision of~~ this section or section 321.370 ~~shall be guilty of~~ commits a misdemeanor ~~and upon arrest and conviction therefor shall be punished~~ punishable as ~~provided in~~ a scheduled violation under section ~~321.482~~ 805.8, subsection 2, paragraph "ad".

Sec. 4. Section 321J.7, Code 1997, is amended to read as follows:

321J.7 DEAD OR UNCONSCIOUS PERSONS.

A person who is dead, unconscious, or otherwise in a condition rendering the person incapable of consent or refusal is deemed not to have withdrawn the consent provided by section 321J.6, and the test may be given if a licensed physician certifies in advance of the test that the person is dead, unconscious, or otherwise in a condition rendering that person incapable of consent or refusal. If the certification is oral, a written certification shall be completed by the physician within a reasonable time of the test.

Sec. 5. NEW SECTION. 321L.2A WHEELCHAIR LIFT WARNING CONE.

The department shall, upon the request of a person issued a handicapped parking permit under section 321L.2 who operates a motor vehicle with a wheelchair lift, provide the person

with a traffic cone bearing the international symbol of accessibility and the words "wheelchair lift space". The department shall adopt rules as necessary to implement this section.

Sec. 6. Section 321L.4, subsection 2, Code 1997, is amended to read as follows:

2. The use of a handicapped parking space, located on either public or private property as provided in sections 321L.5 and 321L.6, by a motor vehicle not displaying a handicapped parking permit; by a motor vehicle displaying a handicapped parking permit but not being used by a person in possession of a motor vehicle license with a handicapped designation or a nonoperator's identification card with a handicapped designation, other than a person issued a permit or being transported in accordance with section 321L.2, subsection 1, paragraph "b"; or by a motor vehicle in violation of the rules adopted by the department under section 321L.8, constitutes improper use of a handicapped parking permit, which is a misdemeanor for which a scheduled fine shall be imposed upon the owner, operator, or lessee of the motor vehicle or the person to whom the handicapped parking permit is issued. The scheduled fine for each violation shall be ~~one hundred dollars~~ as established in section 805.8, subsection 2, paragraph "a". Proof of conviction of two or more violations involving improper use of a handicapped parking permit is grounds for revocation by the court or the department of the holder's privilege to possess or use the handicapped parking permit.

Sec. 7. Section 321L.6, subsection 3, Code 1997, is amended to read as follows:

3. The handicapped parking sign shall include a sign stating that the scheduled fine for improperly using the handicapped parking space is ~~fifty dollars~~ as established in section 805.8, subsection 2, paragraph "a".

Sec. 8. Section 805.8, subsection 2, paragraph a, Code 1997, is amended to read as follows:

a. For parking violations under sections 321.236, 321.239, 321.358, 321.360, and 321.361, the scheduled fine is five dollars. The scheduled fine for a parking violation of section 321.236 increases in an amount up to ten dollars, as authorized by ordinance pursuant to section 321.236, subsection 1, paragraph "a", if the parking violation is not paid within thirty days of the date upon which the violation occurred. For purposes of calculating the unsecured appearance bond required under section 805.6, the scheduled fine shall be five dollars. However, violations charged by a city or county upon simple notice of a fine instead of a uniform citation and complaint as permitted by section 321.236, subsection 1, paragraph "a", are not scheduled violations, and this section shall not apply to any offense charged in that manner. For a parking violation under section 321.362 or 461A.38 the scheduled fine is ten dollars. For a parking violation under section 321L.4, subsection 2, the scheduled fine is ~~fifty~~ one hundred dollars.

Sec. 9. Section 805.8, subsection 2, Code 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. ad. For violations of section 321.277A, 321.369 or 321.370, the scheduled fine is twenty-five dollars.

Approved May 19, 1997

CHAPTER 148

SNOWMOBILES AND ALL-TERRAIN VEHICLES

S.F. 246

AN ACT relating to snowmobiles and all-terrain vehicles including the definition of all-terrain vehicle and by requiring title certificates, increasing snowmobile and all-terrain vehicle registration fees, providing for point of sale registration, and providing an effective date.

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

DIVISION I
CERTIFICATES OF TITLE

Section 1. NEW SECTION. 321G.29 OWNER'S CERTIFICATE OF TITLE — IN GENERAL.

1. The owner of a snowmobile acquired on or after January 1, 1998, other than a snowmobile used exclusively as a farm implement, shall apply to the county recorder of the county in which the owner resides for a certificate of title for the snowmobile. The owner of a snowmobile used exclusively as a farm implement may obtain a certificate of title.

2. A certificate of title shall contain the information and shall be issued on a form the department prescribes.

3. An owner of a snowmobile shall apply to the county recorder for issuance of a certificate of title within thirty days after acquisition. The application shall be on forms the department prescribes and accompanied by the required fee. The application shall be signed and sworn to before a notary public or other person who administers oaths, or shall include a certification signed in writing containing substantially the representation that statements made are true and correct to the best of the applicant's knowledge, information, and belief, under penalty of perjury. The application shall contain the date of sale and gross price of the snowmobile or the fair market value if no sale immediately preceded the transfer and any additional information the department requires. If the application is made for a snowmobile last previously registered or titled in another state or foreign country, the application shall contain this information and any other information the department requires.

4. If a dealer buys or acquires a snowmobile for resale, the dealer shall report the acquisition to the county recorder on forms provided by the department and may apply for and obtain a certificate of title as provided in this chapter. If a dealer buys or acquires a used snowmobile, the dealer may apply for a certificate of title in the dealer's name within fifteen days. If a dealer buys or acquires a new snowmobile for resale, the dealer may apply for a certificate of title in the dealer's name.

5. A manufacturer or dealer shall not transfer ownership of a new snowmobile without supplying the transferee with the manufacturer's or importer's certificate of origin signed by the manufacturer's or importer's authorized agent. The certificate shall contain information the department requires. The department may adopt rules providing for the issuance of a certificate of origin for a snowmobile by the department upon good cause shown by the owner.

6. A dealer transferring ownership of a snowmobile under this chapter shall assign the title to the new owner, or in the case of a new snowmobile, assign the certificate of origin. Within fifteen days the dealer shall forward all moneys and applications to the county recorder.

7. The county recorder shall maintain a record of any certificate of title which the county recorder issues and shall keep each certificate of title on record until the certificate of title has been inactive for five years. When issuing a title for a new snowmobile, the county recorder shall obtain and keep on file the certificate of origin.

8. Once titled, a person shall not sell or transfer ownership of a snowmobile without delivering to the purchaser or transferee a certificate of title with an assignment on it showing title in the purchaser or transferee. A person shall not purchase or otherwise acquire a snowmobile without obtaining a certificate of title for it in that person's name.

9. The county recorder shall transmit a copy of the certificate of title to the department, which shall be the central repository of title information for snowmobiles.

Sec. 2. NEW SECTION. 321G.30 FEES — SURCHARGE — DUPLICATES.

1. The county recorder shall charge a ten dollar fee to issue a certificate of title, a transfer of title, a duplicate, or a corrected certificate of title.

2. If a certificate of title is lost, stolen, mutilated, destroyed, or becomes illegible, the first lienholder or, if there is none, the owner named in the certificate, as shown by the county recorder's records, shall within thirty days obtain a duplicate by applying to the county recorder. The applicant shall furnish information the department requires concerning the original certificate and the circumstances of its loss, mutilation, or destruction. Mutilated or illegible certificates shall be returned to the department with the application for a duplicate.

3. The duplicate certificate of title shall be marked plainly "duplicate" across its face and mailed or delivered to the applicant.

4. If a lost or stolen original certificate of title for which a duplicate has been issued is recovered, the original shall be surrendered promptly to the department for cancellation.

5. Five dollars of the certificate of title fees collected under this section shall be remitted by the county recorder to the treasurer of state for deposit in the special conservation fund created under section 321G.7. The remaining five dollars shall be retained by the county and deposited into the general fund of the county.

Sec. 3. NEW SECTION. 321G.31 TRANSFER OR REPOSSESSION OF SNOWMOBILE BY OPERATION OF LAW.

1. If ownership of a snowmobile is transferred by operation of law, such as by inheritance, order in bankruptcy, insolvency, replevin, or execution sale, the transferee, within thirty days after acquiring the right to possession of the snowmobile, shall mail or deliver to the county recorder satisfactory proof of ownership as the county recorder requires, together with an application for a new certificate of title, and the required fee.

2. If a lienholder repossesses a snowmobile by operation of law and holds it for resale, the lienholder shall secure a new certificate of title and shall pay the required fee.

Sec. 4. NEW SECTION. 321G.32 SECURITY INTEREST — PERFECTION AND TITLES — FEE.

1. A security interest created in this state in a snowmobile is not perfected until the security interest is noted on the certificate of title.

a. To perfect the security interest, an application for security interest must be presented along with the original title. The county recorder shall note the security interest on the face of the title and on the copy in the recorder's office.

b. The application fee for a security interest is ten dollars. Five dollars of the fee shall be credited to the special conservation fund created under section 321G.7. The remaining five dollars shall be retained by the county and deposited into the general fund of the county.

2. The certificate of title shall be presented to the county recorder when the application for security interest or for assignment of the security interest is presented and a new or endorsed certificate of title shall be issued to the secured party with the name and address of the secured party upon it.

3. The secured party shall present the certificate of title to the county recorder when a release statement is filed and a new or endorsed certificate shall be issued to the owner.

DIVISION II
POINT OF SALE REGISTRATION

Sec. 5. Section 321G.15, Code 1997, is amended to read as follows:

321G.15 OPERATION PENDING REGISTRATION.

The commission shall furnish snowmobile and all-terrain vehicle dealers with pasteboard cards bearing the words "registration applied for" and space for the date of purchase. An unregistered all-terrain vehicle or snowmobile sold by a dealer shall bear one of these cards which entitles the purchaser to operate it for ten days immediately following the purchase. The purchaser of a registered all-terrain vehicle or snowmobile may operate it for ten days immediately following the purchase, without having completed a transfer of registration. ~~A person who purchases an all-terrain vehicle or snowmobile from a dealer shall, within five days of the purchase, apply for an all-terrain vehicle or snowmobile registration or transfer of registration.~~ A snowmobile or all-terrain vehicle dealer shall make application and pay all registration fees on behalf of the purchaser of a snowmobile or all-terrain vehicle.

DIVISION III
REGISTRATION FEES

Sec. 6. Section 321G.6, unnumbered paragraphs 1 and 2, Code 1997, are amended to read as follows:

Every all-terrain vehicle or snowmobile registration certificate and number issued expires at midnight December 31, and renewals expire every two years thereafter unless sooner terminated or discontinued in accordance with this chapter. After the first day of September each even-numbered year, an unregistered all-terrain vehicle or snowmobile and renewals may be registered for the subsequent biennium beginning January 1. An all-terrain vehicle or snowmobile registered between January 1 and September 1 of even-numbered years shall be registered for a fee of ~~ten dollars~~ twelve dollars and fifty cents for the remainder of the registration period.

After the first day of September in even-numbered years an unregistered all-terrain vehicle or snowmobile may be registered for the remainder of the current registration period and for the subsequent registration period in one transaction. The fee shall be five dollars for the remainder of the current period, in addition to the registration fee of ~~twenty~~ twenty-five dollars for an all-terrain vehicle and twenty-five dollars for a snowmobile for the subsequent biennium beginning January 1, and a writing fee. Registration certificates and numbers may be renewed upon application of the owner in the same manner as provided in securing the original registration. The all-terrain vehicle or snowmobile registration fee is in lieu of personal property tax for each year of the registration.

DIVISION IV
DEFINITIONS

Sec. 7. Section 321.1, subsection 4, Code 1997, is amended to read as follows:

4. "All-terrain vehicle" means a motor vehicle designed to travel on three or more wheels and designed primarily for off-road recreational use but not including farm tractors or equipment, construction equipment, forestry vehicles, or lawn and grounds maintenance vehicles.

Sec. 8. Section 321G.1, subsection 1, Code 1997, is amended to read as follows:

1. "All-terrain vehicle" means a motorized flotation-tire vehicle with not less than three low pressure tires, but not more than six low pressure tires, or a two-wheeled off-road motorcycle, that is limited in engine displacement to less than eight hundred cubic centimeters and in total dry weight to less than seven hundred fifty pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

DIVISION V
EFFECTIVE DATE

Sec. 9. EFFECTIVE DATE. This Act takes effect January 1, 1998.

Approved May 19, 1997

CHAPTER 149

DISPOSITION OF CONDEMNED PROPERTY AND UNUSED RIGHT-OF-WAY

S.F. 432

AN ACT relating to the disposition of private property condemned under eminent domain or condemned or purchased as highway right-of-way property and providing an applicability date.

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

Section 1. NEW SECTION. 6B.56 DISPOSITION OF CONDEMNED PROPERTY.

1. If real property condemned pursuant to this chapter is not used for the purpose stated in the application filed pursuant to section 6B.3 and the condemner seeks to dispose of the real property, the condemner shall first offer the property for sale to the prior owner of the condemned property as provided in this section. For purposes of this section, the prior owner of the real property includes the successor in interest of the real property.

2. Before the real property may be offered for sale to the general public, the condemner shall notify the prior owner of the real property condemned in writing of the condemner's intent to dispose of the real property, of the current appraised value of the real property, and of the prior owner's right to purchase the real property within sixty days from the date the notice is served at a price equal to the current appraised value of the real property. The notice sent by the condemner as provided in this subsection shall be filed with the office of the recorder in the county in which the real property is located.

3. If the prior owner elects to purchase the real property at the price established in subsection 2, before the expiration of the sixty-day period, the prior owner shall notify the condemner in writing of this intention and file a copy of this notice with the office of the recorder in the county in which the real property is located.

4. The provisions of this section do not apply to the sale of unused right-of-way property as provided in chapter 306.

Sec. 2. Section 306.23, Code 1997, is amended to read as follows:

306.23 NOTICE — PREFERENCE OF SALE.

1. ~~For the sale of unused right-of-way notice of intention to sell the tract, parcel, or piece of land, or part thereof, must be sent, not less than ten days prior to the sale, by certified mail, by the~~ The agency in control of ~~the land,~~ a tract, parcel, or piece of land, or part thereof, which is unused right-of-way shall send by certified mail to the last known address of the present owner of adjacent land from which the tract, parcel, piece of land, or part thereof, was originally ~~bought~~ purchased or condemned for highway purposes, and ~~if located in a city, to the mayor~~ to the person who owned the land at the time it was purchased or condemned for highway purposes, notice of the agency's intent to sell the land, the name and address of any other person to whom a notice was sent, and the fair market value of the real property based upon an appraisal by an independent appraiser.

2. The notice shall give an opportunity to the present owner of adjacent property and to the person who owned the land at the time it was purchased or condemned for highway purposes to be heard and make offers within sixty days of the date the notice is mailed for the tract, parcel, or piece of land to be sold~~, and if the offer is equal to~~. An offer which equals or exceeds in amount any other offer received~~, it~~ and which equals or exceeds the fair market value of the property shall be given preference by the agency in control of the land. ~~Neglect or failure for any reason, to comply with the notice, does not prevent the giving of a clear title to the purchaser of the tract, parcel, or piece of land.~~ If no offers are received within sixty days or if no offer equals or exceeds the fair market value of the land, the agency shall transfer the land for a public purpose or proceed with the sale of the property.

3. For the purposes of this section, "public purpose" means the transfer to a state agency or a city, county, or other political subdivision for a public purpose.

Sec. 3. APPLICABILITY DATE. Section 2 of this Act applies only to decisions to dispose of unused right-of-way made on or after July 1, 1997.

Approved May 19, 1997

CHAPTER 150

CONSTRUCTION OR EXPANSION OF ANIMAL FEEDING OPERATION STRUCTURES

S.F. 472

AN ACT prohibiting a habitual violator or person charged with violation from constructing or expanding an animal feeding operation structure, and providing an effective date.

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

Section 1. NEW SECTION. 455B.202 CONFINEMENT FEEDING OPERATIONS — PENDING ACTIONS AND HABITUAL VIOLATORS.

1. As used in this section, "construction" means the same as defined by rules adopted by the department applicable to the construction of animal feeding operation structures as provided in this part.

2. a. A person shall not construct or expand an animal feeding operation structure which is part of a confinement feeding operation, if the person is a party to a pending action for a violation of this chapter concerning a confinement feeding operation in which the person has a controlling interest and the action is commenced in district court by the attorney general.

b. A person shall not construct or expand an animal feeding operation structure which is part of a confinement feeding operation 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.

3. This section shall not prohibit a person from completing the construction or expansion of an animal feeding operation structure, if any of the following apply:

a. The person has an unexpired permit for the construction or expansion of the animal feeding operation structure.

b. The person is not required to obtain a permit for the construction or expansion of the animal feeding operation structure.

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

Approved May 19, 1997

CHAPTER 151

CHILD DAY CARE

S.F. 541

AN ACT relating to child day care provisions involving group day care homes and establishing a child care home pilot project.

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

Section 1. Section 237A.1, subsection 8, paragraph b, Code 1997, is amended to read as follows:

b. "Group day care home" means a facility providing child day care for more than six but less than twelve children as authorized in accordance with section 237A.3, subsection 2, or for less than sixteen children at any one time as authorized in accordance with section 237A.3, subsection 3~~, provided each child in excess of six children is attending school in kindergarten or a higher grade level~~.

Sec. 2. Section 237A.3, subsection 2, Code 1997, is amended to read as follows:

2. a. A person shall not operate or establish a group day care home unless the person obtains a certificate of registration under this chapter. ~~In order to be registered, the group day care home shall have at least one responsible individual, age fourteen or older, on duty to assist the group day care home provider when there are more than six children present for more than a two-hour period.~~ Two persons who comply with the individual requirements for registration as a group day care provider may request that the certificate be issued to the two persons jointly and the department shall issue the joint certificate provided the group day care home requirements for registration are met. All other requirements of this chapter for registered family day care homes and the rules adopted under this chapter for registered family day care homes apply to group day care homes. In addition, the department shall adopt rules relating to the provision in group day care homes for a separate area for sick children. In consultation with the state fire marshal, the department shall adopt rules relating to the provision of fire extinguishers, smoke detectors, and two exits accessible to children.

b. Except as provided in subsection 3, a group day care home shall not provide child day care to more than eleven children at any one time. If there are more than six children present for a period of two hours or more, the group day care home must have at least one responsible individual who is at least fourteen years of age present to assist the group day care provider in accordance with either of the following conditions:

(1) If the responsible individual is a joint holder of the certificate of registration, not more than four of the children present shall be less than twenty-four months of age and not more than ten of the children present shall be twenty-four months of age or older but not attending school in kindergarten or a higher grade level.

(2) If the responsible individual is not a joint holder of the certificate of registration, but is at least fourteen years of age, not more than four of the children shall be less than twenty-four months of age and each child in excess of six children shall be attending school in kindergarten or a higher grade level.

Sec. 3. NEW SECTION. 237A.3A REGISTRATION OF CHILD CARE HOMES.

1. PILOT PROJECT. The department shall implement a pilot project applying the provisions of this section to registered family or group day care homes located in one county of this state. The provisions of this section shall not apply to unregistered family day care homes located in the pilot project county. The county selected for the pilot project shall be a rural county where there is interest among child day care providers and consumers in implementing the pilot project. In addition, if deemed feasible by the department, the department may implement the pilot project in one additional urban or mixed rural and urban county where there is interest in implementing the pilot project. The department shall implement the pilot project on or after July 1, 1997. If a definition in section 237A.1, a provision in section 237A.3, or an administrative rule adopted under this chapter is in conflict with this section, this section and the rules adopted to implement this section shall apply to the pilot project.

2. DEFINITIONS. For the purposes of this section, unless the context otherwise requires:

a. "Child care home" means a person registered under this section to provide child day care in a pilot project county.

b. "Children receiving care on a part-time basis" means children who are present in a child care home for ninety hours per month or less.

c. "Infant" means a child who is less than twenty-four months of age.

d. "School" means kindergarten or a higher grade level.

3. REGISTRATION.

a. The registration process for a child care home under this section shall be repeated on an annual basis as provided by rule.

b. A person who is a child foster care licensee under chapter 237 must register as a child care home provider in order to operate or establish a child care home in a pilot project county.

c. A person or program in a pilot project county which provides care, supervision, or guidance to a child which is not defined as child day care under section 237A.1, may be issued a certificate of registration under this section.

d. Four levels of registration requirements are applicable to registered child care homes in accordance with subsections 10 through 13 and rules adopted to implement this section. The rules shall apply requirements to each level for the amount of space available per child, provider qualifications and training, and other minimum standards.

4. NUMBER OF CHILDREN. In determining the number of children cared for at any one time in a child care home, each child present in the child care home shall be considered to be receiving care unless the child is described by one of the following exceptions:

a. The child's parent, guardian, or custodian operates or established the child care home and the child is attending school or the child receives child day care full-time on a regular basis from another person.

b. The child has been present in the child care home for more than seventy-two consecutive hours and meets the requirements of paragraph "a" as though the person who operates or established the child care home is the child's parent, guardian, or custodian.

5. REGISTRATION CERTIFICATE. The department shall issue a certificate of registration upon receipt of a statement from the child care home or an inspection verifying that the child care home complies with rules adopted by the department. The certificate of registration shall be posted in a conspicuous place in the child care home and shall state the name of the registrant, the registration level of the child care home, the number of children who may be present for care at any one time, and the address of the child care home. In addition, the certificate shall include a check list of registration compliances.

6. REVOCATION OR DENIAL OF REGISTRATION. If the department has denied or revoked a certificate of registration because a person has continually or repeatedly failed to operate a registered or licensed child day care facility in compliance with this chapter and rules adopted pursuant to this chapter, the person shall not operate or establish a registered

child care home for a period of six months from the date the registration or license is denied or revoked. The department shall not act on an application for registration submitted by the person during the six-month period.

7. INCLEMENT WEATHER EXCEPTION. If school classes have been cancelled due to inclement weather, a registered child care home may have additional children present in accordance with the authorization for the registration level of the child care home and subject to all of the following conditions:

a. The child care home has prior written approval from the parent or guardian of each child present in the child care home concerning the presence of additional children in the child care home.

b. The child care home has a responsible individual, age fourteen or older, on duty to assist the care provider as required for the registration level of the child care home pursuant to subsections 10 through 13.

c. One or more of the following conditions is applicable to each of the additional children present in the child care home:

(1) The child care home provides care to the child on a regular basis for periods of less than two hours.

(2) If the child was not present in the child care home, the child would be unattended.

(3) The child care home regularly provides care to a sibling of the child.

8. FIRE SAFETY. In consultation with the state fire marshal, the department shall adopt rules relating to the provision of fire extinguishers, smoke detectors, and two exits accessible to children in a registered child care home.

9. SICK CHILDREN. The department shall adopt rules relating to the provision of a separate area for sick children in those child care homes which are registered at levels III and IV.

10. LEVEL I REGISTRATION. All of the following requirements shall apply to a level I registered child care home:

a. Except as otherwise provided in this subsection, not more than six children shall be present at any one time.

b. Not more than three children who are infants shall be present at any one time.

c. In addition to the number of children authorized in paragraph "a", not more than two children who attend school may be present for a period of less than two hours at any one time.

d. Not more than eight children shall be present at any one time when an inclement weather exception is in effect.

11. LEVEL II REGISTRATION. All of the following requirements shall apply to a level II registered child care home:

a. Except as otherwise provided in this subsection, not more than six children shall be present at any one time.

b. Not more than three children who are infants shall be present at any one time.

c. In addition to the number of children authorized in paragraph "a", not more than four children who attend school may be present for a period of less than two hours at any one time.

d. In addition to the number of children authorized in paragraph "a", not more than two children who are receiving care on a part-time basis may be present.

e. Not more than twelve children shall be present at any one time when an inclement weather exception is in effect. However, if more than eight children are present during an inclement weather exception, the provider shall be assisted by a responsible individual who is at least fourteen years of age.

12. LEVEL III REGISTRATION. All of the following requirements shall apply to a level III registered child care home:

a. Except as otherwise provided in this subsection, not more than six children shall be present at any one time.

b. Not more than three children who are infants shall be present at any one time.

c. In addition to the number of children authorized in paragraph "a", not more than four children who attend school may be present.

d. In addition to the number of children authorized in paragraph "a", not more than two children who are receiving care on a part-time basis may be present.

e. Not more than twelve children shall be present at any one time when an inclement weather exception is in effect.

f. If more than eight children are present at any one time, the provider shall be assisted by a responsible individual who is at least fourteen years of age.

13. LEVEL IV REGISTRATION. All of the following requirements shall apply to a level IV registered child care home:

a. Except as otherwise provided in this subsection, not more than twelve children shall be present at any one time. If more than seven children are present, a second person must be present who meets the individual qualifications for child care home registration established by rule of the department.

b. Not more than four children who are infants shall be present at any one time.

c. In addition to the number of children authorized in paragraph "a", not more than two children who attend school may be present for a period of less than two hours at any one time.

d. In addition to the number of children authorized in paragraph "a", not more than two children who are receiving care on a part-time basis may be present.

e. Not more than sixteen children shall be present at any one time when an inclement weather exception is in effect. If more than eight children are present at any one time during an inclement weather exception, the provider shall be assisted by a responsible individual who is at least eighteen years of age.

Sec. 4. PILOT PROJECT REPORT. The department of human services shall periodically report to the general assembly concerning the pilot project implemented pursuant to this Act. The report shall include findings and recommendations as to the advantages and disadvantages of the pilot project approach. An initial report shall be submitted in February 1998 and a progress report shall be submitted in December 1998. The reports shall address the feasibility of implementing the pilot project statewide.

Sec. 5. EMERGENCY RULES. The department of human services may adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of this Act and the rules shall become effective immediately upon filing, unless the effective date is delayed by the administrative rules review committee, notwithstanding section 17A.4, subsection 5, and section 17A.8, subsection 9, or a later effective date is specified in the rules. Any rules adopted in accordance with this section shall not take effect before the rules are reviewed by the administrative rules review committee. Any rules adopted in accordance with the provisions of this section shall also be published as a notice of intended action as provided in section 17A.4.

Approved May 19, 1997

CHAPTER 152

RURAL IMPROVEMENT ZONES

S.F. 544

AN ACT relating to the designation of unincorporated areas of a county as rural improvement zones, providing for improvement projects in the zones, authorizing the issuance of certificates of indebtedness, and payment of the indebtedness by tax increment financing and an annual standby tax by such zones.

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

Section 1. NEW SECTION. 357H.1 RURAL IMPROVEMENT ZONES.

The board of supervisors of a county, with less than eleven thousand five hundred residents but more than ten thousand five hundred residents, based upon the 1990 certified federal census, and with a private lake development, shall designate an area surrounding the lake, if it is an unincorporated area of the county, a rural improvement zone upon receipt of a petition pursuant to section 357H.2, and upon the board's determination that the area is in need of improvements. For purposes of this chapter, "improvements" means dredging, installation of erosion control measures, land acquisition, and related improvements.

For purposes of this chapter, "board" means the board of supervisors of the county.

Sec. 2. NEW SECTION. 357H.2 PETITION FOR PUBLIC HEARING.

1. The board shall, on the petition of twenty-five percent of the residents of a proposed rural improvement zone, if the assessed valuation of the property owned by the petitioners represents at least twenty-five percent of the total assessed value of the proposed zone, hold a public hearing concerning the establishment of a proposed zone. The petition shall include a statement containing the following information:

a. The need for the proposed zone.

b. A description of the boundaries of the proposed zone.

c. The approximate number of families in the proposed zone.

2. The board may require the petitioners to post a bond conditioned upon the payment of all costs and expenses incurred in the proceedings if the zone is not established.

Sec. 3. NEW SECTION. 357H.3 TIME OF PUBLIC HEARING.

The public hearing required in section 357H.2 shall be held within thirty days of the presentation of the petition. Notice of hearing shall be given by publication as provided in section 331.305.

Sec. 4. NEW SECTION. 357H.4 HEARING ON PETITION — ACTION BY BOARD.

At the public hearing required in section 357H.3, the board may consider the boundaries of a proposed rural improvement zone, whether the boundaries shall be as described in the petition or otherwise, and for that purpose may amend the petition and change the boundaries of the proposed zone as stated in the petition. The board may adjust the boundaries of a proposed zone as needed to exclude land that has no reasonable likelihood of benefit from inclusion in a rural improvement zone. However, the boundaries of a proposed zone shall not be changed to incorporate property which is not included in the original petition.

Within ten days after the hearing, the board shall establish the rural improvement zone by resolution or disallow the petition. However, the zone shall not include any area which is part of an urban renewal area under chapter 403.

Sec. 5. NEW SECTION. 357H.5 ELECTION OF CANDIDATES FOR TRUSTEES.

When a preliminary plat has been approved by the board, an election shall be held within the rural improvement zone within sixty days to choose candidates for the offices of trustees of the zone. Notice of the election shall be given as provided in section 357H.3.

Sec. 6. NEW SECTION. 357H.6 TRUSTEES — TERM AND QUALIFICATION.

The election of trustees of a rural improvement zone shall take place at a special election on ballots which shall not reflect a nominee's political affiliation. Nomination shall be made by petition in accordance with chapter 45. The petition form shall be furnished by the county commissioner of elections, signed by eligible electors of the rural improvement zone equal in number to one percent of the vote cast within the zone for governor in the last previous general election, and shall be filed with the county commissioner of elections. A plurality shall be sufficient to elect the five trustees of the rural improvement zone, and no primary election for that office shall be held. At the original election, two trustees shall be elected for one year, two for two years, and one for three years. The terms of the succeeding trustees are for three years. The trustees must be residents of the zone. Vacancies on the board shall be filled by appointment by the remaining trustees.

Sec. 7. NEW SECTION. 357H.7 BOARD OF TRUSTEES — POWER.

The trustees of a rural improvement zone elected pursuant to section 357H.6 shall constitute the board of trustees of the zone and shall manage and control the affairs, property, and facilities of the zone. The board of trustees shall elect a president, a clerk, and a treasurer from its membership. The trustees may authorize construction, reconstruction, or repair of improvements within the zone following procedures set out in section 331.341. For these purposes, the trustees may purchase material, employ personnel, acquire real estate and interests in real estate, and perform all other acts necessary to properly maintain and operate the zone. The trustees are allowed necessary expenses in the discharge of their duties, but they shall not receive a salary.

Sec. 8. NEW SECTION. 357H.8 CERTIFICATES.

To provide funds for the payment of the costs of improvement projects, the board of trustees may borrow money and issue and sell certificates payable from a sufficient portion of the future receipts of tax revenue authorized pursuant to section 357H.9 and the standby tax in subsection 4 of this section. The receipts shall be pledged to the payment of principal of and interest on the certificates.

1. Certificates may be sold at public sale or at private sale at par, premium, or discount at the discretion of the board of trustees. Chapter 75 does not apply to the issuance of these certificates.

2. Certificates may be issued with respect to a single improvement project or multiple projects and may contain terms or conditions as the board of trustees may provide by resolution authorizing the issuance of the certificates. However, certificates shall not be issued after January 1, 2007, except to refund other certificates as provided in subsection 3.

3. Certificates issued to refund other certificates may be sold at public sale or at private sale as provided in this section with the proceeds from the sale to be used for the payment of the certificates being refunded. The refunding certificates may be exchanged in payment and discharge of the certificates being refunded, in installments at different times, or an entire issue or series at one time. Refunding certificates may be sold or exchanged at any time on, before, or after the maturity of the outstanding certificates to be refunded, may be issued for the purpose of refunding a like, greater, or lesser principal amount of certificates, and may bear a rate of interest higher or lower than, or equivalent to the rate of interest on certificates being renewed or refunded.

4. To further secure the payment of the certificates, the board of trustees shall, by resolution, provide for the assessment of an annual levy of a standby tax upon all taxable property within the rural improvement zone. A copy of the resolution shall be sent to the county auditor. The revenues from the standby tax shall be deposited in a special fund and shall be expended only for the payment of principal of and interest on the certificates issued as provided in this section, when the receipt of tax revenues pursuant to section 357H.9 is insufficient. If payments are necessary and made from the special fund, the amount of the payments shall be promptly repaid into the special fund from the first available payments

received which are not required for the payment of principal of or interest on certificates due. No reserves may be built up in the special fund in anticipation of a projected default. The board of trustees shall adjust the annual standby tax levy for each year to reflect the amount of revenues in the special fund and the amount of principal and interest which is due in that year.

5. Before certificates are issued, the board of trustees shall publish a notice of its intention to issue the certificates, stating the amount, the purpose, and the improvement project or projects for which the certificates are to be issued. A person may, within fifteen days after the publication of the notice, appeal the decision of the board of trustees in proposing to issue the certificates to the district court in the county in which the rural improvement zone exists. The action of the board of trustees in determining to issue the certificates is final and conclusive unless the district court finds that the board of trustees has exceeded its legal authority. An action shall not be brought which questions the legality of the certificates, the power of the board of trustees to issue the certificates, the effectiveness of any proceedings relating to the authorization of the project, or the authorization and issuance of the certificates after fifteen days from the publication of the notice of intention to issue.

6. The board of trustees shall determine if revenues are sufficient to secure the faithful performance of obligations.

Sec. 9. NEW SECTION. 357H.9 INCREMENTAL PROPERTY TAXES.

The board of trustees shall provide by resolution that taxes levied on the taxable property in a rural improvement zone each year by or for the benefit of the state, city, county, school district, or other taxing district after the effective date of the resolution shall be divided as provided in section 403.19, subsections 1 and 2, in the same manner as if the taxable property in the rural improvement zone was taxable property in an urban renewal area and the resolution was an ordinance within the meaning of those subsections. The taxes received by the board of trustees shall be allocated to, and when collected be paid into, a special fund and may be irrevocably pledged by the trustees to pay the principal of and interest on the certificates issued by the trustees to finance or refinance, in whole or in part, an improvement project. As used in this section, "taxes" includes, but is not limited to, all levies on an ad valorem basis upon land or real property located in the rural improvement zone.

Sec. 10. NEW SECTION. 357H.10 DISSOLUTION OF ZONE.

The rural improvement zone shall be dissolved upon the adoption of a resolution of the board of trustees which specifies that all improvements have been made in the zone and all indebtedness has been paid. Upon dissolution of the zone, all assets shall be deeded to a nonprofit corporation whose members are property owners of the improvement zone.

Approved May 19, 1997

CHAPTER 153

CENTRALIZED STATE DEBT COLLECTION — INFORMATION — DRIVERS LICENSES

S.F. 545

AN ACT relating to the nonrenewal or suspension of motor vehicle licenses for failure to pay indebtedness owed to or being collected by the state in pilot project counties, and providing an effective date.

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

Section 1. Section 321.210B, Code 1997, is amended to read as follows:

321.210B NONRENEWAL, OR SUSPENSION FOR FAILURE TO PAY INDEBTEDNESS OWED TO THE STATE.

The department shall suspend or refuse to renew 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 or shall not be renewed until such time as the department of revenue and finance notifies the state 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. 2. 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. However, a county may voluntarily participate in the pilot project and the department shall include such a county 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, if a driver's license is not renewed, 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 the effective date of this Act. The department shall submit a report to the governor and the general assembly by April 1, 1998, 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 this section.

Sec. 3. Section 421.17, subsection 34, paragraph i, Code 1997, is amended to read as follows:

i. The director may distribute to credit reporting entities and 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~~ administer 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. 4. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 19, 1997

CHAPTER 154

TAX TREATMENT OF SUBCHAPTER S FINANCIAL INSTITUTIONS AND THEIR SHAREHOLDERS

S.F. 553

AN ACT relating to the tax treatment of financial institutions and their shareholders which have made an election under subchapter S of the Internal Revenue Code and including a retroactive applicability date provision.

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

Section 1. NEW SECTION. 422.11 FRANCHISE TAX CREDIT.

The taxes imposed under this division, less the credits allowed under section 422.12, shall be reduced by a franchise tax credit. A taxpayer who is a shareholder in a financial institution, as defined in section 581 of the Internal Revenue Code, which has in effect for the tax year an election under subchapter S of the Internal Revenue Code shall compute the amount of the tax credit by recomputing the amount of tax under this division by reducing the taxable income of the taxpayer by the taxpayer's pro rata share of the items of income and expense of the financial institution and subtracting the credits allowed under section 422.12. This recomputed tax shall be subtracted from the amount of tax computed under this division after the deduction for credits allowed under section 422.12. The resulting amount, which shall not exceed the taxpayer's pro rata share of the franchise tax paid by the financial institution, is the amount of the franchise tax credit allowed.

Sec. 2. Section 422.61, subsection 3, Code 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. Where a financial institution as defined in section 581 of the Internal Revenue Code is not subject to income tax and the shareholders of the financial institution are taxed on the financial institution's income under the provisions of the Internal Revenue Code, such tax treatment shall be disregarded and the financial institution shall compute its net income for franchise tax purposes in the same manner under this subsection as a financial institution that is subject to or liable for federal income tax under

the Internal Revenue Code in effect for the applicable year.

Sec. 3. This Act applies retroactively to January 1, 1997, for tax years beginning on or after January 1, 1997.

Approved May 19, 1997

CHAPTER 155

SCHOOL IMPROVEMENT TECHNOLOGY PROGRAM

H.F. 92

AN ACT relating to eligibility for receipt of moneys under the school improvement technology program.

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

Section 1. Section 295.2, subsections 2 and 8, Code 1997, are amended to read as follows:

2. From the moneys appropriated in subsection 1 other than the moneys allocated in subsection 3, for each fiscal year in which moneys are appropriated, the amount of moneys allocated to school districts shall be in the proportion that the basic enrollment of a district bears to the sum of the basic enrollments of all school districts in the state for the budget year. However, except as provided in subsection 8, a district shall not receive less than fifteen thousand dollars in a fiscal year. The Iowa braille and sight saving school, the state school for the deaf, and the Price laboratory school at the university of northern Iowa shall annually certify their basic enrollments to the department of education by October 1. The department of human services shall certify the average student yearly enrollments of the ~~state training school, the Iowa juvenile home, Woodward state hospital-school, and Glenwood state hospital-school~~ institutions under department of human services control as provided in section 218.1, subsections 1 through 3, 5, 7, and 8, to the department of education by October 1.

8. For purposes of this section, "school district" means a school district, the Iowa braille and sight saving school, the state school for the deaf, the Price laboratory school at the university of northern Iowa, ~~the state training school, the Iowa juvenile home, Woodward state hospital-school, and Glenwood state hospital-school~~ and the institutions under the control of the department of human services as provided in section 218.1, subsections 1 through 3, 5, 7, and 8. However, notwithstanding subsection 2, the amount of moneys allocated to the institutions under the control of the department of human services as provided in section 218.1, subsections 1, 2, 3, and 5, shall be a total of not more than forty-five thousand dollars for each fiscal year, to be distributed proportionately between the four institutions by the department of education.

Sec. 2. Section 295.3, Code 1997, is amended to read as follows:

295.3 SCHOOL IMPROVEMENT TECHNOLOGY PLANNING.

1. ~~The~~ Prior to receiving funds under this chapter, the board of directors of a school district shall adopt a technology plan that supports school improvement technology efforts and includes an evaluation component. The plan shall be developed by licensed professional staff of the district, including both teachers and administrators. The plan shall, at a minimum, focus on the attainment of student achievement goals under sections 280.12 and 280.18, shall consider the district's interconnectivity with the Iowa communications net-

work, and shall demonstrate how, over a four-year period, the board will utilize technology to improve student achievement. A district needs to develop only one plan while this chapter is effective. ~~Technology plans~~ The technology plan shall be kept on file in the district and a copy of the plan, and any subsequent amendments to the plan, shall be sent to the appropriate area education agency. Progress made under ~~these plans~~ the plan shall be included as part of the annual report submitted to the department of education in compliance with sections 280.12 and 280.18.

2. ~~Each~~ Prior to receiving funds under this chapter, each area education agency shall develop a plan to assist school districts in the development of a technology planning process to meet the purposes of this chapter. The plan shall describe how the area education agency intends to support school districts with instructional technology staff development and training. ~~For the fiscal year beginning July 1, 1996, and ending June 30, 1997, prior to the receipt of funds, each area education agency shall provide the department of education adequate assurance that a technology plan as required under this section has been or is being developed. For the fiscal year beginning July 1, 1997, and for each succeeding fiscal year, each area education agency shall submit its plan to the department of education.~~ The department shall approve each plan prior to the disbursement of funds. An area education agency needs to develop only one plan and send it to the department of education while this chapter is effective. An annual progress report shall be submitted to the department of education.

3. ~~The~~ Prior to receiving funds under this chapter, the Iowa braille and sight saving school, the state school for the deaf, and the Price laboratory school at the university of northern Iowa shall each develop a technology plan that supports and improves student achievement, demonstrates how technology will be utilized to improve student achievement, and includes an evaluation component. ~~Plans and an~~ The schools listed in this subsection need to develop only one plan each to send to the state board of regents and the department of education while this chapter is effective. An annual progress report shall be submitted to the state board of regents and the department of education.

4. The ~~state training school, the Iowa juvenile home, and the Glenwood and Woodward state hospital-schools~~ institutions under the control of the department of human services as provided in section 218.1, subsections 1 through 3, 5, 7, and 8, shall each develop a technology plan that supports and improves student achievement, demonstrates the manner in which technology will be utilized to improve student achievement, and includes an evaluation component. ~~Plans and an~~ Each institution developing a plan under this subsection needs to develop only one plan to send to the departments of human services and education while this chapter is effective. Each institution shall submit an annual progress report ~~shall be submitted~~ to the departments of human services and education.

Approved May 19, 1997

CHAPTER 156

LEGALIZATION OF CERTAIN CITY AND COUNTY DEEDS AND CONVEYANCES

H.F. 114

AN ACT to legalize certain city and county deeds and conveyances.

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

Section 1. NEW SECTION. 589.31 CITY OR COUNTY DEEDS.

All deeds and conveyances of land executed by or purporting to be executed by the govern-

ing body of a city or county, and placed of record more than ten years earlier, which deeds or conveyances purport to sustain the record title, are legalized and valid, even though the record fails to show that all necessary steps in the conveyance and deeding of the property were complied with. The deeds and conveyances are legalized and valid as if the record showed that the law had been complied with, and that the conveyances and deeding had been duly authorized by the governing body of the city or county.

Approved May 19, 1997

CHAPTER 157

NOTICE OF APPRAISEMENT FOR INHERITANCE TAX PURPOSES

H.F. 218

AN ACT relating to service of notices of appraisement of property for state inheritance tax purposes.

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

Section 1. Section 450.28, Code 1997, is amended to read as follows:

450.28 NOTICE OF APPRAISEMENT.

It shall be the duty of all appraisers appointed under the provisions of this chapter, upon receiving a commission as herein provided, to give notice to the director of revenue and finance, the attorney of record of the estate, if any, and other persons known to be interested in the property to be appraised, of the time and place at which they will appraise such property, which time shall not be less than ten days from the date of such notice. The notice shall further state that the director of revenue and finance or any person interested in the estate or property appraised may, within sixty days after filing of the appraisement with the clerk of court, file objections to the appraisement. The notice shall be served ~~in the same manner as is prescribed for the commencement of civil actions, or in such other manner as the court in its discretion, may prescribe upon application of any appraiser or any interested party~~ by certified mail and such notice is deemed completed when the notice is deposited in the mail and postmarked for delivery.

Sec. 2. Section 450.29, Code 1997, is amended to read as follows:

450.29 NOTICE OF FILING.

Upon service of such notice and the making of such appraisement, the notice~~, return thereon~~ and appraisement shall be filed with the clerk, and a copy of the appraisement shall at once be filed by the clerk with the director of revenue and finance. The clerk shall send a notice, by ordinary mail, to the attorney of record of the estate, if any, to the personal representative of the estate, and to each person known to be interested in the estate or property appraised. The notice shall state the date the appraisement was filed with the clerk of court and shall include a copy of the appraisement.

Approved May 19, 1997

CHAPTER 158

TAX ADMINISTRATION AND RELATED MATTERS

H.F. 266

AN ACT relating to the administration of state individual income, corporate, franchise, motor fuel, and other taxes; collection of taxes and use of collection receipts; property taxes; property tax credits and replacement claims; sales, services, and use taxes and the imposition thereof on sales of prepaid telephone calling cards and prepaid authorization numbers; tax refund setoffs; and other duties of the department and director of revenue and finance; providing a penalty; and including effective and retroactive applicability date provisions.

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

Section 1. Section 321.19, subsection 1, unnumbered paragraph 2, Code 1997, 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 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, the alcoholic beverages division of the department of commerce, ~~and~~ the department of inspections and appeals, and the department of revenue and finance, 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. 2. Section 331.427, subsection 1, unnumbered paragraph 1, Code 1997, is amended to read as follows:

Except as otherwise provided by state law, county revenues from taxes and other sources for general county services shall be credited to the general fund of the county, including revenues received under sections 101A.3, 101A.7, 123.36, 123.143, 142B.6, 176A.8, 321.105, 321.152, 321G.7, 331.554, subsection 6, 341A.20, 364.3, 368.21, ~~422.65,~~ 422A.2, 428A.8, 430A.3, 433.15, 434.19, 445.57, 453A.35, 458A.21, 483A.12, 533.24, 556B.1, 567.10, 583.6, 602.8108, 904.908, and 906.17, and chapter 405A, and the following:

Sec. 3. NEW SECTION. 405A.10 FRANCHISE TAX REVENUE ALLOCATION.

For the fiscal year beginning July 1, 1997, and each subsequent fiscal year, there is appropriated from the general fund of the state to the department of revenue and finance the sum of eight million eight hundred thousand dollars which shall be paid quarterly on warrants by the director as allocated pursuant to section 422.65.

Sec. 4. Section 421.4, Code 1997, is amended to read as follows:

421.4 DEPUTIES.

The director may appoint deputy directors and may designate one or more of the deputies as acting director. A deputy designated to serve in the absence of the director has all of the powers possessed by the director. The director may employ certified public accountants, engineering and technical assistants, and other employees, or independent contractors necessary to protect the interests of the state and any political subdivision.

Sec. 5. Section 421.17, subsection 21, paragraph b, subparagraph (3), Code 1997, is amended to read as follows:

(3) The child support recovery unit, the foster care recovery unit, and the investigations division of the department of inspections and appeals shall, at least annually, submit to the department of revenue and finance for setoff the debts described in this subsection, ~~which are at least fifty dollars~~ constituting a minimum amount determined by rule of the department of revenue and finance, on a date to be specified by the department of human services and the department of inspections and appeals by rule.

Sec. 6. Section 421.17, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 22A. To develop, modify, or contract with vendors to create or administer systems or programs which identify nonfilers of returns or nonpayers of taxes administered by the department. Fees for services, reimbursements, or other remuneration paid under contract may be funded from the amount of tax, penalty, interest, or fees actually collected and shall be paid only after the amount is collected. An amount is appropriated from the amount of tax, penalty, interest, and fees actually collected, not to exceed the amount collected, which are sufficient to pay for services, reimbursement, or other remuneration pursuant to this subsection. Vendors entering into a contract with the department pursuant to this subsection are subject to the requirements and penalties of the confidentiality laws of this state regarding tax information.

Sec. 7. Section 421.17, subsection 23, paragraphs c, d, and g, Code 1997, are amended to read as follows:

c. The college student aid commission shall, at least annually, submit to the department of revenue and finance for setoff the guaranteed student loan defaults, ~~which are at least fifty dollars~~ constituting a minimum amount set by rule of the department of revenue and finance, on a date or dates to be specified by the college student aid commission by rule.

d. Upon submission of a claim, the department of revenue and finance shall notify the college student aid commission whether the defaulter is entitled to a refund or rebate of ~~at least fifty dollars~~ the minimum amount set by rule of the department and if so entitled shall notify the commission of the amount of the refund or rebate and of the defaulter's address on the income tax return. Section 422.72, subsection 1, does not apply to this paragraph.

g. The department of revenue and finance shall, after notice has been sent to the defaulter by the college student aid commission, set off the amount of the default against the defaulter's income tax refund or rebate ~~if both the amount of the default and the refund or rebate are at least fifty dollars~~ constituting a minimum amount set by rule of the department. The department shall refund any balance of the income tax refund or rebate to the defaulter. The department of revenue and finance shall periodically transfer the amount set off to the college student aid commission. If the defaulter gives written notice of intent to contest the claim, the commission shall hold the refund or rebate until final disposition of the contested claim pursuant to chapter 17A or by court judgment. The commission shall notify the defaulter in writing upon completion of setoff.

Sec. 8. Section 421.17, subsection 25, paragraph c, Code 1997, is amended to read as follows:

c. The clerk of the district court, on the first day of February and August of each calendar year, shall submit to the department for setoff the debts described in this subsection, ~~which~~

~~are at least fifty dollars~~ constituting a minimum amount set by rule of the department.

Sec. 9. Section 421.17, subsection 29, paragraphs a and e, Code 1997, are amended to read as follows:

a. For purposes of this subsection unless the context requires otherwise:

(1) "State agency" means a board, commission, department, including the department of revenue and finance, or other administrative office or unit of the state of Iowa or any other state entity reported in the Iowa comprehensive annual financial report. The term "state agency" does not include the general assembly, the governor, or any political subdivision of the state, or its offices and units.

(2) "Department" means the department of revenue and finance and any other state agency that maintains a separate accounting system and elects to establish a debt collection setoff procedure for collection of debts owed to the state or its agencies.

(3) The term "person" does not include a state agency.

e. Before setoff, the amount of a person's claim on a state agency and the amount of a person's liability to a state agency shall ~~be at least fifty dollars~~ constitute a minimum amount set by rule of the department.

Sec. 10. NEW SECTION. 421.61 UNCONSTITUTIONALLY WITHHELD TAX BENEFITS.

If a provision in the Code grants a tax benefit to taxpayers that is unconstitutionally withheld from other taxpayers as expressed in an Iowa attorney general's opinion based upon decisions of the Iowa supreme court, United States supreme court, or other courts of competent jurisdiction, the tax benefit shall also be granted to the adversely affected taxpayers as if the unconstitutional provision did not exist.

Sec. 11. Section 422.5, subsection 1, paragraph j, subparagraph (2), unnumbered paragraph 1, Code 1997, is amended to read as follows:

The tax imposed upon the taxable income of a resident shareholder in a value-added corporation which has in effect for the tax year an election under subchapter S of the Internal Revenue Code and carries on business within and without the state may be computed by reducing the amount determined pursuant to paragraphs "a" through "i" by the amounts of nonrefundable credits under this division and by multiplying this resulting amount by a fraction of which the resident's net income allocated to Iowa, as determined in section 422.8, subsection 2, paragraph "b", is the numerator and the resident's total net income computed under section 422.7 is the denominator. If a resident shareholder has elected to take advantage of this subparagraph, and for the next tax year elects not to take advantage of this subparagraph, the resident shareholder shall not reelect to take advantage of this subparagraph for the three tax years immediately following the first tax year for which the shareholder elected not to take advantage of this subparagraph, unless the director consents to the reelection. This ~~paragraph~~ subparagraph also applies to individuals who are residents of Iowa for less than the entire tax year.

Sec. 12. Section 422.20, subsection 3, unnumbered paragraph 1, Code 1997, is amended to read as follows:

Unless otherwise expressly permitted by section 421.17, subsections 21, 22, 22A, 23, 25, 29, and 32, sections 252B.9, 421.19, 421.28, 422.72, and 452A.63, and this section, a tax return, return information, or investigative or audit information shall not be divulged to any person or entity, other than the taxpayer, the department, or internal revenue service for use in a matter unrelated to tax administration.

Sec. 13. Section 422.32, subsection 4, Code 1997, is amended to read as follows:

4. "Corporation" includes joint stock companies, and associations organized for pecuniary profit, and ~~publicly traded~~ partnerships and limited liability companies taxed as corporations under the Internal Revenue Code.

Sec. 14. Section 422.42, subsections 1 and 14, Code 1997, are amended to read as follows:

1. "Agricultural production" includes the production of flowering, ornamental, or vegetable plants in commercial greenhouses or otherwise and production from aquaculture. "Agricultural products" include flowering, ornamental, or vegetable plants and those products of aquaculture.

14. "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 use in cultivation of agricultural products by aquaculture, 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. 15. Section 422.43, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 12. A tax of five percent is imposed upon the gross receipts from the sales of prepaid telephone calling cards and prepaid authorization numbers. For the purpose of this division, the sales of prepaid telephone calling cards and prepaid authorization numbers are sales of tangible personal property.

Sec. 16. Section 422.45, subsection 7, unnumbered paragraph 1, Code 1997, is amended to read as follows:

A private nonprofit educational institution in this state, nonprofit private museum in this state, tax-certifying or tax-levying body or governmental subdivision of the state, including the state board of regents, state department of human services, state department of transportation, a municipally owned solid waste facility which sells all or part of its processed waste

as fuel to a municipally owned public utility, and all divisions, boards, commissions, agencies, or instrumentalities of state, federal, county, or municipal government which do not have earnings going to the benefit of an equity investor or stockholder, may make application to the department for the refund of the sales, services, or use tax upon the gross receipts of all sales of goods, wares, or merchandise, or from services rendered, furnished, or performed, to a contractor, used in the fulfillment of a written contract with the state of Iowa, any political subdivision of the state, or a division, board, commission, agency, or instrumentality of the state or a political subdivision, a private nonprofit educational institution in this state, or a nonprofit private museum in this state if the property becomes an integral part of the project under contract and at the completion of the project becomes public property, is devoted to educational uses, or becomes a nonprofit private museum; except goods, wares, or merchandise, or services rendered, furnished, or performed used in the performance of any contract in connection with the operation of any municipal utility engaged in selling gas, electricity, or heat to the general public or in connection with the operation of a municipal pay television system; and except goods, wares, and merchandise used in the performance of a contract for a "project" under chapter 419 as defined in that chapter other than goods, wares, or merchandise used in the performance of a contract for a "project" under chapter 419 for which a bond issue was approved by a municipality prior to July 1, 1968, or for which the goods, wares, or merchandise becomes an integral part of the project under contract and at the completion of the project becomes public property or is devoted to educational uses.

Sec. 17. Section 422.45, subsection 18, Code 1997, is amended to read as follows:

18. Gross receipts from the sale of tangible personal property, except vehicles subject to registration, to a person regularly engaged in the business of leasing if the period of the lease is for more than ~~one year~~ five months, or in the consumer rental purchase business if the property is to be utilized in a transaction involving a consumer rental purchase agreement as defined in section 537.3604, subsection 8, and the leasing or consumer rental of the property is subject to taxation under this division. If tangible personal property exempt under this subsection is made use of for any purpose other than leasing, renting, or consumer rental purchase, the person claiming the exemption under this subsection is liable for the tax that would have been due except for this subsection. The tax shall be computed upon the original purchase price. The aggregate of the tax paid on the leasing, renting, or rental purchase of such tangible personal property, not to exceed the amount of the sales tax owed, shall be credited against the tax. This sales tax is in addition to any sales or use tax that may be imposed as a result of the disposal of such tangible personal property.

Sec. 18. Section 422.45, subsection 39, paragraphs a and c, Code 1997, are amended to read as follows:

a. The implement, machinery, or equipment is directly and primarily used in livestock or dairy production, use in aquaculture 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, use in aquaculture production, or in the production of flowering, ornamental, or vegetable plants.

Sec. 19. Section 422.47, subsection 4, paragraph f, Code 1997, 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, for use in aquaculture production, 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.

Sec. 20. Section 422.53, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 8. a. Except as provided in paragraph "b", purchasers, users, and consumers of tangible personal property or enumerated services taxed pursuant to this division, chapter 423, or chapter 422B, may be authorized, pursuant to rules adopted by the director, to remit tax owed directly to the department instead of the tax being collected and paid by the seller. To qualify for a direct pay tax permit, the purchaser, user, or consumer must accrue a tax liability of more than four thousand dollars in tax under this division and chapter 423, in a semimonthly period and make deposits and file returns pursuant to section 422.52. This authority shall not be granted or exercised except upon application to the director and then only after issuance by the director of a direct pay tax permit.

b. The granting of a direct pay tax permit is not authorized for any of the following:

(1) Taxes imposed on the sales, furnishing, or service of gas, electricity, water, heat, pay television service, and communication service.

(2) Taxes imposed under sections 423.7 and 423.7A and chapter 422C.

Sec. 21. Section 422.65, Code 1997, is amended to read as follows:

422.65 ALLOCATION OF REVENUE.

All moneys received from the franchise tax shall be deposited in the state general fund. ~~Commencing with the fiscal year beginning July 1, 1993, there is appropriated for each fiscal year from the franchise tax money received and deposited in the state general fund the sum of eight million eight hundred thousand dollars which shall be paid quarterly on warrants by the director, after certification by the director,~~ Franchise tax moneys appropriated in section 405A.10 are allocated as follows:

1. Sixty percent to the general fund of the city from which the tax is collected.

2. Forty percent to the county from which the tax is collected.

If the financial institution maintains one or more offices for the transaction of business, other than its principal office, a portion of its franchise tax shall be allocated to each office, based upon a reasonable measure of the business activity of each office. The director shall prescribe, for each type of financial institution, a method of measuring the business activity of each office. Financial institutions shall furnish all necessary information for this purpose at the request of the director.

~~Quarterly, the director shall certify to the treasurer of state the amounts to be paid to each city and county from the state general fund. All moneys received from the franchise tax are appropriated according to the provisions of this section.~~

Sec. 22. Section 422.72, subsection 3, unnumbered paragraph 1, Code 1997, is amended to read as follows:

Unless otherwise expressly permitted by section 421.17, subsections 21, 22, 22A, 23, 25, 29, and 32, sections 252B.9, 421.19, 421.28, 422.20, and 452A.63, and this section, a tax return, return information, or investigative or audit information shall not be divulged to any person or entity, other than the taxpayer, the department, or internal revenue service for use in a matter unrelated to tax administration.

Sec. 23. Section 422.72, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 7. Notwithstanding subsection 3, the director shall provide state tax returns and return information in response to a subpoena issued by the court pursuant to rule of criminal procedure 5 commanding the appearance before the attorney general or an assistant attorney general if the subpoena is accompanied by affidavits from such person

and from a sworn peace officer member of the department of public safety affirming that the information is necessary for the investigation of a felony violation of chapter 124 or chapter 706B. The affidavits accompanying the subpoenas and the information provided by the director shall remain a confidential record which may be disseminated only to a prosecutor or peace officer involved in the investigation, or to the taxpayer who filed the information and to the court in connection with the filing of criminal charges or institution of a forfeiture action. A person who knowingly files a false affidavit with the director to secure information or who divulges information received under this subsection in a manner prohibited by this subsection commits a serious misdemeanor.

Sec. 24. Section 423.1, subsection 8, Code 1997, is amended to read as follows:

8. "Retailer maintaining a place of business in this state" or any like term includes any retailer having or maintaining within this state, directly or by a subsidiary, an office, distribution house, sales house, warehouse, or other place of business, or any ~~agent~~ representative operating within this state under the authority of the retailer or its subsidiary, irrespective of whether ~~such~~ that place of business or ~~agent~~ representative is located here permanently or temporarily, or whether the retailer or subsidiary is admitted to do business within this state pursuant to chapter 490.

Sec. 25. Section 423.25, Code 1997, 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 or service, 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 a tax is not due in this state on the personal property or service.

Sec. 26. Section 425.7, subsection 3, Code 1997, is amended to read as follows:

3. If the director of revenue and finance determines that a claim for homestead credit has been allowed by the board of supervisors which is not justifiable under the law and not substantiated by proper facts, the director may, at any time within thirty-six months from July 1 of the year in which the claim is allowed, set aside the allowance. Notice of the disallowance shall be given to the county auditor of the county in which the claim has been improperly granted and a written notice of the disallowance shall also be addressed to the claimant at the claimant's last known address. The claimant or board of supervisors may appeal to the state board of tax review pursuant to section 421.1, subsection 4. The claimant or the board of supervisors may seek judicial review of the action of the ~~director of revenue and finance~~ state board of tax review in accordance with ~~the Iowa administrative procedure Act~~ chapter 17A.

If a claim is disallowed by the director of revenue and finance and not appealed to the state board of tax review or appealed to and upheld by the state board of tax review and a petition for judicial review is not filed with respect to the disallowance, any amounts of credits allowed and paid from the homestead credit fund including the penalty, if any, become a lien upon the property on which credit was originally granted, if still in the hands of the claimant, and not in the hands of a bona fide purchaser, and any amount so erroneously paid including the penalty, if any, shall be collected by the county treasurer in the same manner as other taxes and the collections shall be returned to the department of revenue and finance and credited to the homestead credit fund. The director of revenue and finance may institute legal proceedings against a homestead credit claimant for the collection of payments made on disallowed credits and the penalty, if any. If a homestead credit is disallowed and the claimant failed to give written notice to the assessor as required by section 425.2 when the

property ceased to be used as a homestead by the claimant, a civil penalty equal to fifty percent of the amount of the disallowed credit is assessed against the claimant.

Sec. 27. Section 426A.6, Code 1997, is amended to read as follows:

426A.6 SETTING ASIDE ALLOWANCE.

If the director of revenue and finance determines that a claim for military service tax exemption has been allowed by a board of supervisors which is not justifiable under the law and not substantiated by proper facts, the director may, at any time within thirty-six months from July 1 of the year in which the claim is allowed, set aside the allowance. Notice of the disallowance shall be given to the county auditor of the county in which the claim has been improperly granted and a written notice of the disallowance shall also be addressed to the claimant at the claimant's last known address. The claimant or the board of supervisors may appeal to the state board of tax review pursuant to section 421.1, subsection 4. The claimant or the board of supervisors may seek judicial review of the action of the ~~director of revenue and finance~~ state board of tax review in accordance with chapter 17A. If a claim is disallowed by the director of revenue and finance and not appealed to the state board of tax review or appealed to and upheld by the state board of tax review and a petition for judicial review is not filed with respect to the disallowance, the credits allowed and paid from the general fund of the state become a lien upon the property on which the credit was originally granted, if still in the hands of the claimant and not in the hands of a bona fide purchaser, the amount so erroneously paid shall be collected by the county treasurer in the same manner as other taxes, and the collections shall be returned to the department of revenue and finance and credited to the general fund of the state. The director of revenue and finance may institute legal proceedings against a military service tax exemption claimant for the collection of payments made on disallowed exemptions.

Sec. 28. Section 426B.1, subsection 1, Code 1997, is amended to read as follows:

1. A property tax relief fund is created in the state treasury under the authority of the department of ~~revenue and finance~~ human services. 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 chapter. 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.

Sec. 29. Section 426B.4, Code 1997, is amended to read as follows:

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~~ human services in prescribing forms and adopting rules pursuant to chapter 17A to administer this chapter.

Sec. 30. Section 427.1, subsection 16, Code 1997, is amended to read as follows:

16. REVOKING EXEMPTION. Any taxpayer or any taxing district may make application to the director of revenue and finance for revocation for any exemption, based upon alleged violations of this chapter. The director of revenue and finance may also on the director's own motion set aside any exemption which has been granted upon property for which exemption is claimed under this chapter. The director of revenue and finance shall give notice by mail to the taxpayer or taxing district applicant and to the societies or organizations claiming an exemption upon property, exemption of which is questioned before or by the director of revenue and finance, and shall hold a hearing prior to issuing any order for revocation. An order made by the director of revenue and finance revoking or modifying an

exemption is subject to judicial review in accordance with chapter 17A, the Iowa administrative procedure Act. Notwithstanding the terms of that Act, petitions for judicial review may be filed in the district court having jurisdiction in the county in which the property is located, and must be filed within thirty days after any order revoking an exemption is made by the director of revenue and finance.

Sec. 31. Section 427.5, unnumbered paragraphs 1 and 2, Code 1997, are amended to read as follows:

A person named in section 427.3, who is a resident of and domiciled in the state of Iowa, shall receive a reduction equal to the exemption, to be made from any property owned by the person or owned by a family farm corporation of which the person is a shareholder and who occupies the property and so designated by proceeding as provided in the section. To be eligible to receive the exemption the person claiming it shall have recorded in the office of the county recorder of the county in which is located the property designated for the exemption, evidence of property ownership by that person or the family farm corporation of which the person is a shareholder and the military certificate of satisfactory service, order transferring to inactive status, reserve, retirement, order of separation from service, honorable discharge or a copy of any of these documents of the person claiming or through whom is claimed the exemption.

The person shall file with the appropriate assessor on forms obtained from the assessor the claim for exemption for the year for which the person is first claiming the exemption. The claim shall be filed not later than July 1 of the year for which the person is claiming the exemption. The claim shall set out the fact that the person is a resident of and domiciled in the state of Iowa, and a person within the terms of section 427.3, and shall give the volume and page on which the certificate of satisfactory service, order of separation, retirement, furlough to reserve, inactive status, or honorable discharge or certified copy thereof is recorded in the office of the county recorder, and may include the designation of the property from which the exemption is to be made, and shall further state that the claimant is the equitable or legal owner of the property designated or if the property is owned by a family farm corporation, that the person is a shareholder of that corporation and that the person occupies the property.

Sec. 32. Section 427B.19, subsection 3, unnumbered paragraph 1, Code 1997, is amended to read as follows:

On or before ~~July 1, 1996, and on or before July~~ September 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:

Sec. 33. Section 427B.19, subsection 4, Code 1997, is amended to read as follows:

4. The county auditor shall certify and forward one copy of the statement to the department of revenue and finance not later than ~~July~~ September 1 of each year.

Sec. 34. Section 427B.19A, subsection 2, Code 1997, is amended to read as follows:

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~~ September 30.

Sec. 35. Section 428.4, unnumbered paragraph 3, Code 1997, is amended to read as follows:

Any buildings erected, improvements made, or buildings or improvements removed in a year after the assessment of the class of real estate to which they belong, shall be valued, listed, and assessed and reported by the assessor to the county auditor after approval of the valuations by the local board of review, and ~~said~~ the auditor shall thereupon enter the taxable value of such building or taxable improvement on the tax list as a part of real estate to be taxed. If such buildings or improvements are erected or made by any person other than

the owner of the land, they shall be listed and assessed to the owner of the buildings or improvements as real estate.

Sec. 36. Section 440.1, Code 1997, is amended to read as follows:

440.1 ASSESSMENT OF OMITTED PROPERTY.

When the director of revenue and finance is vested with the power and duty to assess property and ~~said~~ an assessment has, for any reason, been omitted, the director shall proceed to assess ~~said~~ the property for each of the omitted years~~, not exceeding five years last past~~. The omitted assessment shall only apply to the assessment year in which the omitted assessment is made and the four prior assessment years. Chapter 429 shall apply to assessments of omitted property.

Sec. 37. Section 441.8, unnumbered paragraphs 6 and 7, Code 1997, are amended to read as follows:

Upon receiving credit equal to one hundred fifty hours of classroom instruction during the assessor's current term of office of which at least ninety of the one hundred fifty hours are from courses requiring an examination upon conclusion of the course, the director of revenue and finance shall certify to the assessor's conference board that the assessor is eligible to be reappointed to the position. For ~~assessors whose present terms of office expire before six years from January 1, 1979, or who are~~ persons appointed to complete an unexpired term, the number of credits required to be certified as eligible for reappointment shall be prorated according to the amount of time remaining in the present term of the assessor. If the person was an assessor in another jurisdiction, the assessor may carry forward any credit hours received in the previous position in excess of the number that would be necessary to be considered current in that position.

Within each six-year period following ~~January 1, 1980 or~~ the appointment of a deputy assessor ~~appointed after January 1, 1979~~, the deputy assessor shall comply with this section except that upon the successful completion of ninety hours of classroom instruction of which at least sixty of the ninety hours are from courses requiring an examination upon conclusion of the course, the deputy assessor shall be certified by the director of revenue and finance as being eligible to remain in the position. If a deputy assessor fails to comply with this section, the deputy assessor shall be removed from the position until successful completion of the required hours of credit. If a deputy is appointed to the office of assessor, the hours of credit obtained as deputy pursuant to this section shall be credited to that individual as assessor and for the individual to be reappointed at the expiration of the term as assessor, that individual must obtain the credits which are necessary to total the number of hours for reappointment.

Sec. 38. Section 441.11, Code 1997, is amended to read as follows:

441.11 INCUMBENT DEPUTY ASSESSORS.

The director of revenue and finance shall grant a restricted certificate to any deputy assessor holding office as of January 1, 1976. A deputy assessor possessing such a certificate shall be considered eligible to remain in the deputy's present position provided continuing education requirements are met. To become eligible for another deputy assessor position, a deputy assessor presently holding office is required to obtain certification as provided for in section 441.5 and 441.10. The number of credit hours required for certification as eligible for appointment as a deputy in a jurisdiction other than where the deputy is currently serving shall be prorated according to the completed portion of the deputy's six-year continuing education period.

Sec. 39. Section 444.26, Code 1997, is amended to read as follows:

444.26 PROPERTY TAX LEVY LIMITATIONS NOT AFFECTED.

Sections ~~444.25,~~ 444.25A, and 444.25B shall not be construed as removing or otherwise affecting the property tax limitations otherwise provided by law for any tax levy of the political subdivision, except that, upon an appeal from the political subdivision, the state

appeal board may approve a tax levy consistent with the provisions of section 24.48 or 331.426.

Sec. 40. Section 444.27, subsection 1, Code 1997, is amended to read as follows:

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.

Sec. 41. Section 445.32, Code 1997, is amended to read as follows:

445.32 LIENS ON BUILDINGS OR IMPROVEMENTS.

If a building or improvement is erected or made by a person other than the owner of the land on which the building or improvement is located, as provided for in section 428.4, the taxes on the building or improvement are and remain a lien on the building or improvement from the date of levy until paid. If the taxes on the building or improvement become delinquent, as provided in section 445.37, the county treasurer shall collect the tax as provided in sections 445.3 and 445.4. This section does not apply to special assessments, or rates or charges.

Sec. 42. Section 452A.17, subsection 1, paragraph a, Code 1997, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (9) Undyed special fuel used in watercraft.

Sec. 43. Section 452A.17, subsection 1, paragraph b, subparagraphs (4) and (5), Code 1997, are amended to read as follows:

(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) The claim shall state whether 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.

Sec. 44. Section 452A.65, unnumbered paragraph 1, Code 1997, is amended to read as follows:

In addition to the tax or additional tax, the taxpayer shall pay a penalty as provided in section 421.27. The taxpayer shall also pay interest on the tax or additional tax at the rate in effect under section 421.7 counting each fraction of a month as an entire month, computed from the date the return was required to be filed. If the amount of the tax as determined by the appropriate state agency is less than the amount paid, the excess shall be refunded with interest, the interest to begin to accrue on the first day of the ~~third~~ second calendar month following the date of payment or the date the return was due to be filed or was filed, whichever is the latest, at the rate in effect under section 421.7 counting each fraction of a month as an entire month under the rules prescribed by the appropriate state agency. ~~In lieu of a refund allowed under this section, the licensee may request that the department allow the refund to be held as a credit for the licensee.~~ Claims for refund filed under sections 452A.17 and 452A.21 shall accrue interest beginning with the first day of the second calendar month following the date the refund claim is received by the department.

Sec. 45. Section 633.699, subsection 7, Code 1997, is amended to read as follows:

7. To make any required division, allocation, or distribution in whole or in part in money, securities, or other property, and in undivided interests therein pro rata, nonpro rata, or in combination of these methods, and to continue to hold any remaining undivided interest in trust.

Sec. 46. Section 633.703A, subsection 1, unnumbered paragraph 1, Code 1997, is amended to read as follows:

In order to allow a trust to qualify as a marital deduction trust for federal estate tax purposes, as a qualified subchapter S trust for federal income tax purposes, as separate trusts for federal generation-skipping tax purposes, or for any other federal or state income, estate, excise, or inheritance tax benefit or to facilitate the administration of a trust or trusts, the governing instrument of a trust may be amended as follows to permit the trust to be divided in cash or in kind, including in undivided interests, by pro rata or nonpro rata division, or in any combination thereof, into one or more separate trusts or be consolidated with one or more other trusts into a single trust:

Sec. 47. Section 99D.14, subsection 6, Code 1997, as amended by 1997 Iowa Acts, House File 212,* section 2, is amended to read as follows:

6. Real property used in the operation of a racetrack or racetrack enclosure which is exempt from property taxation under another provision of the law, including being exempt because it is owned by a city, county, state, or charitable or nonprofit entity, may be subject to real property taxation by any taxing district in which the real property used in the operation of the racetrack or racetrack enclosure is located. To subject such real property to taxation, the taxing authority of the taxing district shall pass a resolution imposing the tax and, if the resolution is passed prior to September 1, 1997, shall notify the ~~county~~ local assessor~~, director of revenue and finance,~~ and the owner of record of the real property by September 1, 1997, preceding the fiscal year in which the real property taxes are due and payable. The assessed value shall be determined and notice of the assessed value shall be provided to the county auditor by the ~~department of revenue and finance~~ local assessor by October 15, 1997, and the owner may protest the assessed value to the ~~state~~ local board of ~~tax~~ review by December 1, 1997. For resolutions passed on or after September 1, 1997, the taxing authority shall notify the local assessor and owner of record prior to the next assessment year and the valuation and appeal shall be done in the manner and time as for other valuations. Property taxes due as a result of this subsection shall be paid to the county treasurer in the manner and time as other property taxes. The county treasurer shall remit the tax revenue to those taxing authorities imposing the property tax under this subsection. Real property subject to tax as provided in this subsection shall continue to be taxed until such time as the taxing authority of the taxing district repeals the resolution subjecting the property to taxation. ~~Notwithstanding section 99D.7, the department of revenue and finance shall adopt rules to implement this subsection.~~

Sec. 48. Sections 236.15A, 427A.13, 440.2, 440.3, 440.4, 444.25, and 444.28, Code 1997, are repealed.

Sec. 49. Sections 11 and 13 of this Act which amend sections 422.5 and 422.32 apply retroactively to January 1, 1997, for tax years beginning on or after that date.

Sec. 50. Section 17 of this Act, amending section 422.45, subsection 18, being deemed of immediate importance, takes effect upon enactment.

Sec. 51. Sections 6, 12, and 22 of this Act, enacting section 421.17, subsection 22A and amending section 422.20 and section 422.72, subsection 3, and relating to contractual agreements by the department of revenue and finance, being deemed of immediate importance, take effect upon enactment.

Sec. 52. Section 20 of this Act, enacting section 422.53, subsection 8, takes effect January 1, 1998.

Sec. 53. Sections 42 and 43 of this Act, amending section 452A.17, subsection 1, being deemed of immediate importance, take effect upon enactment and apply retroactively to July 1, 1996.

Approved May 19, 1997

* Chapter 9 herein

CHAPTER 159

PUBLIC HEALTH — MISCELLANEOUS PROVISIONS

H.F. 335

AN ACT relating to public health issues under the purview of the Iowa department of public health, including vital statistics, chemical substance abuse, the board of nursing examiners, the board of dental examiners, lead poisoning, the immunization registry, the child death review team, plumbing provisions and fees, and providing a penalty and a contingent effective date.

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

Section 1. Section 22.7, subsection 2, Code 1997, is amended to read as follows:

2. Hospital records, medical records, and professional counselor records of the condition, diagnosis, care, or treatment of a patient or former patient or a counselee or former counselee, including outpatient. However, confidential communications between a crime victim and the victim's counselor are not subject to disclosure except as provided in section 236A.1. However, the Iowa department of public health shall adopt rules which provide for the sharing of information among agencies and providers concerning the maternal and child health program including but not limited to the statewide child immunization information system, while maintaining an individual's confidentiality.

Sec. 2. NEW SECTION. 125.83A PLACEMENT IN CERTAIN FEDERAL FACILITIES.

*If upon completion of the commitment hearing, the court finds that the contention that the respondent is a chronic substance abuser has been sustained by clear and convincing evidence, and the court is furnished evidence that the respondent is eligible for care and treatment in a facility operated by the veterans administration or another agency of the United States government and that the facility is willing to receive the respondent, the court may so order. The respondent, when so placed in a facility operated by the veterans administration or another agency of the United States government within or outside of this state, shall be subject to the rules of the veterans administration or other agency, but shall not lose any procedural rights afforded the respondent by this chapter. The chief officer of the facility shall have, with respect to the respondent so placed, the same powers and duties as the chief medical officer of a hospital in this state would have in regard to submission of reports to the court, retention of custody, transfer, convalescent leave or discharge. Jurisdiction is retained in the court to maintain surveillance of the respondent's treatment and care, and at any time to inquire into the respondent's condition and the need for continued care and custody.

2. Upon receipt of a certificate stating that a respondent placed under this chapter is eligible for care and treatment in a facility operated by the veterans administration or another agency of the United States government which is willing to receive the respondent without charge to the state of Iowa or any county in the state, the chief medical officer may transfer the respondent to that facility. Upon so doing, the chief medical officer shall notify the court which ordered the respondent's placement in the same manner as would be required in the case of a transfer under section 125.86, subsection 2, and the respondent transferred shall be entitled to the same rights as the respondent would have under that subsection. No respondent shall be transferred under this section who is confined pursuant to conviction of a public offense or whose placement was ordered upon contention of incompetence to stand trial by reason of mental illness, without prior approval of the court which ordered that respondent's placement.

3. A judgment or order of commitment by a court of competent jurisdiction of another state or the District of Columbia, under which any person is hospitalized or placed in a facility operated by the veterans administration or another agency of the United States government, shall have the same force and effect with respect to that person while the

* "1." probably intended at beginning of paragraph

person is in this state as the judgment or order would have if the person were in the jurisdiction of the court which issued it. That court shall be deemed to have retained jurisdiction of the person so placed for the purpose of inquiring into that person's condition and the need for continued care and custody, as do courts in this state under this section. Consent is given to the application of the law of the state or district in which the court is situated which issued the judgment or order as regards authority of the chief officer of any facility, operated in this state by the veterans administration or another agency of the United States government, to retain custody, transfer, place on convalescent leave or discharge the person so committed.

Sec. 3. Section 135.43, subsection 6, Code 1997, is amended to read as follows:

6. a. 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.

b. A person in possession or control of medical, investigative or other information pertaining to a child death and child abuse review shall allow the inspection and reproduction of the information by the department upon the request of the department, to be used only in the administration and for the duties of the Iowa child death review team. Information and records which are confidential under section 22.7 and chapter 235A, and information or records received from the confidential records, remain confidential under this section. A person does not incur legal liability by reason of releasing information to the department as required under and in compliance with this section.

Sec. 4. Section 135.43, Code 1997, is amended by adding the following new subsections:

NEW SUBSECTION. 7. Review team members and their agents are immune from any liability, civil or criminal, which might otherwise be incurred or imposed as a result of any act, omission, proceeding, decision, or determination undertaken or performed, or recommendation made as a review team member or agent provided that the review team members or agents acted in good faith and without malice in carrying out their official duties in their official capacity. The department shall adopt rules pursuant to chapter 17A to administer this subsection. A complainant bears the burden of proof in establishing malice or lack of good faith in an action brought against review team members involving the performance of their duties and powers under this section.

NEW SUBSECTION. 8. A person who releases or discloses confidential data, records, or any other type of information in violation of this section is guilty of a serious misdemeanor.

Sec. 5. Section 135.105A, Code 1997, is amended to read as follows:

135.105A LEAD INSPECTOR AND LEAD ABATER TRAINING AND CERTIFICATION ESTABLISHED — CIVIL PENALTY.

1. The department shall establish a program for the training and certification of lead inspectors and lead abaters ~~who provide inspections and abatement for monetary compensation~~. The department shall maintain a listing, available to the public and to city and county health departments, of lead inspectors and lead abaters who have successfully completed the training program and have been certified by the department. A person may be certified as both a lead inspector and a lead abater. However, a person who is certified as both a lead inspector and a lead abater shall not provide both inspection and abatement services at the same site unless a written consent or waiver, following full disclosure by the person, is obtained from the owner or manager of the site.

2. The department shall also establish a program for the training of painting, demolition, and remodeling contractors and those who provide mitigation control services ~~for monetary compensation~~. The training shall be completed on a voluntary basis.

3. A person who owns ~~or manages~~ real property which includes a residential dwelling and who performs lead inspection or lead abatement of the residential dwelling is not required to obtain certification to perform ~~mitigation control or abatement~~ these measures ~~of property which the person owns or manages~~, unless the residential dwelling is occupied by

a person other than the owner or a member of the owner's immediate family while the measures are being performed. However, the department shall encourage property owners and managers who are not required to be certified to complete the training course to ensure the use of appropriate and safe mitigation and abatement procedures.

4. A person shall not perform lead abatement or lead inspections ~~for compensation~~ unless the person has completed a training program approved by the department and has obtained certification. A person who violates this section is subject to a civil penalty not to exceed five thousand dollars for each offense.

Sec. 6. NEW SECTION. 135.105C RENOVATION, REMODELING AND REPAINTING — LEAD HAZARD NOTIFICATION PROCESS ESTABLISHED.

1. A person who performs renovation, remodeling, or repainting services of targeted housing for compensation shall provide an approved lead hazard information pamphlet to the owner and occupant of the housing prior to commencing the services.

2. For the purpose of this section, "targeted housing" means housing constructed prior to 1978 with the exception of housing for the elderly or for persons with disabilities, unless at least one child, six years of age or less, resides or is expected to reside in the housing, and housing which does not contain a bedroom. The department shall adopt rules to implement the renovation, remodeling, and repainting lead hazard notification process.

Sec. 7. Section 144.1, subsections 5, 9, and 10, Code 1997, are amended to read as follows:

5. "Fetal death" means death prior to the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy. Death is indicated by the fact that after expulsion or extraction the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles. In determining a fetal death, heartbeats shall be distinguished from transient cardiac contractions, and respirations shall be distinguished from fleeting respiratory efforts or gasps.

9. "Live birth" means the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy, which, after such expulsion or extraction, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached. In determining a live birth, heartbeats shall be distinguished from transient cardiac contractions, and respirations shall be distinguished from fleeting respiratory efforts or gasps.

10. "Registration" means the ~~acceptance by the division and the incorporation in its official records of certificates, reports, or other records, provided for in this chapter, of births, deaths, fetal deaths, adoptions, marriages, divorces, or annulments~~ process by which vital statistic records are completed, filed, and incorporated by the division in the division's official records.

Sec. 8. Section 144.5, subsection 4, Code 1997, is amended to read as follows:

4. Prescribe, print, and distribute the forms required by this chapter and prescribe any other means for transmission of data, as necessary to accomplish complete, accurate reporting.

Sec. 9. Section 144.12, Code 1997, is amended to read as follows:

144.12 FORMS UNIFORM.

In order to promote and maintain uniformity in the system of vital statistics, the forms of certificates, reports, and other returns shall include as a minimum the items recommended by the federal agency responsible for national vital statistics, subject to approval and modification by the department. Forms shall be furnished by the department. The forms or other recording methods used ~~by county registrars~~ to ~~record copies of~~ register records ~~made~~ required under this chapter shall be prescribed by the department.

Sec. 10. Section 144.13, subsection 1, paragraphs a, b, and c, Code 1997, are amended to read as follows:

a. A certificate of birth for each live birth which occurs in this state shall be filed ~~with the county~~ as directed by the state registrar ~~of the county in which the birth occurs~~ within ~~ten~~ seven days after the birth and shall be registered by the county registrar if it has been completed and filed in accordance with this chapter. ~~However, when a birth occurs in a moving conveyance, a birth certificate shall be filed in the county in which the child was first removed from the conveyance.~~

b. When a birth occurs in an institution or en route to an institution, the person in charge of the institution or the person's designated representative, shall obtain the personal data, prepare the certificate, ~~secure the signatures required by the certificate,~~ and file the certificate ~~with the county~~ as directed by the state registrar. The physician in attendance or the person in charge of the institution or the person's designee shall certify to the facts of birth either by signature or as otherwise authorized by rule and provide the medical information required by the certificate within ~~six~~ seven days after the birth.

c. When a birth occurs outside an institution and not en route to an institution, the certificate shall be prepared and filed by one of the following in the indicated order of priority:

(1) The physician in attendance at or immediately after the birth.

(2) Any other person in attendance at or immediately after the birth.

(3) The father or the mother.

(4) The person in charge of the premises where the birth occurred. The state registrar shall establish by rule, the evidence required to establish the facts of birth.

Sec. 11. Section 144.13, subsection 2, Code 1997, is amended to read as follows:

2. If the mother was married ~~either~~ at the time of conception ~~or~~, birth, or at any time during the period between conception and birth, the name of the husband shall be entered on the certificate as the father of the child unless paternity has been determined otherwise by a court of competent jurisdiction, in which case the name of the father as determined by the court shall be entered by the department.

Sec. 12. Section 144.13, subsection 3, Code 1997, is amended to read as follows:

3. If the mother was not married ~~either~~ at the time of conception ~~or~~, birth, and at any time during the period between conception and birth, the name of the father shall not be entered on the certificate of birth ~~without the written consent of the mother and the person to be named as the father~~, unless a determination of paternity has been made pursuant to section 252A.3, in which case the name of the father as established shall be entered by the department. If the father is not named on the certificate of birth, no other information about the father shall be entered on the certificate.

Sec. 13. Section 144.15, unnumbered paragraph 1, Code 1997, is amended to read as follows:

When the birth of a person born in this state has not been registered, a certificate may be filed in accordance with regulations. The certificate shall be registered subject to evidentiary requirements prescribed to substantiate the alleged facts of birth. Certificates of birth registered one year or more after the date of occurrence shall be marked "delayed" and shall show on their face the date of the delayed registration. A summary statement of the evidence submitted in support of the delayed registration shall be endorsed on the certificate. A delayed certificate of birth shall not be registered for a deceased person.

Sec. 14. Section 144.26, Code 1997, is amended to read as follows:

144.26 DEATH CERTIFICATE.

1. A death certificate for each death which occurs in this state shall be filed ~~with the county~~ as directed by the state registrar ~~of the county in which the death occurs,~~ within three days after the death and prior to final disposition, and shall be registered by the county

registrar if it has been completed and filed in accordance with this chapter. A death certificate shall include the social security number, if provided, of the deceased person. All information including the certifying physician's name shall be typewritten.

2. All information included on a death certificate may be provided as mutually agreed upon by the division and the child support recovery unit, including by automated exchange.

3. ~~If the place of death is unknown, a death certificate shall be filed in the county in which a dead body is found within three days after the body is found.~~ The county in which a dead body is found is the county of death. If death occurs in a moving conveyance, ~~a death certificate shall be filed in~~ the county in which the dead body is first removed from the conveyance is the county of death.

~~If a person dies outside of the county of the person's residence, the state registrar shall send a copy of the death certificate to the county registrar of the county of the decedent's residence. The county registrar shall record the death certificate in the same records in which death certificates of persons who died within the county are recorded.~~

Sec. 15. Section 144.27, Code 1997, is amended to read as follows:

144.27 FUNERAL DIRECTOR'S DUTY.

The funeral director who first assumes custody of a dead body shall file the death certificate, obtain the personal data from the next of kin or the best qualified person or source available and obtain the medical certification of cause of death from the person responsible for ~~issuing and signing~~ completing the certification. When a person other than a funeral director assumes custody of a dead body, the person shall be responsible for carrying out the provisions of this section.

Sec. 16. Section 144.28, Code 1997, is amended to read as follows:

144.28 MEDICAL CERTIFICATE.

1. The medical certification shall be completed and signed within twenty-four hours after death by the physician in charge of the patient's care for the illness or condition which resulted in death except when inquiry is required by the county medical examiner. When inquiry is required by the county medical examiner, the medical examiner shall investigate the cause of death and shall complete and sign the medical certification within twenty-four hours after taking charge of the case.

2. The person completing the medical certification of cause of death shall attest to its accuracy either by signature or by an electronic process approved by rule.

Sec. 17. Section 144.29, Code 1997, is amended to read as follows:

144.29 FETAL DEATHS.

A fetal death certificate for each fetal death which occurs in this state after a gestation period of twenty completed weeks or greater, or for a fetus with a weight of three hundred fifty grams or more shall be filed ~~with the county~~ as directed by the state registrar ~~of the county in which the delivery of the dead fetus occurs,~~ within three days after delivery and prior to final disposition of the fetus. The certificate shall be registered if it has been completed and filed in accordance with this chapter.

~~If the place of delivery of a dead fetus is unknown, a fetal death certificate shall be filed in the~~ The county in which a dead fetus is found~~,~~ is the county of death. The certificate shall be filed within three days after the fetus is found. If a fetal death occurs in a moving conveyance, ~~a fetal death certificate shall be filed in~~ the county in which the fetus is first removed from the conveyance is the county of death.

Sec. 18. Section 144.30, Code 1997, is amended to read as follows:

144.30 FUNERAL DIRECTOR'S DUTY — FETAL DEATH CERTIFICATE.

The funeral director who first assumes custody of a fetus shall file the fetal death certificate. In the absence of such a person, the physician or other person in attendance at or after the delivery shall file the certificate of fetal death. The person filing the certificate shall obtain the personal data from the next of kin or the best qualified person or source available

and shall obtain the medical certification of cause of death from the person responsible for ~~issuing and signing~~ completing the certification. When a person other than a funeral director assumes custody of a fetus, the person shall be responsible for carrying out the provisions of this section.

Sec. 19. Section 144.31, Code 1997, is amended to read as follows:

144.31 MEDICAL CERTIFICATE — FETAL DEATH.

The medical certification shall be completed ~~and signed~~ within twenty-four hours after delivery by the physician in attendance at or after delivery except when inquiry is required by the county medical examiner.

When a fetal death occurs without medical attendance upon the mother at or after delivery or when inquiry is required by the county medical examiner, the medical examiner shall investigate the cause of fetal death and shall complete ~~and sign~~ the medical certification within twenty-four hours after taking charge of the case. The person completing the medical certification of cause of fetal death shall attest to its accuracy either by signature or as authorized by rule.

Sec. 20. Section 144.32, unnumbered paragraph 1, Code 1997, is amended to read as follows:

If a person other than a funeral director, medical examiner, or emergency medical service assumes custody of a dead body or fetus, the person shall secure a burial-transit permit. To be valid, the burial-transit permit must be issued by the county medical examiner, a funeral director, or the county registrar of the county where the certificate of death or fetal death was filed. The permit shall be obtained prior to the removal of the body or fetus from the place of death and the permit shall accompany the body or fetus to the place of final disposition.

Sec. 21. Section 144.43, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A public record shall not be withheld from the public because it is combined with data processing software. The state registrar shall not implement any electronic data processing system for the storage, manipulation, or retrieval of vital records that would impair a county registrar's ability to permit the examination of a public record and the copying of a public record, as established by rule. If it is necessary to separate a public record from data processing software in order to permit the examination of the public record, the county registrar shall periodically generate a written log available for public inspection which contains the public record.

Sec. 22. NEW SECTION. 152.12 EXAMINATION INFORMATION.

Notwithstanding subsection* 147.21, subsection 3, individual pass or fail examination results made available from the authorized national testing agency may be disclosed to the appropriate licensing authority in another state, the District of Columbia, or a territory or county, and the board-approved education program, for purposes of verifying accuracy of national data and determining program approval.

Sec. 23. Section 153.36, Code 1997, is amended to read as follows:

153.36 STATUTES NOT APPLICABLE TO DENTISTRY.

1. Sections 147.44 to 147.71, except 147.57 and sections 147.87 to 147.92, shall not apply to the practice of dentistry.

2. In addition to the provisions of section 272C.2, subsection 4, a person licensed by the board of dental examiners shall also be deemed to have complied with continuing education requirements of this state if, during periods that the person practiced the profession in another state or district, the person met all of the continuing education and other requirements of that state or district for the practice of the occupation or profession.

3. Notwithstanding the panel composition provisions in section 272C.6, subsection 1, the board of dental examiners' disciplinary hearing panels shall be comprised of three board

* The word "section" probably intended

members, at least two of which are licensed in the profession.

Sec. 24. CONTINGENT EFFECTIVE DATE. Section 6 of this Act relating to the renovation, remodeling, and repainting lead hazard notification process takes effect only upon receipt by the Iowa department of public health of authorization from the United States environmental protection agency for state implementation of the lead inspection and abatement certification program.

Sec. 25. Section 135.15, Code 1997, is repealed.

Approved May 19, 1997

CHAPTER 160

TEMPORARY ORDERS FOR SUPPORT, CUSTODY, OR VISITATION

H.F. 371

AN ACT relating to the issuing of temporary orders for support, custody, or visitation of a child born outside of marriage.

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

Section 1. NEW SECTION. 600B.40A TEMPORARY ORDERS — SUPPORT, CUSTODY, OR VISITATION OF A CHILD.

Upon petition of either parent in a proceeding involving support, custody, or visitation of a child for whom paternity has been established and whose mother and father have not been and are not married to each other at the time of filing of the petition, the court may issue a temporary order for support, custody, or visitation of the child. The temporary orders shall be made in accordance with the provisions relating to issuance of and changes in temporary orders for support, custody, or visitation of a child by the court in a dissolution of marriage proceeding pursuant to chapter 598.

Approved May 19, 1997

CHAPTER 161

TERMINATION OF PARENTAL RIGHTS — GROUNDS — PUTATIVE FATHER

H.F. 453

AN ACT relating to the grounds for termination of parental rights of a putative father.

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

Section 1. Section 600A.2, subsection 18, Code 1997, is amended by striking the subsection and inserting in lieu thereof the following:

18. "To abandon a minor child" means that a parent, putative father, custodian, or guardian rejects the duties imposed by the parent-child relationship, guardianship, or custodianship, which may be evinced by the person, while being able to do so, making no provision or

making only a marginal effort to provide for the support of the child or to communicate with the child.

Sec. 2. Section 600A.8, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. If the termination of parental rights relates to a putative father and the putative father has abandoned the child. For the purposes of this subsection, a putative father is deemed to have abandoned a child as follows:

a. (1) If the child is less than six months of age when the termination hearing is held, a putative father is deemed to have abandoned the child unless the putative father does all of the following:

(a) Demonstrates a willingness to assume custody of the child rather than merely objecting to the termination of parental rights.

(b) Takes prompt action to establish a parental relationship with the child.

(c) Demonstrates, through actions, a commitment to the child.

(2) In determining whether the requirements of this paragraph are met, the court may consider all of the following:

(a) The fitness and ability of the putative father in personally assuming custody of the child, including a personal and financial commitment which is timely demonstrated.

(b) Whether efforts made by the putative father in personally assuming custody of the child are substantial enough to evince a settled purpose to personally assume all parental duties.

(c) Whether the putative father publicly acknowledged paternity or held himself out to be the father of the child during the six continuing months immediately prior to the termination proceeding.

(d) Whether the putative father paid a fair and reasonable sum, in accordance with the putative father's means, for medical, hospital, and nursing expenses incurred in connection with the mother's pregnancy or with the birth of the child, or whether the putative father demonstrated emotional support as evidenced by the putative father's conduct toward the mother.

(e) Any measures taken by the putative father to establish legal responsibility for the child.

(f) Any other factors evincing a commitment to the child.

b. If the child is six months of age or older when the termination hearing is held, a putative father is deemed to have abandoned the child unless the putative father maintains substantial and continuous or repeated contact with the child as demonstrated by contribution toward support of the child of a reasonable amount, according to the putative father's means, and as demonstrated by any of the following:

(1) Visiting the child at least monthly when physically and financially able to do so and when not prevented from doing so by the person having lawful custody of the child.

(2) Regular communication with the child or with the person having the care or custody of the child, when physically and financially unable to visit the child or when prevented from visiting the child by the person having lawful custody of the child.

(3) Openly living with the child for a period of six months within the one-year period immediately preceding the termination of parental rights hearing and during that period openly holding himself out to be the father of the child.

c. The subjective intent of the putative father, whether expressed or otherwise, unsupported by evidence of acts specified in paragraph "a" or "b" manifesting such intent, does not preclude a determination that the putative father has abandoned the child. In making a determination, the court shall not require a showing of diligent efforts by any person to encourage the putative father to perform the acts specified in paragraph "a" or "b". In making a determination, the court may consider the conduct of the putative father toward the child's mother during the pregnancy. Demonstration of a commitment to the child is not met by the putative father marrying the mother of the child after adoption of the child.

See chapter 209, §27, herein for effective date of House File 453

Approved May 19, 1997

CHAPTER 162

CITY CIVIL SERVICE

H.F. 456

AN ACT relating to city civil service and providing an effective date.

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

Section 1. Section 400.1, Code 1997, is amended to read as follows:

400.1 APPOINTMENT OF COMMISSION.

In cities having a population of eight thousand or over~~,~~ and 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~~ third year, and one until the first Monday in April of the ~~sixth~~ fourth year after such appointment, whose successors shall be appointed for a term of ~~six~~ four 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.

For the purpose of determining the population of a city under this ~~section~~ chapter, the federal census conducted in 1980 shall be used. ~~This paragraph is void effective July 1, 2001.~~

Sec. 2. Section 400.4, unnumbered paragraph 1, Code 1997, is amended to read as follows:

The commission shall elect a chairperson from among its members. In cities having a population of more than seventy-five thousand, the commission shall appoint a clerk of the commission. In all other cities the city clerk or a designee of the city clerk shall be clerk of the commission. If an employee is appointed clerk of the commission who is employed in a civil service status at the time of appointment as clerk of the commission, the appointee shall retain the civil service rights held before the appointment. However, this section does not grant civil service status or rights to the employee in the capacity of clerk of the commission nor extend any civil service right upon which the appointee may retain the position of clerk of the commission.

Sec. 3. Section 400.6, subsection 2, Code 1997, is amended to read as follows:

2. The city clerk, chief deputy city clerk, city attorneys, city treasurer, city assessor, city auditor, professional city ~~engineer~~ engineers licensed in this state, and city health officer.

Sec. 4. Section 400.7, subsection 3, unnumbered paragraph 1, Code 1997, is amended to read as follows:

An employee who has not completed the required probationary period but who otherwise meets the ~~requirements of subsection 1 or 2~~ minimum qualifications established for the position or who passes a qualifying noncompetitive examination for the position shall receive full civil service rights in the position upon the completion of the probationary period.

Sec. 5. Section 400.9, subsection 3, Code 1997, is amended to read as follows:

3. Vacancies in civil service promotional grades shall be filled by lateral transfer, voluntary demotion, or promotion of employees of the city to the extent that the city employees qualify for the positions. When laterally transferred, voluntarily demoted, or promoted, an employee shall hold full civil service rights in the position. If an employee of the city does not pass ~~one of two successive~~ the promotional ~~examinations~~ examination and otherwise qualify for a vacated position, or if an employee of the city does not apply for a vacated position, an entrance examination may be used to fill the vacancy.

Sec. 6. Section 400.11, unnumbered paragraphs 1 and 2, Code 1997, are amended to read as follows:

The commission, within ~~ninety~~ one hundred eighty days after the beginning of each competitive examination for original appointment ~~or for promotion~~, shall certify to the city council a list of the names of ~~the ten~~ forty persons, or a lesser number as determined by the commission, who qualify with the highest standing as a result of each examination for the position they seek to fill, or the number which have qualified if less than ~~ten~~ forty, in the order of their standing, and all newly created offices or other vacancies in positions under civil service which occur before the beginning of the next examination for the positions shall be filled from the lists, or from the preferred list existing as provided for in case of diminution of employees, within thirty days. If a tie occurs in the examination scores which would qualify persons for the ~~tenth~~ last position on the list, the list of the names of the persons who qualify with the highest standing as a result of each examination shall include all persons who qualify for the ~~tenth~~ last position. Preference for temporary service in civil service positions shall be given those on the lists. However, the commission may certify a list of names eligible for appointment subject to successfully completing a medical examination. The medical examination shall be provided pursuant to commission rules adopted under section 400.8.

The commission may hold in reserve, for original appointments ~~and for promotions~~, additional lists of ~~ten~~ forty persons, each next highest in standing, in order of their grade, or such number as may qualify if less than ~~ten~~ forty. If the list of ~~ten~~ up to forty persons provided in the first paragraph is exhausted within one year, the commission may certify such additional lists of ~~ten~~ up to forty persons each, in order of their standing, to the council as eligible for appointment to fill such vacancies as may exist. ~~However, for original appointments only, no more than four lists of ten persons each shall be certified for each one-year period of eligibility.~~

Sec. 7. Section 400.11, unnumbered paragraph 3, Code 1997, is amended by striking the paragraph and inserting in lieu thereof the following:

The commission, within ninety days after the beginning of each competitive examination for promotion, shall certify to the city council a list of names of the ten persons who qualify with the highest standing as a result of each examination for the position the persons seek to fill, or the number which have qualified if less than ten, in the order of their standing and all newly created offices or other vacancies in positions under civil service which occur before the beginning of the next examination for the positions shall be filled from the lists, or from the preferred list existing as provided for in the case of diminution of employees, within thirty days. If a tie occurs in the examination scores which would qualify persons for the tenth position on the list, the list of names of the persons who qualify with the highest standing as a result of each examination shall include all persons who qualify for the tenth position.

Sec. 8. Section 400.15, unnumbered paragraph 3, Code 1997, is amended to read as follows:

All such appointments or promotions shall promptly be reported to the clerk of the commission by the appointing officer. An appointing authority may transfer an employee, other than police officers and fire fighters, ~~with the employee's consent without coercion,~~ from one department to the same civil service classification in another department, and such employee shall retain the same civil service status.

Sec. 9. EFFECTIVE DATE AND TRANSITION PROVISIONS. Section 1 of this Act takes effect January 1, 1998. All city civil service commissioners serving unexpired terms of office on January 1, 1998, may continue to serve their unexpired terms of office until April 6, 1998, when their terms of office shall expire. Their successors shall be appointed or reappointed by the mayor with approval of the city council to initial terms of office as provided in section 1 of this Act and thereafter to four-year terms.

Approved May 19, 1997

CHAPTER 163

DRAINAGE SUBDISTRICTS

H.F. 485

AN ACT relating to drainage districts by eliminating notice by petitioning landowners regarding the establishment of subdistricts.

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

Section 1. Section 468.63, Code 1997, is amended to read as follows:

468.63 DRAINAGE SUBDISTRICT.

After the establishment of a drainage district, a person owning land within the district which has been assessed for benefits, but which is separated from the main ditch, drain, or watercourse for which it has been so assessed, by the land of others, who desires a ditch or drain constructed from the person's land across the land of the others in order to connect with the main ditch, drain, or watercourse, and is unable to agree with the intervening owners on the terms and conditions on which the person may enter upon their lands and cause to be constructed the connecting drain or ditch, may file a petition for the establishment of a subdistrict ~~and shall give notice of the filing of the petition to each person whose land may be included in the subdistrict or may be assessed in the subdistrict in the manner provided by sections 468.14 through 468.18 for the notice of the hearing and have proofs on file before the appointment of the engineer, if one is appointed~~. ~~Thereafter~~ After the petition is filed, the proceedings shall be the same as provided for the establishment of an original district.

Approved May 19, 1997

CHAPTER 164

FOSTER CARE AND PREADOPTIVE CARE

H.F. 544

AN ACT relating to placements for adoption and foster care by providing for a family rights and responsibilities plan and agreement.

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

Section 1. Section 232.2, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 42A. "Preadoptive care" means the provision of parental nurturing on a full-time basis to a child in foster care by a person who has signed a preadoptive placement agreement with the department for the purposes of proceeding with a legal adoption of the child. Parental nurturing includes but is not limited to furnishing of food, lodging, training, education, treatment, and other care.

Sec. 2. Section 232.88, Code 1997, 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 persons 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 or an individual providing preadoptive care, with whom a child has been placed ~~for the purposes of foster care~~.

Sec. 3. Section 232.91, subsection 2, Code 1997, is amended to read as follows:

2. An agency, facility, institution, or person, including a foster parent or an individual providing preadoptive care, may petition the court to be made a party to proceedings under this division.

Sec. 4. Section 232.147, subsection 3, Code 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. The child's foster parent or an individual providing preadoptive care to the child.

Sec. 5. Section 237.3, subsection 2, Code 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. k. Elements of a foster care placement agreement outlining rights and responsibilities associated with an individual providing family foster care.

Sec. 6. Section 237.3, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 9. The department shall adopt rules specifying the elements of a preadoptive care agreement outlining the rights and responsibilities associated with a person providing preadoptive care, as defined in section 232.2.

Sec. 7. Section 237.20, subsection 1, Code 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. The compliance of the interested parties with the decision-making rights and responsibilities contained in the family foster care or preadoptive care agreement applicable to a child.

Sec. 8. FOSTER AND PREADOPTIVE CARE. The department of human services, in conjunction with the foster and adoptive parents association, the state citizen foster care review board, and providers of foster care and adoption services, shall develop clear, concise, and consistent written standards relating to the rights and responsibilities of families who provide foster or preadoptive care.

1. The standards shall include but are not limited to identification of the decision-making responsibility for all of the following:

a. Food.
b. Clothing.
c. Housing.
d. Education.
e. Medical care.
f. Dental care.
g. Mental health care.
h. Cultural activities.
i. Recreational activities.
j. Child day care.
k. Family activities.
l. Life skill training.

2. The standards developed in accordance with this section shall be incorporated into the department's placement agreements for foster care and preadoptive care on or before January 1, 1998. The standards shall not impose unnecessary paperwork requirements and shall be developed as part of the placement agreements, which shall be attached to children's case permanency plans.

Approved May 19, 1997

CHAPTER 165

MEDICAL ASSISTANCE ADVISORY COUNCIL

H.F. 579

AN ACT relating to the membership of the medical assistance advisory council.

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

Section 1. Section 249A.4, subsection 8, unnumbered paragraph 1, Code 1997, is amended to read as follows:

Shall advise and consult at least semiannually with a council composed of the presidents of the following organizations, or a president's representative who is a member of the organization represented by the president: the Iowa medical society, the Iowa osteopathic medical association, the Iowa academy of family physicians, the Iowa physical therapy association, the Iowa state dental society, the Iowa state nurses association, the Iowa pharmacists association, the Iowa podiatry society, the Iowa optometric association, the community mental health centers association of Iowa, the Iowa psychological association, the association of Iowa ~~hospital association~~ hospitals and health systems, the Iowa association of rural health clinics, the Iowa osteopathic hospital association, opticians' association of Iowa, inc., the Iowa hearing aid society, the Iowa speech, language, and hearing association, the Iowa health care association, the Iowa association for home care, the Iowa council of health care centers, the Iowa physician assistant society, the Iowa association of nurse practitioners, the Iowa occupational therapy association, and the Iowa association of homes and services for the aging, the Iowa psychiatric nurse managers network, the arc of Iowa which was formerly known as the association for retarded citizens of Iowa, the alliance for the mentally ill of Iowa, Iowa state association of counties, and the Iowa governor's planning council for developmental disabilities, together with one person designated by the Iowa state board of chiropractic examiners; one state representative from each of the two major political parties appointed by the speaker of the house, one state senator from each of the two major political parties appointed by the president of the senate, after consultation with the majority leader and the minority leader of the senate, each for a term of two years; four public representatives, appointed by the governor for staggered terms of two years each, none of whom shall be members of, or practitioners of, or have a pecuniary interest in any of the professions or businesses represented by any of the several professional groups and associations specifically represented on the council under this subsection, and at least one of whom shall be a recipient of medical assistance; the director of public health, or a representative designated by the director; and the dean of the college of medicine, university of Iowa, or a representative designated by the dean.

Approved May 19, 1997

CHAPTER 166

FIREARMS AND MUNITIONS

H.F. 635

AN ACT relating to weapons and munitions by considering the use of less lethal munitions by peace officers not a use of deadly force and relating to the possession of curio or relic firearms by members of certain organizations.

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

Section 1. Section 704.2, subsections 3 and 4, Code 1997, are amended to read as follows:

3. The discharge of a firearm, other than a firearm loaded with less lethal munitions and discharged by a peace officer, corrections officer, or corrections official in the line of duty, in the direction of some person with the knowledge of the person's presence there, even though no intent to inflict serious physical injury can be shown.

4. The discharge of a firearm, other than a firearm loaded with less lethal munitions and discharged by a peace officer, corrections officer, or corrections official in the line of duty, at a vehicle in which a person is known to be.

Sec. 2. Section 704.2, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. As used in this section, "less lethal munitions" means projectiles which are designed to stun, temporarily incapacitate, or cause temporary discomfort to a person without penetrating the person's body.

Sec. 3. Section 724.2, Code 1997, is amended by adding the following new subsections:

NEW SUBSECTION. 8. A resident of this state, who possesses an offensive weapon which is a curio or relic firearm under the federal Firearms Act, 18 U.S.C. ch. 44, solely for use in the official functions of a historical reenactment organization of which the person is a member, if the offensive weapon has been permanently rendered unfit for the firing of live ammunition. The offensive weapon may, however, be adapted for the firing of blank ammunition.

NEW SUBSECTION. 9. A nonresident, who possesses an offensive weapon which is a curio or relic firearm under the federal Firearms Act, 18 U.S.C. ch. 44, solely for use in official functions in this state of a historical reenactment organization of which the person is a member, if the offensive weapon is legally possessed by the person in the person's state of residence and the offensive weapon is at all times while in this state rendered incapable of firing live ammunition. A nonresident who possesses an offensive weapon under this subsection while in this state shall not have in the person's possession live ammunition. The offensive weapon may, however, be adapted for the firing of blank ammunition.

Approved May 19, 1997

CHAPTER 167

THEFT BY FINANCIAL INSTRUMENT

H.F. 647

AN ACT defining the crime of theft to include the utterance of a financial instrument for the use of property which knowingly will not be paid when presented to a financial institution and making a penalty applicable.

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

Section 1. Section 714.1, subsection 6, unnumbered paragraph 1, Code 1997, is amended to read as follows:

Makes, utters, draws, delivers, or gives any check, share draft, draft, or written order on any bank, credit union, person, or corporation, and obtains property, the use of property, including rental property, or service in exchange ~~therefor~~ for such instrument, if the person knows that such check, share draft, draft, or written order will not be paid when presented.

Approved May 19, 1997

CHAPTER 168

CITY ORDINANCES AND RELATED MATTERS

H.F. 658

AN ACT relating to city ordinances and other official actions of a city council and mayor.

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

Section 1. Section 380.1, Code 1997, is amended to read as follows:

380.1 TITLE OF ORDINANCE.

The subject matter of an ordinance or amendment must be generally described in ~~its~~ the title of the ordinance or amendment.

Sec. 2. Section 380.2, Code 1997, is amended to read as follows:

380.2 AMENDMENT.

An amendment to an ordinance or to a code of ordinances must specifically ~~repeal~~ identify the ordinance or code, or the section, subsection, or paragraph, ~~or subpart~~ to be amended, and must set forth the ordinance, code, section, subsection, or paragraph, ~~or subpart~~ as amended, which action is deemed to be a repeal of the previous ordinance, code, section, subsection, or paragraph amended.

Sec. 3. Section 380.3, unnumbered paragraph 1, Code 1997, is amended to read as follows:

A proposed ordinance or amendment must be considered and voted on for passage at two council meetings prior to the meeting at which it is to be finally passed, unless this requirement is suspended by a recorded vote of not less than three-fourths of all of the ~~council~~ members of the council. If a proposed ordinance, ~~or~~ amendment, or resolution fails to receive sufficient votes for passage at any consideration and vote thereon, the proposed ordinance, ~~or~~ amendment, or resolution shall be considered defeated.

Sec. 4. Section 380.3, unnumbered paragraph 2, is amended by striking the paragraph.

Sec. 5. Section 380.4, Code 1997, is amended to read as follows:

380.4 MAJORITY REQUIREMENT — TIE VOTE.

Passage of an ordinance, amendment, or resolution requires ~~an affirmative vote of not less than~~ a majority vote of all of the ~~council~~ members of the council, except when the mayor may vote to break a tie vote in a city with an even number of council members, as provided in section 372.4. ~~A~~ Passage of a motion requires a majority vote of a quorum of the council. A resolution must be passed to spend public funds in excess of ~~ten~~ twenty-five thousand dollars on any one project, or ~~a motion~~ to accept public improvements and facilities upon their completion~~, also requires an affirmative vote of not less than a majority of the council members~~. Each council member's vote on ~~an ordinance, amendment, or resolution~~ a measure must be recorded. A measure which fails to receive sufficient votes for passage shall be considered defeated.

As used in this chapter, "all of the members of the council" refers to all of the seats of the council including a vacant seat and a seat where the member is absent, but does not include a seat where the council member declines to vote by reason of a conflict of interest.

A measure voted upon is not invalid by reason of a conflict of interest in a member of the council, unless the vote of the member of the council was decisive to passage of the measure. The vote must be computed on the basis of the number of members not disqualified by reason of conflict of interest. However, a majority of all members is required for a quorum. For the purpose of this section, the statement of a council member that the council member declines to vote by reason of conflict of interest is conclusive and must be entered of record.

Sec. 6. Section 380.5, Code 1997, is amended to read as follows:

380.5 MAYOR.

The mayor may sign, veto, or take no action on an ordinance, amendment, or resolution passed by the council. However, the mayor may not veto ~~a measure~~ an ordinance, amendment, or resolution if the mayor was entitled to vote on ~~the~~ such measure at the time of passage.

Sec. 7. Section 380.6, Code 1997, is amended to read as follows:

380.6 EFFECTIVE DATE.

Measures passed by the council~~, other than motions,~~ become effective in one of the following ways:

1. ~~If the mayor signs the measure, a resolution becomes effective immediately upon signing and an ordinance or amendment becomes a law when~~

a. An ordinance or amendment signed by the mayor becomes effective when the ordinance or a summary of the ordinance is published, as provided in section 380.7, subsection 3, unless a subsequent effective date is provided within the ~~measure~~ ordinance or amendment.

b. A resolution signed by the mayor becomes effective immediately upon signing.

c. A motion becomes effective immediately upon passage of the motion by the council.

2. ~~If the mayor vetoes the measure, the~~ The mayor may veto an ordinance, amendment, or resolution within fourteen days after passage. The mayor shall explain the reasons for the veto in a written message to the council at the time of the veto. Within thirty days after the mayor's veto, the council may pass the measure again by a vote of not less than two-thirds of all of the ~~council~~ members of the council. If the mayor vetoes ~~a measure~~ an ordinance, amendment, or resolution and the council repasses the measure after the mayor's veto, a resolution becomes effective immediately upon repassage, and an ordinance or amendment becomes a law when the ordinance or a summary of the ordinance is published, unless a subsequent effective date is provided within the ~~measure~~ ordinance or amendment.

3. If the mayor takes no action on ~~the measure~~ an ordinance, amendment, or resolution, a resolution becomes effective fourteen days after the date of passage and an ordinance or amendment becomes a law when the ordinance or a summary of the ordinance is published, but not sooner than fourteen days after the date of passage, unless a subsequent effective date is provided within the ~~measure~~ ordinance or amendment.

Sec. 8. Section 380.7, Code 1997, is amended to read as follows:

380.7 CITY CLERK.

The city clerk shall:

1. Promptly record each measure~~, with a statement, where applicable, indicating whether the mayor signed, vetoed, or took no action on the measure, and whether the measure was repassed after the mayor's veto~~.

2. Record a statement with the measure, where applicable, indicating whether the mayor signed, vetoed, or took no action on the measure, and whether the measure was repassed after the mayor's veto.

~~2.~~ 3. Publish a summary of all ordinances or the complete text of ordinances and amendments in the manner provided in section 362.3. As used in this subsection, "summary" shall mean a narrative description of the terms and conditions of an ordinance setting forth the main points of the ordinance in a manner calculated to inform the public in a clear and understandable manner the meaning of the ordinance and which shall provide the public with sufficient notice to conform to the desired conduct required by the ordinance. The description shall include the title of the ordinance, an accurate and intelligible abstract or synopsis of the essential elements of the ordinance, a statement that the description is a summary, the location and the normal business hours of the office where the ordinance may be inspected, when the ordinance becomes effective, and the full text of any provisions imposing fines, penalties, forfeitures, fees, or taxes. Legal descriptions of property set forth in ordinances shall be described in full, provided that maps or charts may be substituted for legal descriptions when they contain sufficient detail to clearly define the area with which the ordinance is concerned. The narrative description shall be written in a clear and coherent manner and shall, to the extent possible, avoid the use of technical or legal terms not generally familiar to the public. When necessary to use technical or legal terms not generally familiar to the public, the narrative description shall include definitions of those terms.

~~3.~~ 4. Authenticate all measures except motions with the clerk's signature and certification as to time and manner of publication, if any. The clerk's certification is presumptive evidence of the facts stated therein.

~~4.~~ 5. Maintain for public use copies of all effective ordinances and codes.

Sec. 9. Section 380.8, Code 1997, is amended to read as follows:

380.8 CODE OF ORDINANCES PUBLISHED.

1. a. ~~At least once every five years, a~~ A city shall compile a code of ordinances containing all of the city ordinances in effect, except grade ordinances, bond ordinances, zoning map ordinances, ~~and~~ ordinances vacating streets and alleys, and ordinances containing legal descriptions of urban revitalization areas and urban renewal areas.

b. A city may maintain a code of ordinances either by compiling at least annually a supplement to the code of ordinances consisting of all new ordinances and amendments to ordinances which became effective during the previous year and adopting the supplement by resolution or by adding at least annually new ordinances and amendments to ordinances to the code of ordinances itself.

c. A city which does not maintain the city code of ordinances as provided in paragraph "b" shall compile a code of ordinances at least once every five years.

2. a. If a proposed code of ordinances contains only existing ordinances ~~edited and compiled~~ without change in substance, the council may adopt the code by ordinance.

b. If a proposed code of ordinances contains a ~~proposed~~ new ordinance or an amendment to existing ordinances, the council shall hold a public hearing on the proposed code before adoption. The clerk shall publish notice of the hearing as provided in section 362.3. Copies of the proposed code of ordinances must be available at the city clerk's office and the notice must so state. Within thirty days after the hearing, the council may adopt the proposed code of ordinances ~~which~~. A new ordinance or an amendment to an existing ordinance becomes ~~law~~ effective upon publication of the ordinance adopting ~~it~~ the code of ordinances unless a

subsequent effective date is provided within an ordinance. If the council substantially amends the proposed code of ordinances after ~~a~~ the hearing, notice and hearing must be repeated before the code may be adopted.

~~Ordinances and amendments which become effective after adoption of a code of ordinances may be compiled as supplements to the code, and upon adoption of the supplement by resolution, become part of the code of ordinances.~~

3. ~~An adopted~~ A code of ordinances compiled and maintained at least annually, or compiled at least once every five years, is presumptive evidence of the passage, publication, and content of the ordinances codified therein as of the date of the clerk's certification of the ordinance adopting the code or supplement.

Sec. 10. Section 380.10, unnumbered paragraphs 1 and 2, Code 1997, are amended to read as follows:

A city may adopt the provisions of any statewide or nationally recognized standard code or portions of any such code by an ordinance which identifies the code by subject matter, source and date, and which incorporates the provisions of the code or portions of the code by reference without setting them forth in full. ~~Such code or portion must be adopted only after notice and hearing in the manner provided in section 380.8.~~ Copies of the proposed code or portions of such code shall be available at the office of the city clerk.

A city may by ordinance adopt by reference any portion of the Code of Iowa in effect at the time of the adoption in the manner provided in this section ~~380.8 for adoption of a proposed code of ordinances containing a proposed new ordinance or amendment~~, subject to the following limitations:

Sec. 11. Section 380.10, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Copies of any portions of the Code of Iowa to be adopted by reference shall be available at the city clerk's office. The council shall hold a public hearing on any proposed standard code or on the portions of any standard code to be adopted by reference. The council shall hold a public hearing on any portion of the Code of Iowa to be adopted by reference. The clerk shall publish notice of the hearing as provided in section 362.3. The notice must state that copies of the proposed standard code or portions thereof, or of the portion of the Iowa Code, are available at the city clerk's office. If the council substantially amends the proposed code after the hearing, notice and hearing must be repeated before the code may be adopted. Within thirty days after the hearing, the council by ordinance may adopt the proposed code which becomes effective upon publication of the ordinance adopting it, unless a subsequent effective date is provided within the adopting ordinance.

Approved May 19, 1997

CHAPTER 169

HUMAN SERVICES — MISCELLANEOUS PROVISIONS

H.F. 702

AN ACT relating to human services and facility requirements involving the single entry point process for mental health and developmental disabilities services, regional planning councils, human services institution employee record checks, decategorization of adult disability services funding, legal settlement involving community-based providers of treatment or services, and the operating requirements of an intermediate care facility for persons with mental retardation and including an effective date and an applicability provision.

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

DIVISION I
SINGLE ENTRY POINT PROCESS

Section 1. Section 218.99, Code 1997, is amended to read as follows:

218.99 ~~COUNTY AUDITORS~~ COUNTIES 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" and "b" and for which services are paid under section 331.424A to quarterly inform the ~~auditor of the~~ county of legal ~~settlement~~ settlement's entity designated to perform the county's single entry point process 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~~ county's single entry point process 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. 2. Section 222.13, subsection 1, Code 1997, is amended to read as follows:

1. If an adult person is believed to be a person with mental retardation, the adult person or the adult person's guardian may submit a request through the single entry point process for the county board of supervisors ~~or their designated agent~~ to apply to the superintendent of any state hospital-school for the voluntary admission of the adult person either as an inpatient or an outpatient of the hospital-school. ~~Submission of an application is subject to a recommendation supporting the placement developed through the single entry point process.~~ After determining the legal settlement of 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 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 adult person or the adult person's guardian. The superintendent shall accept the application providing a preadmission diagnostic evaluation, performed through the single entry point process, confirms or establishes the need for admission, except that 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.

Sec. 3. Section 222.61, unnumbered paragraph 1 and subsection 1, Code 1997, are amended to read as follows:

When ~~the board of supervisors of any~~ a county receives an application on behalf of any person for admission to a hospital-school or a special unit or when any court issues an order committing any person to a hospital-school or a special unit, the board of supervisors shall utilize the single entry point process to determine or the court shall determine and enter as a matter of record whether the legal settlement of the person is in one of the following:

1. In the county in which the ~~board of supervisors~~ application is received or court is located.

Sec. 4. Section 222.62, Code 1997, is amended to read as follows:

222.62 SETTLEMENT IN ANOTHER COUNTY.

Whenever the board of supervisors utilizes a single entry point process to determine or the court determines that the legal settlement of the person is other than in the county in which the ~~board~~ application is received or the court is located, the board or court shall, as soon as determination is made, certify such finding to the superintendent of the hospital-school or the special unit where the person is a patient. The superintendent shall charge the expenses already incurred and unadjusted, and all future expenses of the patient, to the county so certified until ~~said~~ the patient's legal settlement shall be otherwise determined as provided by this chapter.

Sec. 5. Section 222.64, Code 1997, is amended to read as follows:

222.64 FOREIGN STATE OR UNKNOWN LEGAL SETTLEMENT.

If the legal settlement of the person is found by the board of supervisors through a single entry point process or the court to be in a foreign state or country or is found to be unknown, the board of supervisors or the court shall immediately notify the administrator of ~~such~~ the finding and shall furnish the administrator with a copy of the evidence taken on the question of legal settlement. The care of ~~said~~ the person shall be as arranged by the board of supervisors or by ~~such~~ an order as the court may enter. Application for admission or order of commitment may be made pending investigation by the administrator.

Sec. 6. Section 229.42, unnumbered paragraph 1, Code 1997, is amended to read as follows:

If a person wishing to make application for voluntary admission to a mental hospital established by chapter 226 is unable to pay the costs of hospitalization or those responsible for the person are unable to pay the costs, application for authorization of voluntary admission must be made ~~to any clerk of the district court~~ through a single entry point process before application for admission is made to the hospital. The ~~clerk shall determine the~~ person's county of legal settlement shall be determined through the single entry point process and if the admission is approved through the single entry point process, ~~the clerk shall authorize~~ the person's admission to a mental health hospital shall be authorized as a voluntary case. The authorization shall be issued on forms provided by the administrator. ~~The clerk shall at once provide a duplicate copy of the form to the single entry point process.~~ The costs of the hospitalization shall be paid by the county of legal settlement to the director of revenue and finance and credited to the general fund of the state, providing the mental health hospital rendering the services has certified to the county auditor of the county of legal settlement the amount chargeable to the county and has sent a duplicate statement of the charges to the director of revenue and finance. A county shall not be billed for the cost of a patient unless the patient's admission is authorized through the single entry point process. The mental health institute and the county shall work together to locate appropriate alternative placements and services, and to educate patients and family members of patients regarding such alternatives.

DIVISION II
REGIONAL PLANNING COUNCILS

Sec. 7. Section 225C.7, subsection 3, Code 1997, is amended by striking the subsection.

Sec. 8. Section 225C.18, subsections 1 and 2, Code 1997, are amended by striking the subsections and inserting in lieu thereof the following:

1. A county may participate in a mental health and developmental disabilities regional planning council. The region encompassed by a planning council shall be determined by the counties participating in the planning council.

2. The boards of supervisors of the counties comprising the planning council shall determine the size and membership of the planning council.

Sec. 9. Section 225C.18, subsection 3, Code 1997, is amended by striking the subsection.

Sec. 10. Section 225C.18, subsection 4, unnumbered paragraph 1, Code 1997, is amended to read as follows:

A planning council ~~shall~~ may perform the following tasks:

Sec. 11. Section 225C.18, subsection 5, Code 1997, is amended to read as follows:

5. The ~~requirements~~ provisions of this section relating to services to persons with disabilities are not intended as and shall not be construed as a requirement to provide services.

DIVISION III
DEPARTMENT OF HUMAN SERVICES EMPLOYEE RECORD CHECKS

Sec. 12. Section 218.13, subsections 2, 3, 4, and 5, Code 1997, are amended to read as follows:

2. If a person is being considered for employment involving direct responsibility for a resident or with access to a resident when the resident is alone, or if a person will reside in a facility utilized by an institution, and if the person has been convicted of a crime or has a record of founded child or dependent adult abuse, the department shall perform an evaluation to determine whether the crime or founded ~~child~~ abuse warrants prohibition of employment or residence in the facility. The department shall conduct criminal and child and dependent adult abuse record checks of the person in this state and may conduct these checks in other states. The investigation and evaluation shall be performed in accordance with procedures adopted for this purpose by the department.

3. If the department determines that a person, who is employed by an institution or resides in a facility utilized by an institution, has been convicted of a crime or has a record of founded child or dependent adult abuse, the department shall perform an evaluation to determine whether prohibition of the person's employment or residence is warranted. The evaluation shall be performed in accordance with procedures adopted for this purpose by the department.

4. In an evaluation, the department shall consider the nature and seriousness of the crime or founded child or dependent adult abuse in relation to the position sought or held, the time elapsed since the commission of the crime or founded ~~child~~ abuse, the circumstances under which the crime or founded ~~child~~ abuse was committed, the degree of rehabilitation, the likelihood that the person will commit the crime or founded ~~child~~ abuse again, and the number of crimes or founded ~~child~~ abuses committed by the person involved. The department may permit a person who is evaluated to be employed or reside or to continue employment or residence if the person complies with the department's conditions relating to employment or residence which may include completion of additional training.

5. If the department determines that the person has committed a crime or has a record of founded child or dependent adult abuse which warrants prohibition of employment or residence, the person shall not be employed by an institution or reside in a facility utilized by an institution.

DIVISION IV
DECATEGORIZATION OF ADULT DISABILITY SERVICES

Sec. 13. DECATEGORIZATION PLANNING.

1. Up to three counties or combinations of counties may participate in a funding decategorization planning process as provided in this section. Upon the request of a participating county, the department of human services and the division of vocational rehabilitation of the department of education shall assign representatives who are knowledgeable of their agency's funding streams, to participate in a planning process conducted by the participating county. The purpose of the planning process shall be to determine the feasibility of decategorizing the following county, state, and state-federal funding categories:

a. Moneys levied under and deposited in the county's services fund under section 331.424A.

b. The medical assistance program under chapter 249A.

c. State supplementary assistance under chapter 249.

d. Federal social services block grant funds distributed by the state to counties for local purchase of services.

e. Moneys distributed from the mental health and developmental disabilities community services fund created in section 225C.7.

f. Federal vocational rehabilitation funds projected to be used for adult disability services in the participating county or counties.

g. The portion of federal alcohol, drug abuse, and mental health block grant funds administered by the department of human services.

h. The portion of state hospital-school and state mental health institutes costs which is paid from the general fund of the state.

2. As part of the planning process, the department of human services and the division of vocational rehabilitation shall make available historical expenditure information, budget projections, and other available data relating to persons with disabilities served in a county participating in the planning process.

DIVISION V
COUNTY AUDITOR

Sec. 14. Section 222.2, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. "Auditor" means the county auditor or the auditor's designee.

Sec. 15. Section 229.1, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. "Auditor" means the county auditor or the auditor's designee.

Sec. 16. NEW SECTION. 230.34A AUDITOR DEFINED.

As used in this chapter, "auditor" means the county auditor or the auditor's designee.

Sec. 17. Section 252.22, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For the purposes of this section, "auditor" means the county auditor or the auditor's designee.

DIVISION VI
HEALTH CARE FACILITIES

Sec. 18. Section 135C.6, subsection 8, Code 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. A total of twenty residential care facilities for persons with mental retardation which are licensed to serve no more than five individuals may be authorized by the department of human services to convert to operation as a residential program under the provisions of a medical assistance home and community-based services waiver for persons with mental retardation. A converted residential program is subject to the conditions

stated in paragraph "b" except that the program shall not serve more than five individuals. The department of human services shall allocate conversion authorizations to provide for four conversions in each of the department's five service regions. If a conversion authorization allocated to a region is not used for conversion by January 1, 1998, the department of human services may reallocate the unused conversion authorization to another region. The department of human services shall study the cost effectiveness of the conversions and provide an initial report to the general assembly no later than January 2, 1998, and a final report no later than December 15, 1998.

Sec. 19. Section 135C.9, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 4. If a facility subject to licensure under this chapter, a facility exempt from licensure under this chapter pursuant to section 135C.6, or a family home under section 335.25 or 414.22, has been issued a certificate of compliance or a provisional certificate of compliance under subsection 1 or 3, or has otherwise been approved as complying with a rule or standard by the state or a deputy fire marshal or a local building department as defined in section 103A.3, the state or deputy fire marshal or local building department which issued the certificate, provisional certificate, or approval shall not apply additional requirements for compliance with the rule or standard unless the rule or standard is revised in accordance with chapter 17A or with local regulatory procedure following issuance of the certificate, provisional certificate, or approval.

Sec. 20. ENHANCED RESIDENTIAL CARE FACILITY FOR PERSONS WITH MENTAL RETARDATION REIMBURSEMENT RATES. The department of human services shall design a program to provide an enhanced reimbursement rate for individuals transferred from an intermediate care facility for persons with mental retardation to a residential care facility for persons with mental retardation. The enhanced reimbursement rate shall not exceed the nonfederal share of intermediate care facility for persons with mental retardation reimbursement plus state supplementary assistance. The department shall report to the general assembly concerning the program on or before January 1, 1998. The report shall address both the cost impact and decreased utilization of intermediate care facilities for persons with mental retardation level of care which may result from implementation of the program.

DIVISION VII
STATE-COUNTY MANAGEMENT COMMITTEE AND SERVICE PLANS

Sec. 21. 1997 Iowa Acts, House File 715, section 22, relating to the mental health and developmental disabilities community services fund, if enacted,* is amended by adding the following new subsection:

NEW SUBSECTION. 9. The department, following consultation with the Iowa state association of counties, may adopt emergency rules as necessary for the department to negotiate contractual agreements between providers of mental health, mental retardation, and developmental disabilities local purchase services and the department for the benefit of counties for local purchase services.

Sec. 22. Section 331.439, subsection 3, paragraph b, Code 1997, as amended by 1997 Iowa Acts, House File 255,** section 4, is amended to read as follows:

b. Based upon information contained in county management plans and budgets, the state-county management committee shall recommend an allowed growth factor adjustment to the governor by November 15 for the fiscal year which commences two years from the beginning date of the fiscal year in progress at the time the recommendation is made. The allowed growth factor adjustment shall address costs associated with new consumers of service, service cost inflation, and investments for economy and efficiency. In developing the service cost inflation recommendation, the committee shall consider the cost trends indicated by the gross expenditure amount reported in the expenditure reports submitted by

* Chapter 208 herein
** Chapter 198 herein

counties pursuant to subsection 1, paragraph "b".* The governor shall consider the committee's recommendation in developing the governor's recommendation for an allowed growth factor adjustment for such fiscal year. The governor's recommendation shall be submitted at the time the governor's proposed budget for the succeeding fiscal year is submitted in accordance with chapter 8.

Sec. 23. Section 331.439, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 7. A county shall annually report data concerning the services managed by the county. At a minimum, the data reported shall indicate the number of different individuals who utilized services in a fiscal year and the various types of services. Data reported under this subsection shall be submitted with the county's expenditure report required under subsection 1, paragraph "b".*

Sec. 24. Section 331.439, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 8. A county's management plans submitted under this section shall allow for the service needs of all ages of persons for whom expenditures may be made from the county's services fund.

Sec. 25. EFFECTIVE DATE AND APPLICABILITY PROVISION. Section 24 of this division of this Act, being deemed of immediate importance, takes effect upon enactment. The requirements of section 24 shall first apply to county mental health, mental retardation, and developmental disabilities services plans submitted under section 331.439 applicable to the fiscal year beginning July 1, 1997. If a county's management plan for that fiscal year was submitted prior to the effective date of section 24 and is not in compliance with the provisions of section 24 of this Act, the county shall submit an amendment to the management plan as necessary for compliance. The amendment shall be submitted within 60 days of the effective date of section 24 and is subject to the approval provisions of section 331.439.

DIVISION VIII
ICFMR CONVERSION

Sec. 26. Section 135C.6, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 8A. Contingent upon the department of human services receiving federal approval, a residential program which serves not more than eight individuals and is licensed as an intermediate care facility for persons with mental retardation may surrender the facility license and continue to operate under a federally approved medical assistance home and community-based services waiver for persons with mental retardation, if the department of human services has approved a plan submitted by the residential program.

DIVISION IX
LEGAL SETTLEMENT

Sec. 27. Section 252.16, subsection 8, Code 1997, is amended to read as follows:

8. A person receiving treatment or support services from any ~~community based~~ provider ~~of~~, whether organized for pecuniary profit or not or whether supported by charitable or public or private funds, that provides treatment or services for mental retardation, developmental disabilities, mental health, brain injury, or substance abuse does not acquire legal settlement in the ~~host~~ county in which the site of the provider is located unless the person continuously resides in ~~the host~~ that county for one year from the date of the last treatment or support service received by the person.

Approved May 19, 1997

* Paragraph "a" probably intended

CHAPTER 170

ELECTIONS

H.F. 636

AN ACT relating to the office of secretary of state and the conduct of elections and voter registration in the state and relating to corrective and technical changes to Iowa's election laws, and providing an effective date.

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

Section 1. NEW SECTION. 39.1A ELECTIONS AUTHORIZED.

Only those public measures which are specifically authorized or required by state law to be put before the voters as a public measure shall be submitted to the voters at an official election. Only those offices which are specifically authorized or required by state law to be filled by the voters at an election shall be placed on the ballot at an official election.

This section does not prohibit the governing body of a city or county from adopting an ordinance providing for elections on matters under the jurisdiction of the governing body.

Sec. 2. Section 43.6, subsection 1, Code 1997, is amended to read as follows:

1. When a vacancy occurs in the office of senator in the Congress of the United States, ~~lieutenant governor,~~ secretary of state, auditor of state, treasurer of state, secretary of agriculture, or attorney general and section 69.13 requires that the vacancy be filled for the balance of the unexpired term at a general election, candidates for the office shall be nominated in the preceding primary election if the vacancy occurs eighty-nine or more days before the date of that primary election. If the vacancy occurs less than one hundred four days before the date of that primary election, the state commissioner shall accept nomination papers for that office only until five o'clock p.m. on the seventy-fourth day before the primary election, the provisions of section 43.11 notwithstanding. If the vacancy occurs later than eighty-nine days before the date of that primary election, but not less than eighty-nine days before the date of the general election, the nominations shall be made in the manner prescribed by this chapter for filling vacancies in nominations for offices to be voted for at the general election.

Sec. 3. Section 43.73, unnumbered paragraph 1, Code 1997, is amended to read as follows:

Not less than sixty-nine days before the general election the state commissioner shall certify to each commissioner, under separate party headings, the name of each person nominated as shown by the official canvass made by the executive council, or as certified to the state commissioner by the proper persons when any person has been nominated by a convention or by a party committee, or by petition, the office to which the person is nominated, and the order in which ~~the tickets of the several political parties~~ federal and state offices, judges, constitutional amendments, and state public measures shall appear on the official ballot.

Sec. 4. Section 43.79, Code 1997, is amended to read as follows:

43.79 DEATH OF CANDIDATE AFTER TIME FOR WITHDRAWAL.

The death of a candidate nominated as provided by law for any office to be filled at a general election, during the period beginning on the eighty-eighth day before the general election, in the case of any candidate whose nomination papers were filed with the state commissioner, or beginning on the seventy-third day before the general election, in the case of any candidate whose nomination papers were filed with the commissioner, and ending on the last day before the general election shall not operate to remove the deceased candidate's name from the general election ballot. If the deceased candidate was seeking the office of senator or representative in the Congress of the United States, governor, ~~lieutenant governor,~~ attorney general, senator or representative in the general assembly or county supervi-

sor, section 49.58 shall control. If the deceased candidate was seeking any other office, and as a result of the candidate's death a vacancy is subsequently found to exist, the vacancy shall be filled as provided by chapter 69.

Sec. 5. Section 43.88, unnumbered paragraph 2, Code 1997, 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~~ twenty-five 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 nomination shall be certified not less than fourteen days before the date of the special election.

Sec. 6. Section 43.116, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 3. If a special election is held to fill a vacancy in an elective city office, nominations by political parties shall be made following the provisions of subsection 2.

Sec. 7. Section 44.4, unnumbered paragraph 1, Code 1997, 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~~ twenty-five days before the date of an election called upon at least forty days' notice and not less than fourteen days before the date of an election called upon at least 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. 8. Section 44.11, Code 1997, is amended to read as follows:

44.11 VACANCIES FILLED.

If a candidate named under this chapter withdraws before the deadline established in section 44.9, declines a nomination, or dies before election day, or if a certificate of nomination is held insufficient or inoperative by the officer with whom it is required to be filed, or in case any objection made to a certificate of nomination, or to the eligibility of any candidate named in the certificate, is sustained by the board appointed to determine such questions, the vacancy or vacancies may be filled by the convention, or caucus, or in such manner as such convention or caucus has previously provided. The vacancy or vacancies shall be filled not less than seventy-four days before the election in the case of nominations required to be filed with the state commissioner, not less than sixty-four days before the election in the case of nominations required to be filed with the commissioner, not less than thirty-five days before the election in the case of nominations required to be filed in the office of the school board secretary, and not less than forty-two days before the election in the case of nominations required to be filed with the city clerk.

Sec. 9. NEW SECTION. 44.17 NONPARTY POLITICAL ORGANIZATIONS — NOMINATIONS BY PETITION.

In lieu of holding a caucus or convention, a nonparty political organization may nominate by petition pursuant to chapter 45 not more than one candidate for any partisan office to be filled at the general election.

The nonparty political organization may also file with the appropriate commissioner a

list of the names and addresses of the organization's central committee members, and the chairperson and secretary of the organization. The organization may also place on file a description of the method that the organization will follow to fill any vacancies resulting from the death, withdrawal, or disqualification of any of its candidates that were nominated by petition. If this information is filed before the close of the filing period for the general election, substitutions may be made pursuant to section 44.11.

Sec. 10. NEW SECTION. 47.4 ELECTION FILING DEADLINES.

If the deadline for a filing pertaining to an election falls on a day that the state or county commissioner's office is closed for business, the deadline shall be extended to the next day that the office of state commissioner or county commissioner is open for business to receive the filing. This section does not apply to the deadline for voter registration under section 48A.9, subsection 2.

Sec. 11. Section 47.5, subsection 1, Code 1997, is amended to read as follows:

1. ~~The~~ Except for legal services and printing of ballots, the commissioner shall take bids for goods and services which are needed in connection with registration of voters or preparation for or administration of elections and which will be performed or provided by persons who are not employees of the commissioner under the following circumstances:

a. In any case where it is proposed to purchase data processing services. The commissioner shall give the registrar written notice in advance on each occasion when it is proposed to have data processing services, necessary in connection with the administration of elections, performed by any person other than the registrar or an employee of the county. Such notice shall be made at least thirty days prior to publication of the specifications.

b. In all other cases, where the cost of the goods or services to be purchased will exceed one thousand dollars.

~~c. Bids shall not be required for legal services or the printing of ballots.~~

Sec. 12. Section 47.5, subsection 2, Code 1997, is amended to read as follows:

2. When it is proposed to purchase any goods or services, other than data processing services, in connection with administration of elections, the commissioner shall publish notice to bidders, including specifications regarding the goods or services to be purchased or a description of the nature and object of the services to be retained, in a newspaper of general circulation in the county not less than fifteen days before the final date for submission of bids. ~~The commissioner shall also file a copy of the bid specifications in the office of the state commissioner for a period of not less than twenty days prior to such final date.~~ When competitive bidding procedures are used, the purchase of goods or services shall be made from the lowest responsible bidder which meets the specifications or description of the services needed or the commissioner may reject all bids and readvertise. In determining the lowest responsible bidder, various factors may be considered, including but not limited to the past performance of the bidder relative to quality of product or service, the past experience of the purchaser in relation to the product or service, the relative quality of products or services, the proposed terms of delivery and the best interest of the county.

Sec. 13. Section 47.6, subsection 1, unnumbered paragraph 2, Code 1997, is amended to read as follows:

If the proposed date of the special election coincides with the date of a regularly scheduled election or previously scheduled special election, the notice shall be given no later than five p.m. on the last day on which nomination papers may be filed with the commissioner for the regularly scheduled election or previously scheduled special election, but in no case shall notice be less than thirty-two days before the election. Otherwise, the notice shall be given at least thirty-two days in advance of the date of the proposed special election. Upon receiving the notice, the commissioner shall promptly give written approval of the proposed date unless it appears that the special election, if held on that date, would conflict with a regular election or with another special election previously scheduled for that date.

Sec. 14. Section 48A.22, Code 1997, is amended to read as follows:

48A.22 VOTER REGISTRATION BY VOLUNTEER ORGANIZATIONS.

The secretary of state shall encourage volunteer organizations to undertake voter registration drives by providing ~~mail~~ registration forms ~~at the cost of production~~.

Sec. 15. Section 48A.26, subsection 1, Code 1997, is amended to read as follows:

1. Within seven working days of receipt of a voter registration form or change of information in a voter registration record the commissioner shall send an acknowledgment to the registrant at the mailing address shown on the registration form. The acknowledgment shall be sent by ~~first class~~ nonforwardable mail.

Sec. 16. Section 48A.27, subsection 4, paragraph b, Code 1997, is amended to read as follows:

b. If the information provided by the vendor indicates that a registered voter has moved to another address within the county, the commissioner shall change the registration records to show the new residence address, and shall also mail a notice of that action to both the former and new addresses. The notice shall be sent by forwardable ~~first class~~ mail, and shall include a postage prepaid preaddressed return form by which the registered voter may verify or correct the address information.

Sec. 17. Section 48A.27, subsection 4, paragraph c, unnumbered paragraph 2, Code 1997, is amended to read as follows:

The notice shall be sent by forwardable ~~first class~~ mail, and shall include a postage paid preaddressed return card on which the registered voter may state the registered voter's current address. The notice shall contain a statement in substantially the following form: "Information received from the United States postal service indicates that you are no longer a resident of, and therefore not eligible to vote in (name of county) County, Iowa. If this information is not correct, and you still live in (name of county) County, please complete and mail the attached postage paid card at least ten days before the primary or general election and at least eleven days before any other election at which you wish to vote. If the information is correct and you have moved, please contact a local official in your new area for assistance in registering there. If you do not mail in the card, you may be required to show identification proving your residence in (name of county) County before being allowed to vote in (name of county) County. If you do not return the card, and you do not vote in an election in (name of county) County, Iowa, on or before (date of second general election following the date of the notice) your name will be removed from the list of voters in that county. To ensure you receive this notice, it is being sent to both your most recent registration address and to your new address as reported by the postal service."

Sec. 18. Section 48A.27, subsection 4, paragraph d, Code 1997, is amended to read as follows:

d. If the information provided by the vendor indicates the registered voter has moved to another county within the state, the notice required by paragraph "c" shall include a statement that registration in the county of the person's current residence is required~~, and shall provide a mail registration form for the person to use~~.

Sec. 19. Section 48A.28, subsection 2, unnumbered paragraph 2, Code 1997, is amended to read as follows:

A commissioner participating in the national change of address program, in the first quarter of each calendar year, shall send a notice and preaddressed, postage paid return card by ~~first class~~ forwardable mail to each registered voter whose name was not reported by the national change of address program and who has not voted, registered again, or reported a change to an existing registration during the preceding four calendar years. The form and language of the notice and return card shall be specified by the state voter registration commission by rule. A registered voter shall not be sent a notice and return card under

this subsection more frequently than once in a four-year period.

Sec. 20. Section 48A.28, subsection 3, unnumbered paragraph 1, Code 1997, is amended to read as follows:

For a commissioner who is not participating in the national change of address program, in February of each year the commissioner shall mail a confirmation notice to each registered voter in the county. The notice shall be sent by ~~first class~~ forwardable mail. The notice shall include a preaddressed, postage paid return card for the use of the registered voter or the recipient of the notice. The card shall contain boxes for the recipient to check to indicate one of the following:

Sec. 21. Section 48A.29, subsection 1, unnumbered paragraph 2, Code 1997, is amended to read as follows:

The notice shall be sent by forwardable ~~first class~~ mail, and shall include a postage paid preaddressed return card on which the registered voter may state the registered voter's current address. The notice shall contain a statement in substantially the following form: "Information received from the United States postal service indicates that you are no longer a resident of (residence address) in (name of county) County, Iowa. If this information is not correct, and you still live in (name of county) County, please complete and mail the attached postage paid card at least ten days before the primary or general election and at least eleven days before any other election at which you wish to vote. If the information is correct, and you have moved, please contact a local official in your new area for assistance in registering there. If you do not mail in the card, you may be required to show identification proving your residence in (name of county) County before being allowed to vote in (name of county) County. If you do not return the card, and you do not vote in some election in (name of county) County, Iowa, on or before (date of second general election following the date of the notice) your name will be removed from the list of voters in that county."

Sec. 22. Section 48A.29, subsection 3, unnumbered paragraph 2, Code 1997, is amended to read as follows:

The notice shall be sent by forwardable ~~first class~~ mail, and shall include a postage paid preaddressed return card on which the registered voter may state the registered voter's current address. The notice shall contain a statement in substantially the following form: "Information received by this office indicates that you are no longer a resident of (residence address) in (name of county) County, Iowa. If the information is not correct, and you still live at that address, please complete and mail the attached postage paid card at least ten days before the primary or general election and at least eleven days before any other election at which you wish to vote. If the information is correct, and you have moved within the county, you may update your registration by listing your new address on the card and mailing it back. If you have moved outside the county, please contact a local official in your new area for assistance in registering there. If you do not mail in the card, you may be required to show identification proving your residence in (name of county) County before being allowed to vote in (name of county) County. If you do not return the card, and you do not vote in some election in (name of county) County, Iowa, on or before (date of second general election following the date of the notice) your name will be removed from the list of registered voters in that county."

Sec. 23. Section 49.13, subsection 4, Code 1997, is amended to read as follows:

4. The commissioner shall designate one member of each precinct election board as chairperson of that board~~, and also of the~~. If a counting board authorized by chapter 51 ~~if one~~ is appointed, ~~with~~ the chairperson shall have authority over the mechanics of the work of both boards. At the discretion of the commissioner, two people who are members of different political parties may be appointed as co-chairpersons. The co-chairpersons shall have joint authority over the work of the precinct election board.

Sec. 24. Section 49.16, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 5. A person shall not serve on the precinct election board as a representative of a political party if the person has changed political party affiliation from that of the political party which selected the person to serve as a precinct election official. If a precinct election official records a change of political party, the official's name shall be removed from the list of precinct election officials for that political party. The chairperson of the political party shall be notified of the vacancy and may designate a replacement. If the chairperson of another political party later designates the person as a precinct election official, the person may serve, if qualified.

Sec. 25. Section 49.20, Code 1997, is amended to read as follows:

49.20 COMPENSATION OF MEMBERS.

The members of election boards shall be deemed temporary state employees who are compensated by the county in which they serve, and shall receive compensation at a rate established by the board of supervisors, which shall be not less than three dollars and fifty cents per hour, while engaged in the discharge of their duties and shall be reimbursed for actual and necessary travel expense at a rate determined by the board of supervisors, except that persons who have advised the commissioner prior to their appointment to the election board that they are willing to serve without pay at elections conducted for any school district or a city of three thousand five hundred or less population, shall receive no compensation for service at those elections. Compensation shall be paid to members of election boards only after the vote has been canvassed and it has been determined in the course of the canvass that the election record certificate has been properly executed by the election board.

Sec. 26. Section 49.25, subsection 3, Code 1997, is amended to read as follows:

3. The commissioner shall furnish to each precinct where voting is to be by paper ballot, special paper ballot, or ballot card, rather than by voting machine, the necessary ballot boxes, suitably equipped with seals or locks and keys, and voting booths. The voting booths shall be approved by the board of examiners for voting machines and electronic voting systems and shall provide for voting in secrecy. At least one voting booth in each precinct shall be accessible to persons with disabilities. If the lighting in the polling place is inadequate, the voting booths used in that precinct shall include lights. Ballot boxes shall be locked or sealed before the polls open and shall remain locked or sealed until the polls are closed, except as provided in sections 51.7 and 52.40, or to provide necessary service to a malfunctioning portable vote tallying device. If a ballot box is opened prior to the closing of the polls, two precinct election officials not of the same party shall be present and observe the ballot box being opened.

Sec. 27. Section 49.25, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Secrecy folders or sleeves shall be provided for use at any precinct where ballots are used which cannot be folded to obscure the marks made by the voters.

Sec. 28. Section 49.26, Code 1997, is amended to read as follows:

49.26 COMMISSIONER TO DECIDE METHOD OF VOTING.

1. In all elections regulated by this chapter, the voting shall be by ballots printed and distributed as provided by law, or by voting machines meeting the requirements of chapter 52.

2. When voting machines are available for an election precinct, the commissioner shall determine in advance of each election conducted for a city of three thousand five hundred or less population or any school district in which voting occurs in that precinct whether voting there shall be by machine or paper ballot. If the commissioner concludes, on the basis of voter turnout for recent similar elections and factors considered likely to affect voter turnout for the forthcoming election, that voting will probably be so light as to make preparation and use of paper ballots less expensive than preparation and use of a voting machine, paper ballots shall be used.

3. In counties in which automatic tabulating equipment is available, the commissioner shall determine in advance of each election whether the ballots will be counted by the automatic tabulating equipment or by the precinct election officials. The commissioner may use ballots and instructions similar to those used when the ballots are counted by automatic tabulating equipment.

Sec. 29. Section 49.30, Code 1997, is amended to read as follows:

49.30 ALL CANDIDATES ON ONE BALLOT — EXCEPTIONS.

The names of all candidates, constitutional amendments, and public measures to be voted for in each election precinct, other than presidential electors, shall be printed on one ballot, except that separate ballots are authorized under the following circumstances:

~~1. For judicial elections, separate ballots or headings shall be used as required by section 46.22.~~

1. Where special paper ballots are used, if it is not possible to include all offices and public measures on a single ballot, separate ballots may be provided for nonpartisan offices, judges, or public measures.

2. At an election where voting machines are used, ~~and it~~ the following exceptions apply:

a. If it is impossible to place the names of all candidates on the machine ballot, the commissioner may provide a separate paper ballot for the candidates for judge of the district court, ~~and~~ the township offices, ~~or either; one~~ and the nonpartisan offices listed in section 39.21. One of the paper ballots shall be furnished to each registered voter.

b. When a precinct has one or more offices or questions on the ballot in any election that may not be legally voted upon by all registered voters of the precinct, the commissioner shall use lockout devices operated by the precinct election officials to restrict each voter to the appropriate parts of the ballot. However, if the voting machine does not have a lockout device, the commissioner may use one or more separate voting machines for each group of voters in the precinct. If neither of the foregoing procedures is feasible, the commissioner shall prepare separate ballots for the candidates or questions which may not be legally voted upon by all registered voters of the precinct, and shall furnish a separate ballot box into which only those ballots shall be deposited.

3. ~~Separate~~ Where paper ballots are used, separate paper ballots ~~may~~ shall be used ~~for~~:

a. For the election of township officers in precincts including both incorporated and unincorporated areas or more than one township.

b. For public measures.

c. For judges.

Sec. 30. Section 49.31, subsection 1, Code 1997, is amended by striking the subsection and inserting in lieu thereof the following:

1. All ballots shall be arranged with the names of candidates for each office listed below the office title. For partisan elections the name of the political party or organization which nominated each candidate shall be listed after or below each candidate's name.

The commissioner shall determine the order of political parties and nonparty political organizations on the ballot. The sequence shall be the same for each office on the ballot and for each precinct in the county voting in the election.

Sec. 31. Section 49.31, subsection 4, Code 1997, is amended to read as follows:

4. ~~If electors in any precinct are entitled to vote for more than one nominee or candidate for a particular office, the~~ The heading for ~~that~~ each office on the ~~precinct~~ ballot shall be immediately followed by a notation ~~of~~ stating, "Vote for no more than ____", and indicating the maximum number of nominees or candidates for that office for whom each elector may vote. ~~Provision shall be made on the ballot to allow the elector to write in the name of any person for whom the elector desires to vote for any office or nomination on the ballot.~~

Sec. 32. Section 49.31, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. At the end of the list of candidates for each office listed on the ballot one or more blank lines and voting positions shall be printed to allow the elector to write in the name of any person for whom the elector desires to vote for any office or nomination on the ballot. The number of write-in lines shall equal the number of votes that can be cast for that office.

Sec. 33. Section 49.33, Code 1997, is amended to read as follows:

49.33 SINGLE ~~SQUARE~~ VOTING TARGET FOR CERTAIN PAIRED OFFICES.

~~Upon the left-hand margin of each separate column of the ballot, immediately~~ Immediately opposite the names of ~~the~~ each pair of candidates for president and vice president, a single ~~square, the sides of which shall not be less than one-fourth of an inch in length,~~ voting target shall be printed ~~in front of~~ next to the bracket enclosing the names of the candidates for president and vice president~~, and a separate square of the same size~~. A single voting target shall be printed ~~in front of~~ next to the bracket enclosing the names of the candidates for governor and lieutenant governor. The votes for a team of candidates shall be counted and certified ~~to~~ by the election board as a team. Write-in votes ~~may~~ shall also be tabulated ~~for each office separately~~ as a single vote for a pair of candidates.

Sec. 34. Section 49.35, Code 1997, is amended to read as follows:

49.35 ORDER OF ARRANGING TICKETS ON LEVER VOTING MACHINE BALLOT.

Each list of candidates nominated by a political party or a group of petitioners shall be termed a ticket. ~~Each~~ Where lever voting machines are used, each ticket shall be placed in a separate vertical column or horizontal row on the ballot, in the order determined pursuant to section 49.37 by the authorities charged with the printing of the ballots. However, if a total of more than seven tickets are to be placed on the ballot the state commissioner may authorize a method of placement in which the groups of petitioners are not all placed in separate individual columns or rows.

Sec. 35. Section 49.37, subsection 1, Code 1997, is amended by striking the subsection and inserting in lieu thereof the following:

1. For general elections, and for other elections in which more than one partisan office will be filled, the first section of the ballot shall be for straight party voting. Each political party or organization which has nominated candidates for more than one office shall be listed. Instructions to the voter for straight party or organization voting shall be in substantially the following form: "To vote for all candidates from a single party or organization, mark the voting target next to the party or organization name. Not all parties or organizations have nominated candidates for all offices. Marking a straight party or organization vote does not include votes for nonpartisan offices, judges, or questions." Political parties and nonparty political organizations which have nominated candidates for only one office shall be listed below the other political organizations under the heading "Other Political Organizations. The following organizations have nominated candidates for only one office:".

Offices shall be arranged in groups. Partisan offices, nonpartisan offices, judges, and public measures shall be separated by a distinct line appearing on the ballot.

Sec. 36. Section 49.37, subsections 2 and 3, Code 1997, are amended to read as follows:

2. The commissioner shall arrange the ballot in conformity with the certificate issued by the state commissioner under section 43.73, in that the names of the respective candidates ~~on~~ for each political party ~~ticket~~ shall appear in the order they appeared on the certificate, above or to the left of the nonparty political organization ~~tickets~~ candidates.

3. The commissioner shall arrange the partisan county offices on the ballot with the board of supervisors first, followed by the other county offices and township offices in the same sequence in which they appear in sections 39.17 and 39.22. Nonpartisan offices shall be listed ~~below or to the right of~~ after partisan offices.

Sec. 37. NEW SECTION. 49.42A FORM OF OFFICIAL BALLOT.

The ballot for the general election shall be arranged in substantially the following form:

PARTISAN OFFICES

STRAIGHT PARTY VOTING

To vote for all candidates from a single party mark the voting target next to the party name. Not all parties have nominated candidates for all offices. Marking a straight party vote does not include votes for nonpartisan offices, judges, or questions.

POLITICAL PARTY NAME
POLITICAL PARTY NAME
POLITICAL ORGANIZATION NAME
POLITICAL ORGANIZATION NAME

OTHER POLITICAL ORGANIZATIONS

The following political organizations have nominated candidates for only one office.

POLITICAL ORGANIZATION NAME
POLITICAL ORGANIZATION NAME

FEDERAL OFFICES

For President and Vice President Vote for no more than one team.

CANDIDATE NAME, of State
CANDIDATE NAME, of State
Political Party
CANDIDATE NAME, of State
CANDIDATE NAME, of State
Political Party
CANDIDATE NAME, of State
CANDIDATE NAME, of State
Political Organization Name
CANDIDATE NAME, of State
CANDIDATE NAME, of State
Political Organization Name
CANDIDATE NAME, of State
CANDIDATE NAME, of State
Nominated by Petition

_____
Write-in for President, if any.

_____
Write-in for Vice President, if any.

For U.S. Senator
Vote for no more than one.

CANDIDATE NAME
Political Party
CANDIDATE NAME
Political Party
CANDIDATE NAME
Political Organization
CANDIDATE NAME
Political Organization
CANDIDATE NAME
Nominated by Petition

_____
Write-in vote, if any.

For U.S. Representative
First District
Vote for no more than one.

CANDIDATE NAME
Political Party
CANDIDATE NAME
Political Party
CANDIDATE NAME
Political Organization
CANDIDATE NAME
Political Organization
CANDIDATE NAME
Nominated by Petition

_____
Write-in vote, if any.

STATE OFFICES
For State Senator, District 2
Vote for no more than one.

CANDIDATE NAME
Political Party
CANDIDATE NAME
Political Party
CANDIDATE NAME
Political Organization
CANDIDATE NAME
Political Organization
CANDIDATE NAME
Nominated by Petition

_____
Write-in vote, if any.

Sec. 38. Section 49.43, Code 1997, is amended by adding the following new unnumbered paragraph before unnumbered paragraph 1:

NEW UNNUMBERED PARAGRAPH. If possible, all public measures and constitutional amendments to be voted upon by an elector shall be included on a single special paper ballot which shall also include all offices to be voted upon. However, if it is necessary, a separate ballot may be used as provided in section 49.30, subsection 1.

Sec. 39. Section 49.43, unnumbered paragraph 2, Code 1997, is amended to read as follows:

Constitutional amendments and other public measures may be summarized by the commissioner as provided in ~~section~~ sections 49.44 and 52.25.

Sec. 40. Section 49.44, unnumbered paragraph 1, Code 1997, is amended to read as follows:

When a proposed constitutional amendment or other public measure to be decided by the voters of the entire state is to be voted upon, the state commissioner shall prepare a written summary of the amendment or measure including the number of the amendment or statewide public measure assigned by the state commissioner. The summary shall be printed immediately preceding the text of the proposed amendment or measure on the paper ballot or special paper ballot referred to in section 49.43 ~~and, in~~. If the complete text of the public measure will not fit on the special paper ballot it shall be posted inside the voting booth. A copy of the full text shall be included with any absentee ballots.

PARAGRAPH DIVIDED. In precincts where the amendment or measure will be voted on by machine, the summary shall be placed in the voting machine inserts as required by section 52.25.

Sec. 41. Section 49.45, Code 1997, is amended to read as follows:

49.45 GENERAL FORM OF BALLOT.

Ballots referred to in section 49.43 shall be substantially in the following form:

Shall the following amendment to the Constitution (or public measure) be adopted? ~~Yes~~ ~~No~~

[ ] Yes

[ ] No

(Here insert the summary, if it ~~be~~ is for a constitutional amendment or statewide public measure, and in full the proposed constitutional amendment or public measure. The number assigned by the state commissioner or the letter assigned by the county commissioner shall be included on the ballot centered above the question, "Shall the following amendment to the Constitution [or public measure] be adopted?".)

Sec. 42. Section 49.46, Code 1997, is amended to read as follows:

49.46 MARKING BALLOTS ON PUBLIC MEASURES.

The elector shall designate a vote by ~~a cross~~ making the appropriate mark~~, thus,~~ in the voting target. On paper ballots an "X", or a check mark, thus, "✓", may be placed in the proper ~~square~~ target.

Sec. 43. Section 49.47, Code 1997, is amended to read as follows:

49.47 NOTICE ON BALLOTS.

At the top of paper ballots ~~on such~~ for public measures shall be printed the following:

[Notice to voters. ~~For an affirmative vote upon~~ To vote to approve any question ~~submitted upon~~ on this ballot, make a cross ~~(X)~~ mark or check ~~(✓)~~ in the ~~square~~ target after the word "Yes". ~~For a negative~~ To vote against a question make a similar mark in the ~~square~~ target following the word "No".] This notice shall be adapted to describe the proper mark where it is appropriate.

Sec. 44. Section 49.57, Code 1997, is amended to read as follows:

49.57 METHOD AND STYLE OF PRINTING BALLOTS.

Ballots shall be prepared as follows:

1. They shall be on ~~plain white~~ paper uniform in color, through which the printing or writing cannot be read.

2. ~~The~~ In the area of the general election ballot for straight-party voting, the party ~~name~~ names shall be printed in capital letters of uniform size, in not less than ~~one-fourth of an inch in height~~ twelve point type. After the name of each candidate for a partisan office the name of the candidate's political party shall be printed in at least six point type.

3. The names of candidates shall be printed in capital letters, of uniform size throughout the ballot, in not less than ~~one-eighth, nor more than one-fourth of an inch in height~~ ten point type.

4. ~~A~~ On ballots that will be counted by electronic tabulating equipment, ballots shall include a voting target next to the name of each candidate. The position, shape, and size of the targets shall be appropriate for the equipment to be used in counting the votes. Where paper ballots are used, a square, the sides of which shall not be less than one-fourth of an inch in length, ~~shall~~ may be printed at the beginning of each line in which the name of a candidate is printed, except as otherwise provided.

5. ~~On the outside~~ A portion of the ballot, ~~so as to appear when folded~~ which can be shown to the precinct officials without revealing any of the marks made by the voter, shall ~~be printed~~ include the words "Official ballot", a designation of the ballot rotation, if any, the

date of the election, and a facsimile of the signature of the commissioner who has caused the ballot to be printed pursuant to section 49.51.

6. The office title of any office which appears on the ballot to fill a vacancy before the end of the usual term of the office shall include the words "To Fill Vacancy".

Sec. 45. Section 49.58, unnumbered paragraph 1, Code 1997, is amended to read as follows:

If any candidate nominated by a political party, as defined in section 43.2, for the office of senator or representative in the Congress of the United States, governor, ~~lieutenant governor,~~ attorney general, or senator or representative in the general assembly dies during the period beginning on the eighty-eighth day and ending on the last day before the general election, or if any candidate so nominated for the office of county supervisor dies during the period beginning on the seventy-third day and ending on the last day before the general election, the vote cast at the general election for that office shall not be canvassed as would otherwise be required by chapter 50. Instead, a special election shall be held on the first Tuesday after the second Monday in December, for the purpose of electing a person to fill that office.

Sec. 46. Section 49.92, Code 1997, is amended to read as follows:

49.92 VOTING MARK.

The instructions appearing on the ballot shall describe the appropriate mark to be used by the voter. The mark shall be consistent with the requirements of the voting system in use in the precinct. The voting mark ~~shall~~ used on paper ballots may be a cross or check which shall be placed ~~in the circle at the head of a ticket, or~~ in the ~~squares~~ voting targets opposite the names of candidates. The fact that the voting mark is made by an instrument other than a black lead pencil shall not affect the validity of the ballot unless it appears that the color or nature of the mark is intended to identify the ballot contrary to the intent of section 49.107, subsection 7.

Sec. 47. Section 49.93, Code 1997, is amended by striking the section and inserting in lieu thereof the following:

49.93 NUMBER OF VOTES FOR EACH OFFICE.

For an office to which one person is to be elected, a voter shall not vote for more than one candidate. If two or more persons are to be elected to an office, the voter shall vote for no more than the number of persons to be elected. If a person votes for more than the permitted number of candidates, the vote for that office shall not count. Valid votes cast on the rest of the ballot shall be counted.

Sec. 48. Section 49.94, Code 1997, is amended to read as follows:

49.94 HOW TO MARK A STRAIGHT TICKET.

If the names of all the candidates for whom a voter desires to vote in any election other than the primary election ~~appear upon the same ticket~~ were nominated by the same political party or nonparty political organization, and the voter desires to vote for all candidates ~~whose names appear upon such ticket~~ nominated by that political party or organization the voter may do so in any one of the following ways:

1. The voter may ~~place a cross or check in the circle at the top of such ticket~~ mark the voting target next to the name of the political party or nonparty political organization in the straight party or organization section of the ballot without ~~making a cross or check in~~ marking any ~~square beneath said circle~~ voting target next to the name of a candidate nominated by the party or organization.

~~2. The voter may place a cross or check in the square opposite the name of each such candidate without making any cross or check in the circle at the top of such ticket.~~

~~3.~~ 2. The voter may ~~place a cross or check in the circle at the top of such ticket~~ mark the voting target next to the name of the political party or nonparty political organization in the

straight party or organization section of the ballot and also ~~a cross or check in~~ mark any or all of the ~~squares beneath said circle~~ voting targets next to the names of candidates nominated by that party or organization.

Sec. 49. Section 49.95, Code 1997, is amended to read as follows:

49.95 VOTING PART OF TICKET ONLY.

If the names of all the candidates for whom the voter desires to vote ~~appear upon a single ticket~~ were nominated by the same political party or nonparty political organization but the voter does not desire to vote for all of the candidates ~~whose names appear thereon~~ nominated by the party or organization, the voter shall ~~place a cross or check in the square opposite~~ mark the voting target next to the name of each ~~such~~ candidate for whom the voter desires to vote without ~~making any cross or check in the circle at the top of such ticket~~ marking the target next to the name of the party or organization in the straight party or organization section of the ballot.

Sec. 50. Section 49.96, Code 1997, is amended to read as follows:

49.96 ~~GROUP CANDIDATES FOR OFFICES OF SAME CLASS~~ OFFICES WITH MORE THAN ONE PERSON TO BE ELECTED.

Where ~~two or more offices of the same class are to be filled~~ more than one person is to be elected to the same office at the same election, and all of the candidates for ~~such offices,~~ that office for whom the voter desires to vote~~, appear upon the voter's party ticket at the top of which the voter has marked a cross or check in the circle~~ were nominated by the political party or nonparty political organization for which the voter has marked a straight party or organization vote, the voter need not otherwise indicate the vote for ~~such candidate; but if the name of any candidate for whom the voter desires to vote for such office appears upon a different ticket, then as to such group of candidates the cross or check in the circle does not apply and to indicate the voter's choice the voter must place a cross or check in the square opposite the name of each such candidate for whom the voter desires to vote whether the same appears under such marked circle or not~~ that office. If the voter wishes to vote for candidates who were nominated by different political parties or nonparty political organizations, the voter must mark the voting target for each candidate the voter has chosen, whether or not the voter has also marked a straight party or organization vote.

Sec. 51. Section 49.97, Code 1997, is amended to read as follows:

49.97 HOW TO MARK A MIXED TICKET.

If the names of all candidates for whom a voter desires to vote ~~do~~ were not ~~appear upon~~ nominated by the same ~~ticket~~ political party or nonparty political organization, the voter may indicate the candidates of the voter's choice by marking the ballot in any one of the following ways:

1. The voter may ~~place a cross or check in the circle at the top of a ticket on~~ mark a straight party or organization vote for the party or nonparty political organization which ~~the names of~~ nominated some of the candidates for whom the voter desires to vote ~~appear and also a cross or check in the square opposite the name of each other candidate of the voter's choice, whose name appears upon some ticket other than the one in which the voter has marked the circle at the top~~ and vote for candidates of other parties or nonparty political organizations by marking the voting targets next to their names.

2. The voter may ~~place a cross or check in the square opposite the name of each candidate for whom the voter desires to~~ vote for each candidate separately without ~~placing any cross or check in any circle~~ marking any straight party or organization vote.

Sec. 52. Section 49.98, Code 1997, is amended to read as follows:

49.98 COUNTING BALLOTS.

The ballots shall be counted according to the ~~markings thereon, respectively,~~ voters' marks on them as provided in sections 49.92 to 49.97, and not otherwise. If, for any reason, it is impossible to determine from a ballot, as marked, the choice of the voter for any office, ~~such~~

~~ballot~~ the vote for that office shall not be counted ~~for such office~~. When there is a conflict between ~~the cross or check in the circle on~~ a straight party or organization vote for one ~~ticket~~ political party or nonparty political organization and the ~~cross or check in the square on~~ vote cast by marking the voting target next to the name of a candidate for another ~~ticket~~ political party or nonparty political organization on the ballot, the ~~cross or check in the square~~ mark next to the name of the candidate shall be held to control, and the ~~cross or check in the circle in such~~ straight party or organization vote in that case shall not apply as to that office. Any ballot shall be rejected if it is marked in any other manner than ~~as~~ authorized in sections 49.92 to 49.97~~, and in such manner as to show that~~. A ballot shall be rejected if the voter ~~employed such~~ used a mark ~~for the purpose of identifying~~ to identify the voter's ballot~~, shall be rejected~~.

Sec. 53. Section 49.99, unnumbered paragraph 1, Code 1997, is amended to read as follows:

The voter may also ~~insert in writing in the proper place~~ write on the line provided for write-in votes the name of any person for whom the voter desires to vote and ~~place a cross or check in the square~~ mark the voting target opposite the name. If the voter is using a voting system other than an electronic voting system, as defined in section 52.1, the writing of the name shall constitute a valid vote for the person whose name has been written on the ballot without regard to whether the voter has made a ~~cross or check~~ mark opposite the name. However, when a write-in vote is cast using an electronic voting system, the ballot must also be marked in the corresponding space in order to be counted. ~~The making of a cross or check in a square~~ Marking the voting target opposite a ~~blank~~ write-in line without writing a name ~~in~~ on the ~~blank,~~ line shall not affect the validity of the remainder of the ballot.

Sec. 54. Section 49.100, Code 1997, is amended to read as follows:

49.100 SPOILED BALLOTS.

~~Any~~ A voter who ~~shall spoil~~ spoils a ballot may~~, on returning the same~~ return the spoiled ballot to the precinct election officials~~,~~ and receive another ~~in place thereof, but~~ ballot. However, ~~no~~ a voter shall not receive more than three ballots, including the one first delivered. ~~None but~~ Only ballots provided in accordance with the provisions of this chapter shall be counted.

Sec. 55. Section 49.104, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 7. Any person authorized by the commissioner, in consultation with the secretary of state, for the purposes of conducting and attending educational voting programs for youth.

Sec. 56. Section 49.125, Code 1997, is amended to read as follows:

49.125 COMPENSATION OF TRAINEES.

All election personnel attending such training course shall be paid for attending such course for a period not to exceed two hours, and shall be reimbursed for travel to and from the place where the training is given at the rate ~~specified in section 70A.9~~ determined by the board of supervisors if the distance involved is more than five miles. The wages shall be computed at the hourly rate established pursuant to section 49.20 and payment of wages and mileage for attendance shall be made at the time that payment is made for duties performed on election day.

Sec. 57. Section 50.13, Code 1997, is amended to read as follows:

50.13 DESTRUCTION OF BALLOTS.

If, at the expiration of the length of time specified in section 50.12, a contest is not pending, the commissioner, without opening the package in which they have been enclosed, shall destroy the ballots~~, in the presence of two electors, one from each of the two leading political parties, who shall be designated by the chairperson of the board of supervisors~~.

If the ballots are to be shredded, the package may be opened, if necessary, but the ballots

shall not be examined before shredding. Shredded ballots may be recycled. The commissioner shall invite the chairperson of each of the political parties to designate a person to witness the destruction of the ballots.

Sec. 58. Section 50.48, subsection 4, unnumbered paragraph 1, Code 1997, is amended to read as follows:

When all members of the recount board have been selected, the board shall undertake and complete the required recount as expeditiously as reasonably possible. The commissioner or the commissioner's designee shall supervise the handling of ballots or voting machine documents to ensure that the ballots and other documents are protected from alteration or damage. The board shall open only the sealed ballot containers from the precincts specified to be recounted in the request or by the recount board. The board shall recount only the ballots which were voted and counted for the office in question, including any disputed ballots returned as required in section 50.5. If an electronic tabulating system was used to count the ballots, the recount board may request the commissioner to retabulate the ballots using the electronic tabulating system. The same program used for tabulating the votes on election day shall be used at the recount unless the program is believed or known to be flawed.

PARAGRAPH DIVIDED. Any member of the recount board may at any time during the recount proceedings extend the recount of votes cast for the office or nomination in question to any other precinct or precincts in the same county, or from which the returns were reported to the commissioner responsible for conducting the election, without the necessity of posting additional bond.

Sec. 59. NEW SECTION. 50.50 ADMINISTRATIVE RECOUNTS.

The commissioner who was responsible for conducting an election may request an administrative recount when the commissioner suspects that voting equipment used in the election malfunctioned or that programming errors may have affected the outcome of the election. An administrative recount shall be conducted by the board of the special precinct established by section 53.23. Bond shall not be required for an administrative recount. The state commissioner may adopt rules for administrative recounts.

If the recount board finds that there is an error in the programming of any voting equipment which may have affected the outcome of the election for any office or public measure on the ballot, the recount board shall describe the errors in its report to the commissioner. The commissioner shall notify the board of supervisors. The supervisors shall determine whether to order an administrative recount for any or all of the offices and public measures on the ballot.

Sec. 60. Section 52.10, Code 1997, is amended to read as follows:

52.10 BALLOTS — FORM.

All ballots shall be printed in black ink on clear, white material, of such size as will fit the ballot frame, and in as plain, clear type as the space will reasonably permit. The party name for each political party represented on the machine shall be prefixed to the list of candidates of such party. The order of the list of candidates of the several parties or organizations shall be arranged as provided in sections 49.30 to ~~49.42~~ 49.41, except that the lists may be arranged in horizontal rows or vertical columns to meet the physical requirements of the voting machine used.

Sec. 61. Section 52.12, Code 1997, is amended by striking the section and inserting in lieu thereof the following:

52.12 EXCEPTION — STRAIGHT PARTY VOTING.

Voting machines shall have a single lever or switch which casts a vote for each candidate of a political party or nonparty political organization which has nominated candidates for more than one partisan office on the ballot. Straight party voting shall be provided for all general elections.

Sec. 62. Section 52.33, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The absentee and special precinct board shall follow the process prescribed in section 52.37, subsection 2, in handling damaged or defective ballots and in counting write-in votes on special paper ballots.

Sec. 63. Section 52.35, subsection 2, Code 1997, is amended to read as follows:

2. The test shall be conducted by processing a preaudited group of ballots punched or marked so as to record a predetermined number of valid votes for each candidate, and on each public question, on the ballot. The test group shall include for each office and each question one or more ballots having votes in excess of the number allowed by law for that office or question, in order to test the ability of the automatic tabulating equipment to reject such votes. The county chairperson of a political party may submit an additional test group of ballots which, if so submitted, shall also be tested. If any error is detected, its cause shall be ascertained and corrected and an errorless count obtained before the automatic tabulating equipment is approved. When so approved, a statement attesting to the fact shall be signed by the commissioner and ~~sent immediately to the state commissioner~~ kept with the records of the election.

Sec. 64. Section 52.36, unnumbered paragraph 2, Code 1997, is amended to read as follows:

The commissioner shall appoint from the lists provided by the county political party chairpersons a resolution board to tabulate write-in votes and to decide questions regarding damaged, defective, or other ballots which cannot be tabulated by machine. The commissioner shall appoint as many people to the resolution board as the commissioner believes are necessary. The resolution board shall be divided into ~~three-person~~ two-person teams. Each team shall consist of ~~no more than two~~ people who are not members of the same political party. If a team is unable to decide how to count one or more ballots, a third person shall be available to consult with the team and to resolve disputes. Ballots which were objected to shall be endorsed and separated as required by section 50.4.

Sec. 65. Section 52.37, subsection 2, unnumbered paragraph 2, Code 1997, is amended to read as follows:

The resolution board shall also tabulate any write-in votes which were cast. Write-in votes cast for a candidate whose name appears on the ballot for the same office shall be counted as a vote for the candidate indicated, if the vote is otherwise properly cast.

PARAGRAPH DIVIDED. Ballots which are rejected by the tabulating equipment as blank because they have been marked with an unreadable marker shall be duplicated or tabulated as required by this subsection for damaged or defective ballots. The commissioner may instruct the resolution board to mark over voters' unreadable marks using a marker compatible with the tabulating equipment. The resolution board shall take care to leave part of the original mark made by the voter. If it is impossible to mark over the original marks made by the voter without completely obliterating them, the ballot shall be duplicated.

Sec. 66. Section 52.38, unnumbered paragraph 1, Code 1997, is amended to read as follows:

All portable tabulating devices shall be tested before any election in which they are to be used following the procedure in section 52.35, subsection 2. Testing shall be completed not later than twelve hours before the opening of the polls on the morning of the election. ~~The portable tabulating devices shall be tested at the polling place where they are to be used.~~ The chairperson of each political party shall be notified in writing of the time the devices will be tested so that the chairperson or a representative may be present. Those present for the test shall sign a certificate which shall read substantially as follows:

Sec. 67. Section 52.40, subsection 1, Code 1997, is amended to read as follows:

1. In counties where counting centers have been established under section 52.34, the commissioner may designate certain polling places as early ballot pick-up sites. At these sites, between the hours of one p.m. and four p.m. on the day of the election, two precinct election officials of different political parties shall seal the ballot container to prevent the addition or removal of ballots and replace it with an empty, locked ballot container. The sealed ballot container shall be kept in a safe place in view of the precinct election officials. The early pick-up officers shall receive the sealed ballot container containing the ballots which have been voted ~~throughout the day~~ along with a signed statement of the precinct officials attesting to the number of declarations of eligibility signed up to that time, excluding those declarations signed by voters who ~~have~~ had not yet placed their ballots in the ballot container when it was sealed. ~~The officers shall replace the ballot container containing the voted ballots with an empty ballot container, to be sealed in the presence of a precinct election official.~~

Sec. 68. Section 53.2, unnumbered paragraph 1, Code 1997, is amended to read as follows:

Any registered voter, under the circumstances specified in section 53.1, may on any day, except election day, and not more than seventy days prior to the date of the election, apply in person for an absentee ballot at the commissioner's office or at any location designated by the commissioner, or make written application to the commissioner for an absentee ballot. The state commissioner shall prescribe a form for absentee ballot applications. However, if a registered voter submits an application that includes all of the information required in this section, the prescribed form is not required. Absentee ballot applications may include instructions to send the application directly to the county commissioner of elections. However, no absentee ballot application shall be preaddressed or printed with instructions to send the applications to anyone other than the appropriate commissioner.

No absentee ballot application shall be preaddressed or printed with instructions to send the ballot to anyone other than the voter.

Sec. 69. NEW SECTION. 53.9 PROHIBITED PERSONS.

No person required to file reports under chapter 56, and no person acting as an actual or implied agent for a person required to file reports under chapter 56, shall receive absentee ballots on behalf of voters. This prohibition does not apply to section 53.17.

Sec. 70. Section 53.11, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A petition requesting a satellite absentee voting station must be filed by the following deadlines:

1. For a primary or general election, no later than five p.m. on the forty-seventh day before the election.

2. For the regular city election, no later than five p.m. on the thirtieth day before the election.

3. For the regular school election, no later than five p.m. on the thirtieth day before the election.

4. For a special election, no later than thirty-two days before the special election.

Sec. 71. Section 53.11, unnumbered paragraph 2, Code 1997, is amended to read as follows:

Satellite absentee voting stations shall be established throughout the cities and county at the direction of the commissioner or upon receipt of a petition signed by not less than one hundred eligible electors requesting that a satellite absentee voting station be established at a location to be described on the petition. ~~A petition requesting a satellite absentee voting station must be filed no later than five p.m. on the eleventh day before the election.~~ A

satellite absentee voting station established by petition must be open at least one day ~~from eight a.m. until five p.m~~ for a minimum of six hours. A satellite absentee voting station established at the direction of the commissioner or by petition may remain open until five p.m. on the day before the election.

Sec. 72. Section 53.19, unnumbered paragraph 3, Code 1997, is amended to read as follows:

However, any registered voter who has received an absentee ballot and not ~~voted~~ returned it, may surrender the ~~unmarked~~ absentee ballot to the precinct officials and vote in person at the polls. The precinct officials shall mark the uncast absentee ballot "void" and return it to the commissioner. Any registered voter who has been sent an absentee ballot by mail but for any reason has not received it may appear at the voter's precinct polling place on election day and sign an affidavit to that effect, after which the voter shall be permitted to vote in person. The form of the affidavit for use in such cases shall be prescribed by the state commissioner.

Sec. 73. Section 53.23, subsection 3, Code 1997, is amended to read as follows:

3. The commissioner shall set the convening time for the board, allowing a reasonable amount of time to complete counting all absentee ballots by ten p.m. on election day. The commissioner may direct the board to meet on the day ~~prior to~~ before the election solely for the purpose of reviewing the absentee voters' affidavits appearing on the sealed ballot envelopes ~~if~~. If, in the commissioner's judgment this procedure is necessary due to the number of absentee ballots received, the members of the board may open the sealed ballot envelopes and remove the secrecy envelope containing the ballot, but under no circumstances shall a ~~sealed ballot~~ secrecy envelope be opened before the board convenes on election day. If the ballot envelopes are opened before election day, two observers, one appointed by each of the two political parties referred to in section 49.13, subsection 2, shall witness the proceedings.

If the board finds any ballot not enclosed in a secrecy envelope, the two special precinct election officials, one from each of the two political parties referred to in section 49.13, subsection 2, shall place the ballot in a secrecy envelope. No one shall examine the ballot. Each of the special precinct election officials shall sign the secrecy envelope.

Sec. 74. Section 54.5, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If a candidate for the office of president or vice president of the United States withdraws, dies, or is otherwise removed from the ballot before the general election, another candidate may be substituted. The substitution shall be made by the state central committee of the political party or by the governing committee of the national party. If there are differences, the substitution made by the state central committee shall prevail. A nonparty political organization which has filed the names of party officers and central committee members with the secretary of state before the close of the filing period for the general election pursuant to section 44.17 may also make substitutions. A substitution must be filed no later than seventy-four days before the election.

Sec. 75. Section 59.1, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A special election for a seat in either house of the general assembly may be contested. The contestant shall serve notice on the incumbent in the manner described in this section not later than twenty days after the state canvass of votes for the election. A copy of the notice shall also be filed with the presiding officer of the house in which the contest is to be tried, if the general assembly is in session. If the general assembly is not in session, a copy of the notice shall be filed with the secretary of state. The secretary of state shall notify the presiding officer of the house in which the contest will be tried.

Sec. 76. Section 62.1, Code 1997, is amended to read as follows:

62.1 CONTEST COURT.

The court for the trial of contested county elections shall ~~be thus constituted: The chairperson of the board of supervisors shall be the presiding officer, and~~ consist of one person named by the contestant and one person named by the incumbent ~~may each name a person who shall be associated with the chairperson~~. If the incumbent fails to name a judge, the chief judge of the judicial district shall be notified of the failure to appoint. The chief judge shall designate the second judge within one week after the chief judge is notified. These two judges shall meet within three days and select a third person to serve as the presiding officer of the court. If they cannot agree on the third member of the court within three days after their initial meeting, the chief judge of the judicial district shall be notified of the failure to agree. The chief judge shall designate the presiding judge within one week after the chief judge is notified.

Sec. 77. Section 62.2, Code 1997, is amended to read as follows:

62.2 JUDGES.

~~The contestant and incumbent shall each file in the auditor's office, on or before the day of trial, a written nomination of one associate judge of the contested election, who~~ Judges shall be sworn in the same manner and form as trial jurors are sworn in trials of civil actions~~; if either the contestant or the incumbent fails to nominate, the presiding judge shall appoint for that person~~. When ~~either of the nominated judges~~ a judge fails to appear on the day of trial, that judge's place may be filled by another appointment under the same rule.

Sec. 78. Section 62.9, Code 1997, is amended to read as follows:

62.9 TRIAL — NOTICE.

The ~~chairperson of the board of supervisors~~ presiding judge shall ~~thereupon~~ fix a day for the trial, not more than thirty ~~nor less than twenty~~ days thereafter, and shall cause a notice of such trial to be served on the incumbent, with a copy of the contestant's statement, at least ten days before the day set for trial. If the trial date is set for less than twenty days from the day notice is given and either party is not ready, the presiding judge shall delay the trial.

Sec. 79. Section 69.13, unnumbered paragraph 1, Code 1997, is amended to read as follows:

If a vacancy occurs in the office of senator in the Congress of the United States, ~~lieutenant governor,~~ secretary of state, auditor of state, treasurer of state, secretary of agriculture, or attorney general eighty-nine or more days before a general election, and the unexpired term in which the vacancy exists has more than seventy days to run after the date of that general election, the vacancy shall be filled for the balance of the unexpired term at that general election and the person elected to fill the vacancy shall assume office as soon as a certificate of election has been issued and the person has qualified.

Sec. 80. Section 69.14A, subsection 1, paragraph a, unnumbered paragraph 2, Code 1997, is amended to read as follows:

However, if within fourteen days after publication of the notice or within fourteen days after the appointment is made, ~~whichever is later,~~ a petition is filed with the county auditor requesting a special election to fill the vacancy, the appointment is temporary and a special election shall be called as provided in paragraph "b". The petition shall meet the requirements of section 331.306, except that in counties where supervisors are elected under plan "three", the number of signatures calculated according to the formula in section 331.306 shall be divided by the number of supervisor districts in the county.

Sec. 81. Section 69.14A, subsection 1, paragraph b, unnumbered paragraph 1, Code 1997, is amended to read as follows:

By special election held to fill the office for the remaining balance of the unexpired term. The committee of county officers designated to fill the vacancy in section 69.8 may, on its

own motion, or shall, upon receipt of a petition as provided in paragraph "a", call for a special election to fill the vacancy in lieu of appointment. The committee shall order the special election at the earliest practicable date, but giving at least ~~thirty~~ thirty-two days' notice of the election. A special election called under this section shall be held on a Tuesday and shall not be held on the same day as a school election within the county.

Sec. 82. Section 69.14A, subsection 2, paragraph a, unnumbered paragraph 2, Code 1997, is amended to read as follows:

However, if within fourteen days after publication of the notice or within fourteen days after the appointment is made, ~~whichever is later,~~ a petition is filed with the county auditor requesting a special election to fill the vacancy, the appointment is temporary and a special election shall be called as provided in paragraph "b". The petition shall meet the requirements of section 331.306.

Sec. 83. Section 69.14A, subsection 2, paragraph b, unnumbered paragraph 1, Code 1997, is amended to read as follows:

By special election held to fill the office for the remaining balance of the unexpired term. The board of supervisors may, on its own motion, or shall, upon receipt of a petition as provided in paragraph "a", call for a special election to fill the vacancy in lieu of appointment. The ~~committee~~ supervisors shall order the special election at the earliest practicable date, but giving at least ~~thirty~~ thirty-two days' notice of the election. A special election called under this section shall be held on a Tuesday and shall not be held on the same day as a school election within the county.

Sec. 84. Section 277.4, unnumbered paragraph 2, Code 1997, is amended to read as follows:

Each candidate shall be nominated by petition. If the candidate is running for ~~an at-large~~ a seat in the district which is voted for at-large, 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 registered voters of the school district, whichever is more. If the candidate is running for a seat 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 registered voters in the director district, whichever is more. A petition filed under this section shall not be required to have more than one hundred signatures.

PARAGRAPH DIVIDED. 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. 85. Section 278.1, subsection 8, Code 1997, is amended to read as follows:

8. Authorize ~~the establishment or abandonment of director districts or a change of boundaries of director districts~~ a change in the method of conducting elections or in the number of directors as provided in sections 275.35 and 275.36. If a proposition submitted to the voters under this subsection or subsection 7 ~~of this section~~ is rejected, it may not be resubmitted to the voters of the district in substantially the same form within the next three years; if it is approved, no other proposal may be submitted to the voters of the district under this subsection or subsection 7 ~~of this section~~ within the next six years.

Sec. 86. Section 347.11, Code 1997, is amended to read as follows:

347.11 ORGANIZATION — MEETINGS — QUORUM.

Said trustees shall~~, within ten days after their appointment or election,~~ qualify by taking the usual oath of office as provided in chapter 63, but no bond shall be required of them, except as hereafter provided, and organize by the election of one of their number as chairperson and one as secretary, and one as treasurer. The secretary and treasurer shall each file with the chairperson of the board a surety bond in such penal sum as the board of trustees may require and with sureties to be approved by the board for the use and benefit of the county public hospital. The reasonable cost of such bonds shall be paid from operating funds of the hospital. The secretary shall report to the county auditor and treasurer the names of the chairperson, secretary and treasurer of the board of hospital trustees as soon as practicable after the qualification of each. Said board shall meet at least once each month. Four members of said board shall constitute a quorum for the transaction of business. The secretary shall keep a complete record of its proceedings.

Sec. 87. Section 347A.1, unnumbered paragraph 2, Code 1997, is amended to read as follows:

The trustees shall hold office until the next succeeding election, at which time their successors shall be elected, two for a term of two years, two for a term of four years and one for a term of six years, and thereafter their successors shall be elected for regular terms of six years each. Vacancies in the board of trustees may be filled in the same manner as original appointments, to hold office until the vacancies are filled pursuant to section 69.12. The trustees~~, within ten days after their appointment or election,~~ shall qualify by taking the usual oath of office as provided in chapter 63, but no bond shall be required of them. The trustees shall receive no compensation but shall be reimbursed for all expenses incurred by them with the approval of the board of trustees in the performance of their duties. The board first appointed shall organize promptly following its appointment, and shall serve until successors are elected and qualified; thereafter no later than December 1 of each year the board shall reorganize by the appointment of a chairperson, secretary, and treasurer. The secretary and treasurer shall each file with the chairperson of the board a surety bond in the amount the board of trustees requires, with sureties to be approved by the board of trustees, for the use and benefit of the county hospital. The reasonable cost of the bonds shall be paid from the operating funds of the hospital. The secretary shall report to the county auditor and the county treasurer the names of the chairperson, secretary, and treasurer of the board as soon as practicable after the appointment of each.

Sec. 88. Section 372.2, subsection 2, Code 1997, is amended to read as follows:

2. Within fifteen days after receiving a valid petition, the council shall ~~proclaim~~ publish notice of the date that a special city election ~~to~~ will be held ~~within sixty days~~ to determine whether the city shall change to a different form of government. The election date shall be not more than sixty days after the publication. The notice shall include a statement that the filing of a petition for appointment of a home rule charter commission will delay the election until after the home rule charter commission has filed a proposed charter. Petition requirements and filing deadlines shall also be included in the notice.

PARAGRAPH DIVIDED. The council shall notify the county commissioner of elections to publish notice of the election and conduct the election pursuant to chapters 39 to 53. The county commissioner of elections shall certify the results of the election to the council.

Sec. 89. Section 372.3, Code 1997, is amended by striking the section and inserting in lieu thereof the following:

372.3 HOME RULE CHARTER.

If a petition for appointment of a home rule charter commission is filed with the city clerk not more than ten days after the council has published notice announcing the date of the special election on adoption of another form of government, the special election shall not be

held until the charter proposed by the home rule charter commission is filed. Both forms must be published as provided in section 372.9 and submitted to the voters at the special election.

Sec. 90. Section 372.13, subsection 2, paragraph a, unnumbered paragraph 1, Code 1997, is amended to read as follows:

By appointment by the remaining members of the council, except that if the remaining members do not constitute a quorum of the full membership, paragraph "b" shall be followed. The appointment shall be for the period until the next pending election as defined in section 69.12, and shall be made within forty days after the vacancy occurs. If the council chooses to proceed under this paragraph, it shall publish notice in the manner prescribed by section 362.3, stating that the council intends to fill the vacancy by appointment but that the electors of the city or ward, as the case may be, have the right to file a petition requiring that the vacancy be filled by a special election. The council may publish notice in advance if an elected official submits a resignation to take effect at a future date. The council may make an appointment to fill the vacancy after the notice is published or after the vacancy occurs, whichever is later. However, if within fourteen days after publication of the notice or within fourteen days after the appointment is made~~, whichever is later~~, there is filed with the city clerk a petition which requests a special election to fill the vacancy, an appointment to fill the vacancy is temporary and the council shall call a special election to fill the vacancy permanently, under paragraph "b". The number of signatures of eligible electors of a city for a valid petition shall be determined as follows:

Sec. 91. Section 376.4, unnumbered paragraph 1, Code 1997, is amended to read as follows:

An eligible elector of a city may become a candidate for an elective city office by filing with the city clerk a valid petition requesting that the elector's name be placed on the ballot for that office. The petition must be filed not more than seventy-one days ~~nor~~ and not less than forty-seven days before the date of the election, and must be signed by eligible electors equal in number to at least two percent of those who voted to fill the same office at the last regular city election, but not less than ten persons. However, for those cities which may be required to hold a primary election, the petition must be filed not more than eighty-five days and not less than sixty-eight days before the date of the regular city election. 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. Nomination petitions shall be filed not later than five o'clock p.m. on the last day for filing.

Sec. 92. Section 376.10, Code 1997, is amended to read as follows:

376.10 CONTEST.

A nomination or election to a city office may be contested in the manner provided in chapter 62 for contesting elections to county offices, except that a statement of intent to contest must be filed with the city clerk within ten days after the nomination or election. ~~The mayor is presiding officer of the court for the trial of a nomination or election contest, except that if the mayor's nomination or election is contested, the council shall elect one of its members other than the mayor to serve as presiding officer.~~

Sec. 93. Sections 49.27, 49.29, and 49.42, Code 1997, are repealed.

Sec. 94. HOSPITAL BOARDS OF TRUSTEES. Any action taken prior to July 1, 1997, by the board of trustees of a county hospital appointed or elected pursuant to section 347.11 or 347A.1, is valid, legal, and binding if the action is challenged solely on the basis that a member or members of the board failed to take the oath of office within the time period provided in section 347.11 or 347A.1.

Sec. 95. IMMEDIATE EFFECTIVE DATE. New Code section 39.1A and amendments to Code sections 48A.22, 48A.26 through 48A.29, 49.13, 49.16, 49.25, 50.48, 52.33, 52.35 through 52.38, 52.40, 53.2, 53.19, 62.1, 62.2, 62.9, 69.14A, 277.4, and 372.13 in this Act, being deemed of immediate importance, take effect upon enactment.

Approved May 19, 1997

CHAPTER 171

CORPORATIONS, PARTNERSHIPS, AND ASSOCIATIONS

H.F. 637

AN ACT relating to the general operation of corporations, partnerships, and associations, including provisions relating to certain filings made by corporations and associations, the filing of biennial reports by certain corporations and cooperative associations, and establishing fees.

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

Section 1. NEW SECTION. 486.44A CORRECTING FILED DOCUMENTS.

1. A limited liability partnership may correct a document filed by the secretary of state if the document satisfies one or both of the following requirements:

a. The document contains an incorrect statement.

b. The document was defectively executed, attested, sealed, verified, or acknowledged.

2. A document is corrected by complying with both of the following:

a. Preparing articles of correction that satisfy all of the following:

(1) The articles describe the document, including its filing date, or a copy of the document is attached to the articles.

(2) The articles specify the incorrect statement or manner in which the execution was defective.

(3) The articles correct the incorrect statement or defective execution.

b. Delivering the articles of correction to the secretary of state for filing.

3. Articles of correction are effective on the effective date of the document they correct except as to persons relying on the uncorrected document and adversely affected by the correction. As to persons relying on the uncorrected document and adversely affected by the correction, the articles of correction are effective when filed by the secretary of state.

Sec. 2. Section 487.202, subsection 1, paragraph b, Code 1997, is amended by striking the paragraph.

Sec. 3. Section 487.203, subsection 2, Code 1997, is amended by striking the subsection.

Sec. 4. Section 487.206, unnumbered paragraph 1, Code 1997, is amended to read as follows:

A signed copy of the certificate of limited partnership and a signed copy of any certificate of amendment or cancellation or of any judicial decree of amendment or cancellation shall be delivered for filing and recording as provided in this subsection. The secretary of state may accept for filing a document containing a copy of a signature, however made. A person who executes a certificate as an agent or fiduciary need not exhibit evidence of that authority as a prerequisite to filing. It is required that each document required to be filed and recorded be:

Sec. 5. Section 490.121, subsection 1, paragraph c, Code 1997, is amended to read as follows:

c. The ~~annual~~ biennial report.

Sec. 6. Section 490.122, subsection 1, paragraph w, Code 1997, is amended by striking the paragraph.

Sec. 7. Section 490.125, subsection 2, Code 1997, is amended to read as follows:

2. The secretary of state files a document by stamping or otherwise endorsing "filed", together with the secretary's name and official title and the date and time of receipt, on both the document and the receipt for the filing fee. After filing a document, except the ~~annual~~ biennial report required by section 490.1622, and except as provided in sections 490.503 and 490.1509, the secretary of state shall deliver the document, with the filing fee receipt, or acknowledgment of receipt if no fee is required, attached, to the domestic or foreign corporation or its representative.

Sec. 8. Section 490.128, subsection 2, paragraph d, Code 1997, is amended to read as follows:

d. That its most recent ~~annual~~ biennial report required by section 490.1622 has been filed by the secretary of state.

Sec. 9. Section 490.140, subsection 17, Code 1997, is amended to read as follows:

17. "Principal office" means the office, in or out of this state, so designated in the ~~annual~~ biennial report, where the principal executive offices of a domestic or foreign corporation are located.

Sec. 10. Section 490.141, subsection 4, Code 1997, is amended to read as follows:

4. Written notice to a domestic or foreign corporation authorized to transact business in this state may be addressed to its registered agent at its registered office or to the corporation or its secretary at its principal office shown in its most recent ~~annual~~ biennial report or, in the case of a foreign corporation that has not yet delivered ~~an annual~~ a biennial report, in its application for a certificate of authority.

Sec. 11. Section 490.502, subsection 4, Code 1997, is amended to read as follows:

4. A corporation may also change its registered office or registered agent in its ~~annual~~ biennial report as provided in section 490.1622.

Sec. 12. Section 490.1101, Code 1997, is amended to read as follows:

490.1101 MERGER.

1. One or more corporations may merge with or into ~~another corporation~~ any one or more limited liability companies or corporations if the board of directors of each corporation adopts and its shareholders, if required by section 490.1103, approve a plan of merger and if the members of each limited liability company approve a plan of merger.

2. The plan of merger must set forth all of the following:

a. The name of each corporation or limited liability company planning to merge and the name of the surviving corporation or limited liability company into which each other corporation or limited liability company plans to merge.

b. The terms and conditions of the merger.

c. The manner and basis of converting the shares or interests of each corporation or limited liability company into shares, obligations, or other securities of the surviving or any other corporation or limited liability company or into cash or other property in whole or part.

3. The plan of merger may set forth:

a. Restated articles or amendments to the articles of incorporation of the surviving corporation or restated articles or amendments to the articles of organization of the surviving limited liability company.

b. Other provisions relating to the merger.

Sec. 13. Section 490.1326, subsection 1, Code 1997, is amended to read as follows:

1. If the corporation does not take the proposed action within ~~sixty~~ one hundred eighty days after the date set for demanding payment and depositing share certificates, the corporation shall return the deposited certificates and release the transfer restrictions imposed on uncertificated shares.

Sec. 14. Section 490.1420, subsection 1, Code 1997, is amended to read as follows:

1. The corporation has not delivered ~~an annual~~ a biennial report to the secretary of state in a form that meets the requirements of section 490.1622, within sixty days after it is due, or has not paid the filing fee as ~~provided in section 490.122~~ determined by the secretary of state, within sixty days after it is due.

Sec. 15. Section 490.1508, subsection 3, Code 1997, is amended to read as follows:

3. A corporation may also change its registered office or registered agent in its ~~annual~~ biennial report as provided in section 490.1622.

Sec. 16. Section 490.1510, subsection 2, unnumbered paragraph 1, Code 1997, is amended to read as follows:

A foreign corporation may be served by registered or certified mail, return receipt requested, addressed to the secretary of the foreign corporation at its principal office shown in its application for a certificate of authority or in its most recent ~~annual~~ biennial report if the foreign corporation meets any of the following conditions:

Sec. 17. Section 490.1530, subsection 1, Code 1997, is amended to read as follows:

1. The foreign corporation does not deliver its ~~annual~~ biennial report to the secretary of state in a form that meets the requirements of section 490.1622 within sixty days after it is due.

Sec. 18. Section 490.1531, subsection 4, Code 1997, is amended to read as follows:

4. The secretary of state's revocation of a foreign corporation's certificate of authority appoints the secretary of state the foreign corporation's agent for service of process in any proceeding based on a cause of action which arose during the time the foreign corporation was authorized to transact business in this state. Service of process on the secretary of state under this subsection is service on the foreign corporation. Upon receipt of process, the secretary of state shall mail a copy of the process to the secretary of the foreign corporation at its principal office shown in its most recent ~~annual~~ biennial report or in any subsequent communication received from the corporation stating the current mailing address of its principal office, or, if none is on file, in its application for a certificate of authority.

Sec. 19. Section 490.1601, subsection 5, paragraph g, Code 1997, is amended to read as follows:

g. Its most recent ~~annual~~ biennial report delivered to the secretary of state under section 490.1622.

Sec. 20. Section 490.1622, Code 1997, is amended to read as follows:

490.1622 ~~ANNUAL~~ BIENNIAL REPORT FOR SECRETARY OF STATE.

1. Each domestic corporation, and each foreign corporation authorized to transact business in this state, shall deliver to the secretary of state for filing ~~an annual~~ a biennial report that sets forth all of the following:

a. The name of the corporation and the state or country under whose law it is incorporated.

b. The address of its registered office and the name of its registered agent at that office in this state, together with the consent of any new registered agent.

c. The address of its principal office.

d. The names and addresses of the president, secretary, treasurer, and one member of the board of directors.

2. Information in the ~~annual~~ biennial report must be current as of the first day of January of the year in which the report is due. The ~~annual~~ report shall be executed on behalf of the corporation and signed as provided in section 490.120 or by any other person authorized by the board of directors of the corporation.

3. The first ~~annual~~ biennial report shall be delivered to the secretary of state between January 1 and April 1 of the first even-numbered year following the calendar year in which a domestic corporation was incorporated or a foreign corporation was authorized to transact business. Subsequent ~~annual~~ biennial reports must be delivered to the secretary of state between January 1 and April 1 of the following even-numbered calendar years. A filing fee for the biennial report shall be determined by the secretary of state. For purposes of this section, each biennial report shall contain information related to the two-year period immediately preceding the calendar year in which the report is filed.

4. If ~~an annual~~ a biennial report does not contain the information required by this section, the secretary of state shall promptly notify the reporting domestic or foreign corporation in writing and return the report to it for correction. ~~If the report is corrected to contain the information required by this section and delivered to the secretary of state within thirty days after the effective date of notice, it is deemed to be timely filed.~~

5. The secretary of state may provide for the change of registered office or registered agent on the form prescribed by the secretary of state for the ~~annual~~ biennial report, provided that the form contains the information required in section 490.502 or 490.1508. If the secretary of state determines that ~~an annual~~ a biennial report does not contain the information required by this section but otherwise meets the requirements of section 490.502 or 490.1508 for the purpose of changing the registered office or registered agent, the secretary of state shall file the statement of change of registered office or registered agent, effective as provided in section 490.123, before returning the ~~annual~~ biennial report to the corporation as provided in this section. A statement of change of registered office or agent pursuant to this subsection shall be executed by a person authorized to execute the ~~annual~~ biennial report.

Sec. 21. Section 490.1701, subsection 3, paragraphs a and b, Code 1997, are amended by striking the paragraphs and inserting in lieu thereof the following:

a. The corporation shall amend or restate its articles of incorporation to indicate that the corporation adopts this chapter and designate the address of its initial registered office and the name of its registered agent or agents at that office and, if the name of the corporation is not in compliance with the requirements of this chapter, change the name of the corporation to one complying with the requirements of this chapter.

Sec. 22. Section 490.1701, subsection 3, paragraph c, unnumbered paragraph 1, Code 1997, is amended to read as follows:

The instrument shall be delivered to the secretary of state for filing and recording in the secretary of state's office, and shall be filed and recorded in the office of the county recorder. The corporation shall at the time it files the instrument with the secretary of state deliver also to the secretary of state for filing in the secretary of state's office any ~~annual~~ biennial report which is then due.

Sec. 23. Section 490.1701, subsection 3, paragraph d, subparagraph (3), Code 1997, is amended to read as follows:

(3) The secretary of state shall not file the instrument with respect to a corporation unless at the time of filing the corporation is validly existing and in good standing in that office under the chapter under which it is incorporated. The corporation shall be considered validly existing and in good standing for the purpose of this chapter for a period of three months following the expiration date of the corporation, provided all ~~annual~~ biennial reports due have been filed and all fees due in connection with the ~~annual~~ biennial reports have been paid.

Sec. 24. Section 490.1701, subsection 5, paragraphs a and b, Code 1997, are amended to read as follows:

a. The office of the corporation set forth in its first ~~annual~~ biennial report filed under this chapter shall be deemed its registered office until December 31, 1990, or until it files a designation of registered office with the secretary of state, whichever is earlier.

b. The person signing the first ~~annual~~ biennial report of the corporation filed under this chapter shall be deemed the registered agent until December 31, 1990, or a statement designating a registered agent has been filed with the secretary of state, whichever is earlier.

Sec. 25. Section 496C.21, subsection 1, Code 1997, is amended to read as follows:

1. The name and address of ~~each~~ one shareholder.

Sec. 26. Section 497.22, Code 1997, is amended by striking the section and inserting in lieu thereof the following:

497.22 BIENNIAL REPORT.

Sections 504A.83 and 504A.84 apply to a cooperative association organized under this chapter in the same manner as those sections apply to a corporation organized under chapter 504A. In addition to the information required to be set forth in the biennial report under section 504A.83, the cooperative association shall also set forth the total amount of business transacted, number of members, total expense of operation, total amount of indebtedness, and total profits or losses for each calendar or fiscal year of the two-year period which ended immediately preceding the first day of January of the year in which the report is filed.

A cooperative association which fails to comply with this section before April 1 of the year in which the report is due is subject to a penalty of ten dollars.

Sec. 27. Section 497.25, Code 1997, is amended to read as follows:

497.25 NOTICE TO DELINQUENTS.

On or before the first day of May of the year the report is due the secretary of state shall ~~send by registered~~ mail to each delinquent ~~and to each of its officers, as may be disclosed by the latest records on file in the office of the secretary of state,~~ association a notice of such delinquency and of the penalties provided in section 497.22.

Sec. 28. Section 498.24, Code 1997, is amended by striking the section and inserting in lieu thereof the following:

498.24 BIENNIAL REPORT.

Sections 504A.83 and 504A.84 apply to a cooperative association organized under this chapter in the same manner as those sections apply to a corporation organized under chapter 504A. In addition to the information required to be set forth in the biennial report under section 504A.83, the cooperative association shall also set forth the total amount of business transacted, number of members, total expense of operation, total amount of indebtedness, and total profits or losses for each calendar or fiscal year of the two-year period which ended immediately preceding the first day of January of the year in which the report is filed.

A cooperative association which fails to comply with this section before April 1 of the year in which the report is due is subject to a penalty of ten dollars.

Sec. 29. Section 498.27, Code 1997, is amended to read as follows:

498.27 NOTICE TO DELINQUENTS.

On or before the first day of May of the year the report is due the secretary of state shall ~~send by certified~~ mail to each delinquent ~~and to each of its officers, as may be disclosed by the latest records on file in the office of the secretary of state,~~ association a notice of such delinquency and of the penalties provided in section 498.24.

Sec. 30. Section 499.45, Code 1997, is amended to read as follows:

499.45 FEES.

A fee of twenty dollars shall be paid to the secretary of state upon filing articles of incorporation, amendments, or renewals.

Except as provided in this section, the association shall pay the fees prescribed by section 490.122 when the documents described in that section are delivered to the secretary of state for filing.

Sec. 31. Section 499.49, Code 1997, is amended by striking the section and inserting in lieu thereof the following:

499.49 BIENNIAL REPORT.

Sections 504A.83 and 504A.84 apply to a cooperative organized under this chapter in the same manner as those sections apply to a corporation organized under chapter 504A. In addition to the information required to be set forth in the biennial report under section 504A.83, the cooperative shall also set forth the number of members of the cooperative, the percentage of the cooperative's business done with or for its own members during each of the fiscal or calendar years of the preceding two-year period, the percentage of the cooperative's business done with or for each class of nonmembers specified in section 499.3, and any other information deemed necessary by the secretary of state to advise the secretary whether the cooperative is actually functioning as a cooperative.

Sec. 32. Section 499.76, subsection 1, Code 1997, is amended by striking the subsection.

Sec. 33. Section 499.78, subsection 1, paragraph b, Code 1997, is amended to read as follows:

b. State that the ground or grounds for dissolution ~~either did not exist or~~ have been eliminated.

Sec. 34. Section 501.103, Code 1997, is amended to read as follows:

501.103 PERMISSIBLE MEMBERS — LIMITED FARMING ACTIVITIES.

1. Notwithstanding section 9H.4, any person or entity, subject to the limitations set forth in section 501.305, and subject to the cooperative's articles and bylaws, is permitted to own stock, including voting stock, in a cooperative.

~~1.~~ 2. Notwithstanding section 9H.4, a cooperative may, directly or indirectly, acquire or otherwise obtain or lease agricultural land in this state, for as long as the cooperative continues to meet the following requirements:

a. Farming entities own sixty percent of the stock and are eligible to cast sixty percent of the votes at member meetings.

b. Authorized persons own at least seventy-five percent of the stock and are eligible to cast at least seventy-five percent of the votes at member meetings.

c. The cooperative does not, either directly or indirectly, acquire or otherwise obtain or lease agricultural land, if the total agricultural land either directly or indirectly owned or leased by the cooperative would then exceed six hundred forty acres.

~~2.~~ 3. A cooperative that claims that it is exempt from the restrictions of section 9H.4 pursuant to subsection ~~1~~ 2 shall file an annual report with the secretary of state on or before March 31 of each year on forms supplied by the secretary of state. The report shall be signed by the president or the vice president of the cooperative and shall contain the following:

a. The cooperative's name and address.

b. A certification that the cooperative meets both of the requirements of subsection ~~1~~ 2.

c. The number of acres of agricultural land owned, leased, or held by the cooperative, including the following:

(1) The total number of acres in the state.

(2) The number of acres in each county identified by county name.

(3) The number of acres owned.

(4) The number of acres leased.

(5) The number of acres held other than by ownership or lease.

(6) The number of acres used for the production of row crops.

~~3.~~ 4. The president or the vice president of the cooperative who falsifies a report ~~shall be~~ is guilty of perjury as provided in section 720.2.

~~4.~~ 5. In the event of a transfer of stock by operation of law as a result of death, divorce, bankruptcy, or pursuant to a security interest, the cooperative may disregard the transfer for purposes of determining compliance with subsection ~~1~~ 2 for a period of two years after the transfer.

Sec. 35. Section 504A.9, subsection 6, unnumbered paragraphs 5 and 6, Code 1997, are amended to read as follows:

Any registered agent of a corporation may resign as such agent upon filing a written notice ~~thereof~~ of the resignation, executed in duplicate, with the secretary of state, who shall record one copy and forthwith mail the other copy ~~thereof~~ of the notice of resignation to the corporation in care of an officer, who is not the resigning registered agent, at the address of such officer as shown by the most recent ~~annual~~ biennial report of the corporation. The appointment of such agent shall terminate upon the expiration of thirty days after receipt of such notice by the secretary of state.

The secretary of state may provide for the change of registered office or registered agent on the form prescribed by the secretary of state for the ~~annual~~ biennial report pursuant to section 504A.83, provided that the form contains the information required in this section. If the secretary of state determines that ~~an annual~~ a biennial report does not contain the information required by section 504A.83 but otherwise meets the requirements of this section for the purpose of changing the registered office or registered agent, the secretary of state shall file the statement of change of registered office or registered agent before returning the ~~annual~~ biennial report to the corporation pursuant to section 504A.84. A statement of change of registered office or registered agent pursuant to this paragraph shall be executed by a person authorized to execute the ~~annual~~ biennial report.

Sec. 36. Section 504A.32, subsection 2, Code 1997, is amended to read as follows:

2. Except for a statement of change of registered office or registered agent filed pursuant to section 504A.9 or 504A.73, and ~~an annual~~ a biennial report filed pursuant to section 504A.83, any instrument required to be filed and recorded in the office of the secretary of state only, shall be returned by the secretary to the corporation or its representative.

Sec. 37. Section 504A.36, subsection 1, Code 1997, is amended to read as follows:

1. The name of the corporation ~~and the effective date of its incorporation; and its original name if different from the present name~~.

Sec. 38. Section 504A.39, subsection 4, paragraph e, unnumbered paragraph 2, Code 1997, is amended to read as follows:

The restated articles of incorporation shall also set forth a statement that they correctly set forth the provisions of the articles of incorporation as ~~theretofore or thereby~~ amended, and that they have been duly adopted as required by law ~~and that they supersede the original articles of incorporation and all amendments thereto~~.

Sec. 39. Section 504A.53, Code 1997, is amended to read as follows:

504A.53 INVOLUNTARY DISSOLUTION.

A corporation may be dissolved involuntarily by a decree of the district court in an action filed by the attorney general when ~~it is~~ any of the following are established ~~that~~:

1. The corporation has failed to file its ~~annual~~ biennial report within the time required by this chapter~~; or~~.

2. The corporation procured its articles of incorporation through fraud~~; or~~.

3. The corporation has continued to exceed or abuse the authority conferred upon it by law~~; or~~.

4. The corporation has failed for ninety days to appoint and maintain a registered agent in this state~~; or~~.

5. The corporation has failed for ninety days after change of its registered agent to file in the office of the secretary of state a statement of such change.

Sec. 40. Section 504A.54, Code 1997, is amended to read as follows:

504A.54 NOTIFICATION TO ATTORNEY GENERAL.

The secretary of state, on or before the first day of November of each year, shall certify to the attorney general the names of all corporations which have failed to file their ~~annual~~ biennial reports in accordance with this chapter. The secretary of state shall also certify, from time to time, the names of all corporations which have given other cause for dissolution as provided in this chapter, together with the facts pertinent ~~thereto~~ to such cause. When the secretary of state certifies the name of a corporation to the attorney general as having given any cause for dissolution, the secretary of state shall concurrently mail to the corporation at its registered office a notice that the certification has been made. Upon the receipt of the certification, the attorney general shall file an action in the name of the state against the corporation for its dissolution. A certificate from the secretary of state to the attorney general pertaining to the failure of a corporation to file ~~an annual~~ a biennial report shall be taken and received in all courts as prima facie evidence of the facts ~~therein~~ stated in the certificate.

If, before action is filed, the corporation files its ~~annual~~ biennial report, or appoints or maintains a registered agent as provided in this chapter, or files with the secretary of state the required statement of change of registered agent, that fact shall be forthwith certified by the secretary of state to the attorney general and the attorney general shall not file an action against the corporation for such cause. If, after action is filed, the corporation files its ~~annual~~ biennial report, or appoints or maintains a registered agent as provided in this chapter, or files with the secretary of state the required statement of change of registered agent, and pays the costs of the action, the action for such cause shall abate.

Sec. 41. Section 504A.73, unnumbered paragraph 5, Code 1997, is amended to read as follows:

The secretary of state may provide for the change of registered office or registered agent on the form prescribed by the secretary of state for the ~~annual~~ biennial report pursuant to section 504A.83, provided that the form contains the information required in this section. If the secretary of state determines that ~~an annual~~ a biennial report does not contain the information required by section 504A.83 but otherwise meets the requirements of this section for the purpose of changing the registered office or registered agent, the secretary of state shall file the statement of change of registered office or registered agent before returning the ~~annual~~ biennial report to the corporation pursuant to section 504A.84. A statement of change of registered office or registered agent pursuant to this paragraph shall be executed by a person authorized to execute the ~~annual~~ biennial report.

Sec. 42. Section 504A.80, Code 1997, is amended to read as follows:

504A.80 REVOCATION OF CERTIFICATE OF AUTHORITY.

The certificate of authority of a foreign corporation to conduct affairs in this state may be revoked by the secretary of state upon the conditions prescribed in this section ~~when~~ upon the occurrence of any of the following:

1. The corporation has failed to file its ~~annual~~ biennial report within the time required by this chapter, or has failed to pay any fees or penalties prescribed by this chapter when the ~~same~~ fees or penalties have become due and payable~~; or~~.

2. The corporation has failed to appoint and maintain a registered agent in this state as required by this chapter~~; or~~.

3. The corporation has failed, after change of its registered office or registered agent, to file in the office of the secretary of state a statement of such change as required by this chapter~~; or~~.

4. A misrepresentation has been made of any material matter in any application, report, affidavit, or other document submitted by ~~such~~ the corporation pursuant to this chapter.

A certificate of authority of a foreign corporation shall not be revoked by the secretary of state unless the secretary has given the corporation not less than sixty days' notice by mail

addressed to the principal office of the corporation in the state or country under the laws of which it is incorporated, and the corporation fails prior to revocation to file the ~~annual~~ biennial report, or pay the fees or penalties, or file the required statement of change of registered agent or registered office, or correct the misrepresentation.

Sec. 43. Section 504A.83, Code 1997, is amended to read as follows:

504A.83 ~~ANNUAL~~ BIENNIAL REPORT OF DOMESTIC AND FOREIGN CORPORATIONS.

Each domestic corporation, and each foreign corporation authorized to conduct affairs in this state, shall file, within the time prescribed by this chapter, ~~an annual~~ a biennial report setting forth:

1. The name of the corporation and the state or country under the laws of which it is incorporated.

2. The address of the registered office of the corporation in this state, and the name of its registered agent or agents in this state at such address, and, in the case of a foreign corporation, the address of its principal office in the state or country under the laws of which it is incorporated.

~~3. A brief statement of the character of the affairs which the corporation is actually conducting, or, in the case of a foreign corporation, which the corporation is actually conducting in this state.~~

~~4.~~ 3. The names and ~~respective~~ addresses of the ~~directors and officers of the corporation~~ president, secretary, treasurer, and one member of the board of directors.

The ~~annual~~ biennial report shall be made on forms prescribed and furnished by the secretary of state, and the information contained in the report shall be given as of the date of the execution of the report. It shall be executed by the corporation by a representative duly authorized by the board of directors, or, if the corporation is in the hands of a receiver, trustee, or assignee for benefit of creditors, it shall be executed on behalf of the corporation by the receiver, trustee, or assignee.

Sec. 44. Section 504A.84, Code 1997, is amended to read as follows:

504A.84 FILING OF ~~ANNUAL~~ BIENNIAL REPORT OF DOMESTIC AND FOREIGN CORPORATIONS.

~~The annual report of a domestic or foreign corporation shall be delivered to the secretary of state for filing in the secretary of state's office between the first day of May and the thirty-first day of July of each year, except that the first annual report of a domestic or foreign corporation shall be filed between the first day of May and the thirty-first day of July of the year succeeding the calendar year in which its certificate of incorporation or its certificate of authority, as the case may be, was issued by the secretary of state.~~ The first biennial report of a domestic or foreign corporation shall be delivered to the secretary of state between January 1 and April 1 of the first odd-numbered year following the calendar year in which a domestic corporation was incorporated or a foreign corporation was authorized to transact business. Subsequent biennial reports must be delivered to the secretary of state between January 1 and April 1 of the following odd-numbered calendar years. A filing fee for the biennial report shall be determined by the secretary of state. For purposes of this section, each biennial report shall contain information related to the two-year period immediately preceding the calendar year in which the report is filed.

The report shall be deemed filed within the required time if deposited in the United States mail with postage prepaid in a sealed envelope, properly addressed and postmarked on or prior to the thirty-first day of ~~July~~ March of the year the report is due. If the secretary of state finds that the report conforms to the requirements of this chapter, the secretary shall file the report. ~~If the secretary of state finds that it does not so conform, the secretary shall promptly return the report to the corporation for any necessary corrections, in which event the penalties prescribed for failure to file the report within the time provided shall not apply, if the report is corrected to conform to the requirements of this chapter, and is resubmitted to the~~

~~secretary of state within thirty days from the date on which it was mailed to the corporation by the secretary of state.~~ If a biennial report does not contain the information required by this section, the secretary of state shall promptly notify the reporting domestic or foreign corporation in writing and return the report to the corporation for correction.

Sec. 45. Section 504A.87, subsection 2, Code 1997, is amended to read as follows:

2. The corporation has not delivered ~~an annual~~ a biennial report to the secretary of state in a form that meets the requirements of section 504A.83, within sixty days after it is due.

Sec. 46. Section 504A.100, subsection 3, paragraph d, Code 1997, is amended to read as follows:

d. As to foreign corporations, such instrument shall be delivered to the secretary of state for filing in the secretary of state's office and the corporation shall at the same time deliver also to the secretary of state for filing in the secretary of state's office any ~~annual~~ biennial report which is then due.

Sec. 47. Section 504A.100, subsection 8, Code 1997, is amended to read as follows:

8. Within eight months after this chapter becomes applicable to any foreign corporation pursuant to the provisions of subsection 7 ~~of this section~~, the board of directors of such foreign corporation shall adopt a resolution designating the address of its registered office in this state and the name of its registered agent or agents at such address and, if the name of ~~such~~ the corporation does not comply with this chapter, setting forth the name of the corporation with the changes which ~~it~~ the board elects to make ~~therein~~ to the name conforming to the requirements of this chapter for use in this state.

Upon adoption of the required resolution or resolutions, an instrument or instruments shall be executed by the foreign corporation by its president or a vice president and by its secretary or assistant secretary and verified by one of the officers signing such instrument, which shall set forth the name of the corporation, each resolution adopted as required by the provisions of this subsection, and the date of the adoption ~~thereof~~ of each resolution. ~~Such~~ The instrument shall be delivered to the secretary of state for filing in the secretary of state's office. Upon the filing of such instrument by a foreign corporation the secretary of state shall issue a certificate as to the filing of ~~such~~ the instrument and deliver ~~such~~ the certificate to the corporation or its representative. The secretary of state shall not file any ~~annual~~ biennial report of any foreign corporation subject to ~~the provisions of~~ this subsection unless and until ~~said~~ the corporation has fully complied with the provisions of this paragraph and, in such event, ~~such~~ the foreign corporation ~~shall be~~ is subject to the penalties prescribed in this chapter for failure to file ~~such~~ the report within the time as provided ~~therefor~~ in this chapter.

Sec. 48. Section 504A.100, subsection 9, Code 1997, is amended by striking the subsection.

Sec. 49. Sections 499.50 and 504A.54, Code 1997, are repealed.

Approved May 19, 1997

CHAPTER 172

STATISTICAL REPORTING OF TERMINATIONS OF PREGNANCY

S.F. 128

AN ACT relating to the statistical reporting of terminations of pregnancy and establishing a penalty.

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

Section 1. NEW SECTION. 144.29A TERMINATION OF PREGNANCY REPORTING.

1. A health care provider who initially identifies and diagnoses a spontaneous termination of pregnancy or who induces a termination of pregnancy shall file with the department a report for each termination within thirty days of the occurrence. The health care provider shall make a good faith effort to obtain all of the following information that is available with respect to each termination:

a. The confidential health care provider code as assigned by the department.

b. The report tracking number.

c. The maternal health services region of the Iowa department of public health, as designated as of July 1, 1997, in which the patient resides.

d. The race of the patient.

e. The age of the patient.

f. The marital status of the patient.

g. The educational level of the patient.

h. The number of previous pregnancies, live births, and spontaneous or induced termination of pregnancies.

i. The month and year in which the termination occurred.

j. The number of weeks since the patient's last menstrual period and a clinical estimate of gestation.

2. It is the intent of the general assembly that the information shall be collected, reproduced, released, and disclosed in a manner specified by rule of the department, adopted pursuant to chapter 17A, which ensures the anonymity of the patient who experiences a termination of pregnancy, the health care provider who identifies and diagnoses or induces a termination of pregnancy, and the hospital, clinic, or other health facility in which a termination of pregnancy is identified and diagnosed or induced. The department may share information with federal public health officials for the purposes of securing federal funding or conducting public health research. However, in sharing the information, the department shall not relinquish control of the information, and any agreement entered into by the department with federal public health officials to share information shall prohibit the use, reproduction, release, or disclosure of the information by federal public health officials in a manner which violates this section. The department shall publish, annually, a demographic summary of the information obtained pursuant to this section, except that the department shall not reproduce, release, or disclose any information obtained pursuant to this section which reveals the identity of any patient, health care provider, hospital, clinic, or other health facility, and shall ensure anonymity in the following ways:

a. The department may use information concerning the report tracking number or concerning the identity of a reporting health care provider, hospital, clinic, or other health facility only for purposes of information collection. The department shall not reproduce, release, or disclose this information for any purpose other than for use in annually publishing the demographic summary under this section.

b. The department shall enter the information, from any report of termination submitted, within thirty days of receipt of the report, and shall immediately destroy the report following entry of the information. However, entry of the information from a report shall not include any health care provider, hospital, clinic, or other health facility identification information including, but not limited to, the confidential health care provider code, as assigned by the department.

c. To protect confidentiality, the department shall limit release of information to release in an aggregate form which prevents identification of any individual patient, health care provider, hospital, clinic, or other health facility. For the purposes of this paragraph, "aggregate form" means a compilation of the information received by the department on termination of pregnancies for each information item listed, with the exceptions of the report tracking number, the health care provider code, and any set of information for which the amount is so small that the confidentiality of any person to whom the information relates may be compromised. The department shall establish a methodology to provide a statistically verifiable basis for any determination of the correct amount at which information may be released so that the confidentiality of any person is not compromised.

3. Except as specified in subsection 2, reports, information, and records submitted and maintained pursuant to this section are strictly confidential and shall not be released or made public upon subpoena, search warrant, discovery proceedings, or by any other means.

4. The department shall assign a code to any health care provider who may be required to report a termination under this section. An application procedure shall not be required for assignment of a code to a health care provider.

5. A health care provider shall assign a report tracking number which enables the health care provider to access the patient's medical information without identifying the patient.

6. To ensure proper performance of the reporting requirements under this section, it is preferred that a health care provider who practices within a hospital, clinic, or other health facility authorize one staff person to fulfill the reporting requirements.

7. For the purposes of this section, "health care provider" means an individual licensed under chapter 148, 148C, 148D, 150, 150A, or 152, or any individual who provides medical services under the authorization of the licensee.

8. For the purposes of this section, "inducing a termination of pregnancy" means the use of any means to terminate the pregnancy of a woman known to be pregnant with the intent other than to produce a live birth or to remove a dead fetus.

9. For the purposes of this section, "spontaneous termination of pregnancy" means the occurrence of an unintended termination of pregnancy at any time during the period from conception to twenty weeks gestation and which is not a spontaneous termination of pregnancy at any time during the period from twenty weeks or greater which is reported to the department as a fetal death under this chapter.

Sec. 2. Section 144.52, Code 1997, is amended by adding the following new subsection:
NEW SUBSECTION. 7. Knowingly violates a provision of section 144.29A.

Approved May 21, 1997

CHAPTER 173

NOTIFICATION REQUIREMENTS REGARDING PREGNANT MINORS

H.F. 121

AN ACT relating to notification procedures prior to the performance of an abortion on or termination of parental rights of a minor and applicable penalties and providing for a repeal.

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

Section 1. Section 135L.1, subsection 3, Code 1997, is amended by striking the subsection.

Sec. 2. Section 135L.2, subsections 3 and 6, Code 1997, are amended to read as follows:

3. During the initial appointment between a licensed physician from whom a pregnant minor is seeking the performance of an abortion and a pregnant minor, ~~a~~ the licensed physician~~, who is providing medical services to a pregnant minor,~~ shall offer the viewing of the video and the written decision-making materials to the pregnant minor, and shall obtain the signed and dated certification form from the pregnant minor. ~~If the pregnant minor has previously been offered the viewing of the video and the written decision-making materials by another source, the licensed physician shall obtain the completed certification form from the other source to verify that the pregnant minor has been offered the viewing of the video and the written decision-making materials.~~ A licensed physician shall not perform an abortion on a pregnant minor prior to obtaining the completed certification form from a pregnant minor.

6. Following the offering of the viewing of the video and of the written decision-making materials, the pregnant minor shall sign and date the certification form attached to the materials, and shall submit the completed form to the licensed physician ~~or provide the person making the offer with information to send the completed form to the pregnant minor's attending physician~~. The ~~person offering the viewing of the video and the decision-making materials~~ licensed physician shall also provide a copy of the completed certification form to the pregnant minor.

Sec. 3. Section 135L.3, subsections 1 and 2, Code 1997, are amended to read as follows:

1. A ~~person~~ licensed physician shall not perform an abortion on a pregnant minor until at least forty-eight hours' prior notification is provided to a parent of the pregnant minor.

2. The ~~person~~ licensed physician who will perform the abortion shall provide notification in person or by mailing the notification by restricted certified mail to ~~the~~ a parent of the pregnant minor at the usual place of abode of the parent. For the purpose of delivery by restricted certified mail, the time of delivery is deemed to occur at twelve o'clock noon on the next day on which regular mail delivery takes place, subsequent to the mailing.

Sec. 4. Section 135L.3, subsection 3, paragraph c, Code 1997, is amended to read as follows:

c. The court proceedings shall be conducted in a manner which protects the confidentiality of the pregnant minor and notwithstanding section 232.147 or any other provision to the contrary, all court documents pertaining to the proceedings shall remain confidential and shall be sealed. Only the pregnant minor, the pregnant minor's guardian ad litem, the pregnant minor's legal counsel, and persons whose presence is specifically requested by the pregnant minor, by the pregnant minor's guardian ad litem, or by the pregnant minor's legal counsel may attend the hearing on the petition.

Sec. 5. Section 135L.3, subsection 3, paragraph l, Code 1997, is amended to read as follows:

l. The supreme court shall prescribe rules to ensure that the proceedings under this section are performed in an expeditious and confidential manner. The rules shall require that the hearing on the petition shall be held and the court shall rule on the petition within forty-eight hours of the filing of the petition. If the court fails to hold the hearing and rule on the petition within forty-eight hours of the filing of the petition and an extension is not requested, the petition is deemed granted and waiver of the notification requirements is deemed authorized. The court shall immediately provide documentation to the pregnant minor and to the pregnant minor's legal counsel if the pregnant minor is represented by legal counsel, demonstrating that the petition is deemed granted and that waiver of the notification requirements is deemed authorized. Resolution of a petition for authorization of waiver of the notification requirement shall be completed within ten calendar days as calculated from the day after the filing of the petition to the day of issuance of any final decision on appeal.

Sec. 6. Section 135L.3, subsection 3, paragraph m, subparagraph (2), Code 1997, is amended to read as follows:

(2) (a) The pregnant minor declares, in a written statement submitted to the attending physician, a reason for not notifying a parent and a reason for notifying a grandparent ~~or an aunt or uncle~~ of the pregnant minor in lieu of the notification of a parent. Upon receipt of the written statement from the pregnant minor, the attending physician shall provide notification to a grandparent ~~or an aunt or uncle~~ of the pregnant minor, specified by the pregnant minor, in the manner in which notification is provided to a parent.

(b) The notification form shall be in duplicate and shall include both of the following:

(i) A declaration which informs the grandparent ~~or the aunt or uncle~~ of the pregnant minor that the grandparent ~~or aunt or uncle~~ of the pregnant minor may be subject to civil action if the grandparent ~~or aunt or uncle~~ accepts notification.

(ii) A provision that the grandparent ~~or aunt or uncle~~ of the pregnant minor may refuse acceptance of notification.

Sec. 7. Section 135L.3, subsection 3, paragraph m, subparagraph (3), Code 1997, is amended to read as follows:

(3) The pregnant minor's attending physician certifies in writing that a medical emergency exists which necessitates the immediate performance of an abortion ~~in accordance with section 135L.5~~, and places the written certification in the medical file of the pregnant minor.

Sec. 8. Section 135L.3, subsection 3, paragraph m, subparagraph (4), Code 1997, is amended to read as follows:

(4) The pregnant minor declares that the pregnant minor is a victim of child abuse pursuant to section 232.68, the person responsible for the care of the child is a parent of the child, and either the abuse has been reported pursuant to the procedures prescribed in chapter 232, division III, part 2, or a parent of the child is named in a report of founded child abuse. The department of human services shall maintain confidentiality under chapter 232 and shall not release any information in response to a request for public records, discovery procedures, subpoena, or any other means, unless the release of information is expressly authorized by the pregnant minor regarding the pregnant minor's pregnancy and abortion, if the abortion is obtained. A person who knowingly violates the confidentiality provisions of this subparagraph is guilty of a serious misdemeanor.

Sec. 9. Section 135L.3, subsection 3, paragraph n, Code 1997, is amended to read as follows:

n. A ~~person~~ licensed physician who knowingly performs an abortion in violation of this section is guilty of a serious misdemeanor.

Sec. 10. Section 135L.3, subsection 3, Code 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. o. All records and files of a court proceeding maintained under this section shall be destroyed by the clerk of court when one year has elapsed from any of the following, as applicable:

(1) The date that the court issues an order waiving the notification requirements.

(2) The date after which the court denies the petition for waiver of notification and the decision is not appealed.

(3) The date after which the court denies the petition for waiver of notification, the decision is appealed, and all appeals are exhausted.

Sec. 11. Section 135L.3, subsection 3, Code 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. p. A person who knowingly violates the confidentiality requirements of this section relating to court proceedings and documents is guilty of a serious misdemeanor.

Sec. 12. Section 135L.6, Code 1997, is amended to read as follows:

135L.6 FRAUDULENT PRACTICE.

A person who does any of the following is guilty of a fraudulent practice in the fourth degree pursuant to section 714.12:

1. Knowingly tenders a false original or copy of the signed and dated certification form described in section 135L.2, to be retained by the licensed physician ~~or to be sent to the pregnant minor's attending physician~~.

2. Knowingly tenders a false original or copy of the notification document mailed to a parent~~,~~ or grandparent~~, or aunt or uncle~~ of the pregnant minor under this chapter, ~~a false original or copy of the written certification to be provided to a parent of a pregnant minor pursuant to section 135L.5,~~ or a false original or copy of the order waiving notification relative to the performance of an abortion on a pregnant minor.

Sec. 13. Section 135L.7, Code 1997, is amended to read as follows:

135L.7 IMMUNITIES.

1. With the exception of the civil liability which may apply to a grandparent ~~or aunt or uncle~~ of a pregnant minor who accepts notification under this chapter, a person is immune from any liability, civil or criminal, for any act, omission, or decision made in connection with a good faith effort to comply with the provisions of this chapter.

2. This section shall not be construed to limit civil ~~or criminal~~ liability of a person for any act, omission, or decision made in relation to the performance of a medical procedure on a pregnant minor.

Sec. 14. Section 135L.8, Code 1997, is amended to read as follows:

135L.8 ADOPTION OF RULES — IMPLEMENTATION AND DOCUMENTS.

The Iowa department of public health shall adopt rules to implement the notification procedures pursuant to this chapter including but not limited to rules regarding the documents necessary for notification of a parent~~,~~ or grandparent~~, or aunt or uncle~~ of a pregnant minor who is designated to receive notification under this chapter.

Sec. 15. Section 600A.6, subsection 7, Code 1997, is amended by striking the subsection.

Sec. 16. Section 602.8102, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 31. Destroy all records and files of a court proceeding maintained under section 135L.3 in accordance with section 135L.3, subsection 3, paragraph "o".

Sec. 17. Section 135L.5, Code 1997, is repealed.

Approved May 21, 1997

CHAPTER 174

SCHOOL ATTENDANCE REQUIREMENTS AND FAMILY INVESTMENT PROGRAM

H.F. 597

AN ACT relating to school attendance by applying school attendance requirements under the family investment program, and providing a civil penalty for truancy, applicability provisions, and an effective date.

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

Section 1. NEW SECTION. 239.5B SCHOOL ATTENDANCE.

1. As a condition of eligibility for an applicant for or a recipient of assistance under this chapter, the department shall require a child's parent or other specified relative whose needs are included in the cash assistance grant payable to the child's family to cooperate with efforts to ensure children receiving assistance under this chapter complete educational requirements through the sixth grade. As a further condition of eligibility, an applicant or recipient shall provide written authorization for release of information to a school concerning the receipt of assistance and for release of information by a school concerning the child's compliance with attendance requirements.

2. If the department of human services receives written notification from a school truancy officer under section 299.12 that a child receiving assistance under this chapter is deemed to be truant, the child's family shall be subject to sanction as provided in this section. The sanction shall continue to apply until the department of human services receives written notification from the school truancy officer of any of the following:

a. The child is complying with the attendance policy applicable to the child's school.

b. The child has satisfactorily completed educational requirements through the sixth grade.

c. The child's school has determined there is good cause for the child's nonattendance and the school withdraws the written notification.

d. The child is no longer enrolled in the school for which the written notification was provided and the child's family demonstrates that the child is enrolled in and is attending another school or is otherwise receiving equivalent schooling as authorized under state law.

3. The sanction under this section shall be a deduction of twenty-five percent from the net cash assistance grant amount payable to the child's family prior to any deduction for recoupment of prior overpayment. If more than one child in the family is deemed to be truant, the sanction shall continue to apply until the department receives written notification from the school truancy officer, as provided in subsection 2 concerning each child.

4. Notwithstanding any contrary provision of chapter 239, unless prohibited by federal law, the department may release or make information available to a school truancy officer, as defined in section 299.12, regarding persons applying for or receiving assistance under this chapter as necessary to verify the family investment program assistance status of a child of a family who may be subject to sanction under this section. The department shall implement protocols restricting information access under this section by region or other means to provide for the minimum access to information necessary to implement the purposes of this section. The department may adopt rules as necessary to administer this section.

Sec. 2. Section 299.5A, unnumbered paragraph 1, Code 1997, is amended to read as follows:

If a child is truant as defined in section 299.8, school officers shall attempt to find the cause for the child's absence and use every means available to the school to assure that the child does attend. For a child who has completed educational requirements through the

sixth grade, the means may include but are not limited to the use of an attendance cooperation process which substantially conforms with the provisions of section 299.12. If the parent, guardian, or legal or actual custodian, or child refuses to accept the school's attempt to assure the child's attendance or the school's attempt to assure the child's attendance is otherwise unsuccessful, the truancy officer shall refer the matter to the county attorney for mediation or prosecution.

Sec. 3. Section 299.6, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If a child's parent, guardian, or legal or actual custodian who is found guilty and is subject to a penalty as provided in this section has been subject to a sanction under section 239.5B as a result of the child's truancy, the court may waive the penalty under this section.

Sec. 4. NEW SECTION. 299.6A CIVIL PENALTY — DISTRIBUTION OF FUNDS.

1. In lieu of a criminal proceeding under section 299.6, a county attorney may bring a civil action against a parent, guardian, or legal or actual custodian of a child who is of compulsory attendance age, has not completed educational requirements, and is truant, if the parent, guardian, or legal or actual custodian has failed to cause the child to attend a public school, an accredited nonpublic school, or competent private instruction in the manner provided in this chapter. If the court finds that the parent, guardian, or legal or actual custodian has failed to cause the child to attend as required in this section, the court shall assess a civil penalty of not less than one hundred but not more than one thousand dollars, for each violation established. However, if the court finds that the parent, guardian, or legal or actual custodian of the child has been subject to sanction under section 239.5B as a result of the child's truancy, the court may waive the civil penalty under this section.

2. Funds received from civil penalties assessed pursuant to this section shall be paid to the school district of residence or school district of enrollment, if open enrolled, of the person against whom the court assessed the penalty. The school district shall use moneys received under this subsection to support programs for students who meet the definition of at-risk children adopted by the department of education.

Sec. 5. NEW SECTION. 299.12 VIOLATION OF ATTENDANCE POLICY — FAMILY INVESTMENT PROGRAM.

1. For the purposes of this section, "school truancy officer" means a truancy officer appointed under section 299.10 or any other person designated by a public school board or a governing body of an accredited nonpublic school to administer provisions of this section.

2. This section is not applicable to a child who is receiving competent private instruction in accordance with the requirements of chapter 299A. If a child is not in compliance with the attendance requirements established under section 299.1, and has not completed educational requirements through the sixth grade, and the school has used every means available to assure the child does attend, the school truancy officer shall contact the child's parent, guardian, or legal or actual custodian to participate in an attendance cooperation meeting. The parties to the attendance cooperation meeting may include the child and shall include the child's parent, guardian, or legal or actual custodian and the school truancy officer. If the child is a member of a family receiving assistance under the family investment program, the department of human services shall be notified and shall make the contacts for participation in the attendance cooperation meeting in lieu of the school truancy officer. For a child who is a member of a family receiving assistance under the family investment program, the attendance cooperation meeting shall include the child's parent or specified relative whose needs are included in the child's assistance grant and a representative of the department of human services. The school truancy officer or the representative of the department of human services contacting the participants in the attendance cooperation meeting may invite other school officials, a designee of the juvenile court, the county attorney or

the county attorney's designee, or other persons deemed appropriate to participate in the attendance cooperation meeting.

3. The purpose of the attendance cooperation meeting is for the parties participating in the meeting to attempt to ascertain the cause of the child's nonattendance, to cause the parties to arrive at an agreement relative to addressing the child's attendance, and to initiate referrals to any services or counseling that the parties believe to be appropriate under the circumstances. The terms agreed to shall be reduced to writing in an attendance cooperation agreement and signed by the parties to the agreement. Each party signing the agreement shall receive a copy of the agreement, which shall set forth the cause identified for the child's nonattendance and future responsibilities of each party.

4. If the parties to an attendance cooperation meeting determine that a monitor would improve compliance with the attendance cooperation agreement, the parties may designate a person to monitor the agreement. The monitor shall be a designee of the public school board or governing body of the accredited nonpublic school, or a designee of the department of human services, if the department made the contacts for the attendance cooperation meeting. The monitor may be a volunteer if the volunteer is approved by all parties to the agreement and receives a written authorization for access to confidential information and for performing monitor activities from the child's parent, guardian, or custodian. A monitor shall contact parties to the attendance cooperation agreement on a periodic basis as appropriate to monitor performance of the agreement.

5. If the parties fail to enter into an attendance cooperation agreement, or the child's parent, guardian, or custodian acting as a party violates a term of the attendance cooperation agreement or fails to participate in an attendance cooperation meeting, the child shall be deemed to be truant.

6. a. If a child deemed to be truant under this section is a member of a family receiving family investment program assistance under chapter 239 and has not completed the sixth grade, the school truancy officer shall provide notification to the department of human services. An initial and any subsequent notification shall be made in writing. The form of the notification shall be mutually determined by the departments of human services and education.

b. Notwithstanding any other provision of this chapter to the contrary, unless prohibited by federal law, a school truancy officer may release information to the department of human services and may receive information from the department of human services regarding a child described in paragraph "a". In addition, the school truancy officer may utilize other sources available to the officer as necessary to verify whether a child is a member of a family receiving family investment program assistance. Release of information under this section shall be limited to the minimum access to information necessary to achieve the purposes of this section.

7. A public school board or governing body of an accredited nonpublic school shall exercise the authority granted under this section as a means of increasing and ensuring school attendance of young children, as education is a critical element in the success of individuals and good attendance habits should be developed and reinforced at an early age.

Sec. 6. NEW SECTION. 299.13 CIVIL ENFORCEMENT.

A person shall not disseminate or redisseminate information shared with the person pursuant to section 235.5B,* 299.5A, or 299.12, unless specifically authorized to do so by section 217.30, 235.5B,* 299.5A, or 299.12. Unless a prohibited dissemination or redissemination of information is subject to injunction or sanction under other state or federal law, an action for judicial enforcement may be brought in accordance with this section. An aggrieved person, the attorney general, or a county attorney may seek judicial enforcement of the requirements of this section in an action brought against the public school or accredited nonpublic school or any other person who has been granted access to information pursuant to section 235.5B,* 299.5A, or 299.12. Suits to enforce this section

* Section 239.5B probably intended

shall be brought in the district court for the county in which the information was disseminated or redisseminated. Upon a finding by a preponderance of the evidence that a person has violated this section, the court shall issue an injunction punishable by civil contempt ordering the person in violation of this section to comply with the requirements of, and to refrain from any violations of section 235.5B,* 299.5A, or 299.12 with respect to the dissemination or redissemination of information shared with the person pursuant to section 235.5B,* 299.5A, or 299.12.

Sec. 7. EFFECTIVE DATE — APPLICABILITY — EMERGENCY RULES — CODE EDITOR.

1. a. Section 239.5B, as enacted by this Act, being deemed of immediate importance, takes effect upon enactment.

b. The department of human services shall begin implementing the provisions of section 239.5B, as enacted by this Act, which require written authorization for release of information as a condition of eligibility for family investment program assistance, effective July 1, 1997, and shall complete implementation not later than December 31, 1997.

c. The provisions of sections 239.5B and 299.12 authorizing information release or access between the department of human services and school truancy officers shall apply beginning January 1, 1998.

2. 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 section 239.5B, as enacted by this Act, in accordance with this section and the rules shall be effective immediately upon filing, unless the effective date is delayed by the administrative rules review committee, notwithstanding section 17A.4, subsection 5, and section 17A.8, subsection 9, or a later effective date is specified in the rules. Any rules adopted in accordance with this subsection shall not take effect before the rules are reviewed by the administrative rules review committee. Any rules adopted in accordance with this section shall also be published as a notice of intended action as provided in section 17A.4.

3. If Senate File 516** or other legislation providing for the repeal of chapters 239 and 249C and codification of the family investment program in chapter 239B is enacted by the Seventy-seventh General Assembly, 1997 Session, the repeal of chapter 239 shall not be deemed to repeal section 239.5B, as enacted by this Act, and the Code editor shall codify section 239.5B, as enacted by this Act, as part of chapter 239B and shall revise internal references to that section necessary to conform with the designation codified by the Code editor.

Approved May 21, 1997

* Section 239.5B probably intended

** Chapter 41 herein

CHAPTER 175

CHILD SUPPORT, SPOUSAL SUPPORT, AND RELATED MATTERS

H.F. 612

AN ACT relating to child support recovery, providing penalties, and providing effective dates.

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

DIVISION I
PART A

Section 1. Section 252A.3, subsection 8, paragraphs b and c, Code 1997, are amended to read as follows:

b. By the statement of the person admitting paternity in court and upon concurrence of the mother. If the mother was married, at the time of conception, birth or at any time during the period between conception and birth of the child, to an individual other than the person admitting paternity, the individual to whom the mother was married at the time of conception, birth or at any time during the period between conception and birth must deny paternity in order to establish the paternity of the person admitting paternity upon the sole basis of the admission.

c. ~~By~~ Subject to the right of any signatory to rescind as provided in section 252A.3A, subsection 12, by the filing and registration by the state registrar of an affidavit of paternity executed on or after July 1, 1993, as provided in section 252A.3A, provided that the mother of the child was unmarried at the time of conception, birth and at any time during the period between conception and birth of the child or if the mother was married at the time of conception, birth or at any time during the period between conception and birth of the child, a court of competent jurisdiction has determined that the individual to whom the mother was married at that time is not the father of the child.

Sec. 2. Section 252A.3A, Code 1997, is amended to read as follows:

252A.3A ESTABLISHING PATERNITY BY AFFIDAVIT.

1. The paternity of a child born out of wedlock may be legally established by the completion, ~~and~~ filing and registration by the state registrar of an affidavit of paternity only as provided by this section.

2. When paternity has not been legally established, paternity may be established by affidavit under this section for the following children:

a. The child of a woman who was unmarried at the time of conception, ~~and~~ birth and at any time during the period between conception and birth of the child.

b. The child of a woman who is married at the time of conception, ~~or~~ birth or at any time during the period between conception and birth of the child if a court of competent jurisdiction has determined that the individual to whom the mother was married at that time is not the father of the child.

3. a. Prior to or at the time of completion of an affidavit of paternity, written and oral information about paternity establishment, developed by the child support recovery unit created in section 252B.2, shall be provided to the mother and putative father.

b. The information provided shall include a description of parental rights and responsibilities, including the duty to provide financial support for the child, ~~and~~ the benefits of establishing paternity, and the alternatives to and legal consequences of signing an affidavit of paternity, including the rights available if a parent is a minor.

c. Copies of the written information shall be made available by the child support recovery unit or the Iowa department of public health to those entities where an affidavit of paternity may be obtained as provided under subsection 4.

4. a. The affidavit of paternity form developed and used by the Iowa department of public health is the only affidavit of paternity form recognized for the purpose of establishing paternity under this section. It shall include the minimum requirements specified by the secretary of the United States department of health and human services pursuant to 42 U.S.C. § 652(a)(7). A properly completed affidavit of paternity form developed by the Iowa department of public health and existing on or after July 1, 1993, but which is superseded by a later affidavit of paternity form developed by the Iowa department of public health, shall have the same legal effect as a paternity affidavit form used by the Iowa department of public health on or after July 1, 1997, regardless of the date of the filing and registration of the affidavit of paternity, unless otherwise required under federal law.

b. The form shall be available from the state registrar, each county registrar, the child support recovery unit, and any institution in the state.

c. The Iowa department of public health shall make copies of the form available to the entities identified in paragraph "b" for distribution.

5. A completed affidavit of paternity shall contain or have attached all of the following:

a. A statement by the mother consenting to the assertion of paternity and the identity of the father and acknowledging either of the following:

(1) That the mother was unmarried at the time of conception, ~~and~~ birth and at anytime during the period between conception and birth of the child.

(2) That the mother was married at the time of conception, ~~or~~ birth or at any time during the period between conception and birth of the child, and that a court order has been entered ruling that the individual to whom the mother was married at that time is not the father of the child.

b. If paragraph "a", subparagraph (2), is applicable, a certified copy of the filed order ruling that the husband is not the father of the child.

c. A statement from the putative father that the putative father is the father of the child.

d. The name of the child at birth and the child's birth date.

e. The signatures of the mother and putative father.

f. The social security numbers of the mother and putative father.

g. The addresses of the mother and putative father, as available.

h. The signature of a notary public attesting to the identities of the parties signing the affidavit of paternity.

i. Instructions for filing the affidavit.

6. A completed affidavit of paternity shall be filed with the state registrar. However, if the affidavit of paternity is obtained directly from the county registrar, the completed affidavit may be filed with the county registrar who shall forward the original affidavit to the state registrar. For the purposes of legal establishment of paternity under this section, paternity is legally established only upon filing of the affidavit with and registration of the affidavit by the state registrar subject to the right of any signatory to recision pursuant to subsection 12.

7. The state registrar shall make copies of affidavits of paternity and identifying information from the affidavits filed and registered pursuant to this section available to the child support recovery unit created under section 252B.2 in accordance with section 144.13, subsection 4, and any subsequent recision form which rescinds the affidavit.

8. An affidavit of paternity completed and filed with and registered by the state registrar pursuant to this section has all of the following effects:

a. Is admissible as evidence of paternity.

b. Has the same legal force and effect as a judicial determination of paternity subject to the right of any signatory to recision pursuant to subsection 12.

c. Serves as a basis for seeking child or medical support without further determination of paternity subject to the right of any signatory to recision pursuant to subsection 12.

9. All institutions in the state shall provide the following services with respect to any newborn child born out of wedlock:

a. Prior to discharge of the newborn from the institution, the institution where the birth occurs shall provide the mother and, if present, the putative father, with all of the following:

(1) Written and oral information about establishment of paternity pursuant to subsection 3.

(2) An affidavit of paternity form.

(3) An opportunity for consultation with the staff of the institution regarding the written information provided under subparagraph (1).

(4) An opportunity to complete an affidavit of paternity at the institution, as provided in this section.

b. The institution shall file any affidavit of paternity completed at the institution with the state registrar, pursuant to subsection 6, accompanied by a copy of the child's birth certificate, within ten days of the birth of the child.

10. a. An institution may be reimbursed by the child support recovery unit created in section 252B.2 for providing the services described under subsection 9, or may provide the services at no cost.

b. An institution electing reimbursement shall enter into a written agreement with the child support recovery unit for this purpose.

c. An institution entering into an agreement for reimbursement shall assist the parents of a child born out of wedlock in completing and filing an affidavit of paternity.

d. Reimbursement shall be based only on the number of affidavits completed in compliance with this section and submitted to the state registrar during the duration of the written agreement with the child support recovery unit.

e. The reimbursement rate is twenty dollars for each completed affidavit filed with the state registrar.

11. The state registrar, upon request of the mother or the putative father, shall provide the following services with respect to a child born out of wedlock:

a. Written and oral information about the establishment of paternity pursuant to subsection 3.

b. An affidavit of paternity form.

c. An opportunity for consultation with staff regarding the information provided under paragraph "a".

12. a. A completed affidavit of paternity may be rescinded by registration by the state registrar of a completed and notarized recision form signed by either the mother or putative father who signed the affidavit of paternity that the putative father is not the father of the child. The completed and notarized recision form shall be filed with the state registrar for the purpose of registration prior to the earlier of the following:

(1) Sixty days after the latest notarized signature of the mother or putative father on the affidavit of paternity.

(2) Twenty days after the service of the notice or petition initiating a proceeding in this state to which the signatory is a party relating to the child, including a proceeding to establish a support order under chapter 252A, 252C, 252F, 598, or 600B or other law of this state.

b. Unless the state registrar has received and registered an order as provided in section 252A.3, subsection 8, paragraph "a", which legally establishes paternity, upon registration of a timely recision form the state registrar shall remove the father's information from the certificate of birth, and shall send a written notice of the recision to the last known address of the signatory of the affidavit of paternity who did not sign the recision form.

c. The Iowa department of public health shall develop a recision form and an administrative process for rescission. The form shall be the only recision form recognized for the purpose of rescinding a completed affidavit of paternity. A completed recision form shall include the signature of a notary public attesting to the identity of the party signing the recision form. The Iowa department of public health shall adopt rules which establish a fee, based upon the average administrative cost, to be collected for the registration of a rescission.

d. If an affidavit of paternity has been rescinded under this subsection, the state registrar shall not register any subsequent affidavit of paternity signed by the same mother and putative father relating to the same child.

13. The child support recovery unit may enter into a written agreement with an entity designated by the secretary of the United States department of health and human services to offer voluntary paternity establishment services.

a. The agreement shall comply with federal requirements pursuant to 42 U.S.C. § 666(a)(5)(C) including those regarding notice, materials, training, and evaluations.

b. The agreement may provide for reimbursement of the entity by the state if reimbursement is permitted by federal law.

Sec. 3. Section 252A.6A, subsection 1, paragraph a, Code 1997, is amended to read as follows:

a. Except with the consent of all parties, the trial shall not be held until after the birth of the child and shall be held no earlier than twenty days from the date the respondent is served with notice of the action or, if blood or genetic tests are conducted, no earlier than ~~fifty~~ thirty days from the date the test results are filed with the clerk of the district court as provided under section 600B.41.

Sec. 4. Section 252A.6A, subsection 1, Code 1997, is amended by adding the following new paragraphs:

NEW PARAGRAPH. c. Appropriate genetic testing procedures shall be used which include any genetic test generally acknowledged as reliable by accreditation bodies designated by the secretary of the United States department of health and human services and which are performed by a laboratory approved by such an accreditation body.

NEW PARAGRAPH. d. A copy of a bill for blood or genetic testing, or for the cost of prenatal care or the birth of the child, shall be admitted as evidence without requiring third-party foundation testimony and shall constitute prima facie evidence of amounts incurred for testing.

Sec. 5. Section 252A.6A, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 3. If the expert analyzing the blood or genetic test concludes that the test results demonstrate that the putative father is not excluded and that the probability of the putative father's paternity is ninety-nine percent or higher and if the test results have not been challenged, the court, upon motion by a party, shall enter a temporary order for child support to be paid pursuant to section 598.21, subsection 4. The court shall require temporary support to be paid to the clerk of court or to the collection services center. If the court subsequently determines the putative father is not the father, the court shall terminate the temporary support order. All support obligations which came due prior to the order terminating temporary support are unaffected by this action and remain a judgment subject to enforcement.

Sec. 6. Section 252A.10, Code 1997, is amended to read as follows:

252A.10 COSTS ADVANCED.

Actual costs incurred in this state incidental to any action brought under the provisions of this chapter shall be advanced by the initiating party or agency, as appropriate, unless otherwise ordered by the court. Where the action is brought by an agency of the state or county there shall be no filing fee or court costs of any type either advanced by or charged to the state or county.

Sec. 7. Section 252A.13, Code 1997, is amended to read as follows:

252A.13 RECIPIENTS OF PUBLIC ASSISTANCE — ASSIGNMENT OF SUPPORT PAYMENTS.

~~A person entitled to periodic support payments pursuant to an order or judgment entered in a uniform support action under this chapter, who is also a recipient of public assistance, is deemed to have assigned the person's rights to the support payments, to the extent of public assistance received by the person, to the department of human services.~~ If public

assistance is provided by the department of human services to or on behalf of a dependent child or a dependent child's caretaker, there is an assignment by operation of law to the department of any and all rights in, title to, and interest in any support obligation, payment, and arrearages owed to or on behalf of the child or caretaker not to exceed the amount of public assistance paid for or on behalf of the child or caretaker. The department shall immediately notify the clerk of court by mail when ~~a person entitled to support payments~~ such child or caretaker has been determined to be eligible for public assistance. Upon notification by the department ~~that a person entitled to periodic support payments pursuant to this chapter is receiving public assistance~~, the clerk of court shall make a notation of the automatic assignment in the judgment docket and lien index. The notation constitutes constructive notice of the assignment. If the applicant for public assistance, for whom public assistance is approved and provided on or after July 1, 1997, is a person other than a parent of the child, the department shall send notice of the assignment by regular mail to the last known addresses of the obligee and obligor. The clerk of court shall forward support payments received pursuant to section 252A.6, to which the department is entitled, to the department, unless the court has ordered the payments made directly to the department under ~~subsection 12 of~~ that section. The department may secure support payments in default through other proceedings ~~prescribed in this chapter~~. The clerk shall furnish the department with copies of all orders or decrees awarding and temporary domestic abuse orders addressing support ~~to parties having custody of minor children~~ when the parties are receiving public assistance or services are otherwise provided by the child support recovery unit. Unless otherwise specified in the order, an equal and proportionate share of any child support awarded is presumed to be payable on behalf of each child, subject to the order or judgment, for purposes of an assignment under this section.

PART B

Sec. 8. Section 252A.1, Code 1997, is amended to read as follows:

252A.1 TITLE AND PURPOSE.

This chapter may be cited and referred to as the "~~Uniform~~ Support of Dependents Law".

The purpose of this ~~uniform~~ chapter is to secure support in civil proceedings for dependent spouses, children and poor relatives from persons legally responsible for their support.

Sec. 9. Section 252A.2, Code 1997, is amended to read as follows:

252A.2 DEFINITIONS.

As used in this chapter, unless the context shall require otherwise, the following terms shall have the meanings ascribed to them by this section:

1. "Birth center" means birth center as defined in section 135G.2.

2. "Birthing hospital" means a private or public hospital licensed pursuant to chapter 135B that has a licensed obstetric unit or is licensed to provide obstetric services, or a licensed birthing center associated with a hospital.

3. "Child" includes but shall not be limited to a stepchild, foster child or legally adopted child and means a child actually or apparently under eighteen years of age, and a dependent person eighteen years of age or over who is unable to maintain the person's self and is likely to become a public charge.

4. "Court" shall mean and include any court ~~by whatever name known, in any state having reciprocal laws or laws substantially similar to this chapter~~ upon which jurisdiction has been conferred to determine the liability of persons for the support of dependents ~~within and without such state~~.

5. "Dependent" shall mean and include a spouse, child, mother, father, grandparent or grandchild who is in need of and entitled to support from a person who is declared to be legally liable for such support ~~by the laws of the state or states wherein the petitioner and the respondent reside~~.

~~6. "Initiating state" shall mean the state of domicile or residence of the petitioner.~~

~~7~~ 6. "Institution" means a birthing hospital or birth center.

~~8~~ 7. "Petitioner" ~~shall mean and include~~ includes each dependent person for whom support is sought in a proceeding instituted pursuant to this chapter or a mother or putative father of a dependent. However, in an action brought by the child support recovery unit, the state is the petitioner.

8. "Party" means a petitioner, a respondent, or a person who intervenes in a proceeding instituted under this chapter.

9. "Petitioner's representative" ~~shall mean and include a corporation~~ includes counsel~~,~~ of a dependent person for whom support is sought and counsel for a mother or putative father of a dependent. In an action brought by the child support recovery unit, "petitioner's representative" includes a county attorney, state's attorney~~, commonwealth attorney~~ and any other public officer, by whatever title the officer's public office may be known, charged by law with the duty of instituting, maintaining, or prosecuting a proceeding under this chapter or under the laws of the state ~~or states wherein the petitioner and the respondent reside~~.

10. "Putative father" means a man who is alleged to be or who claims to be the biological father of a child born to a woman to whom the man is not married at the time of the birth of the child.

11. "Register" means to file a foreign support order in the registry of foreign support orders maintained as a filing in equity by the clerk of court.

~~12. "Rendering state" means a state in which the court has issued a support order for which registration is sought or granted in the court of another state.~~

~~13~~ 12. "Respondent" ~~shall mean and include~~ includes each person against whom a proceeding is instituted pursuant to this chapter. "Respondent" may include the mother or the putative father of a dependent.

~~14. "Responding state" shall mean the state wherein the respondent resides or is domiciled or found.~~

~~15. "State" means any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any foreign jurisdiction in which this or a similar reciprocal law is in effect.~~

~~16~~ 13. "State registrar" means state registrar as defined in section 144.1.

~~17. "Summons" shall mean and include a subpoena, warrant, citation, order or other notice, by whatever name known, provided for by the laws of the state or states wherein the petitioner and the respondent reside as the means for requiring the appearance and attendance in court of the respondent in a proceeding instituted pursuant to this chapter.~~

Sec. 10. Section 252A.3, subsections 1, 2, 3, 5, and 6, Code 1997, are amended to read as follows:

1. A spouse ~~in one state~~ is ~~hereby declared to be~~ liable for the support of the other spouse and any child or children under eighteen years of age and any other dependent ~~residing or found in the same state or in another state having substantially similar or reciprocal laws~~. The court ~~having jurisdiction of the respondent in a proceeding instituted under this chapter~~ shall establish the respondent's monthly support payment and the amount of the support debt accrued and accruing pursuant to section 598.21~~, subsection 4~~.

2. A parent ~~in one state~~ is ~~hereby declared to be~~ liable for the support of the parent's child or children under eighteen years of age ~~residing or found in the same state or in another state having substantially similar or reciprocal laws~~, whenever the other parent of such child or children is dead, or cannot be found, or is incapable of supporting the child or children, and, if the liable parent is possessed of sufficient means or able to earn the means. The court having jurisdiction of the respondent in a proceeding instituted under this chapter shall establish the respondent's monthly support payment and the amount of the support debt accrued and accruing pursuant to section 598.21, subsection 4.

3. The parents ~~in one state~~ are ~~hereby declared to be~~ severally liable for the support of a dependent child eighteen years of age or older ~~residing or found in the same state or in another state having substantially similar or reciprocal laws~~, whenever such child is unable

to maintain the child's self and is likely to become a public charge.

5. A child or children born of parents who held or hold themselves out as husband and wife by virtue of a common law marriage ~~recognized as valid by the laws of the initiating state and of the responding state shall be~~ are deemed the legitimate child or children of both parents.

6. A man or woman who was or is held out as the person's spouse by a person by virtue of a common law marriage ~~recognized as valid by the laws of the initiating state and of the responding state shall be~~ is deemed the legitimate spouse of such person.

Sec. 11. Section 252A.3, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 9. The court may order a party to pay sums sufficient to provide necessary food, shelter, clothing, care, medical or hospital expenses, including medical support as defined in chapter 252E, expenses of confinement, expenses of education of a child, funeral expenses, and such other reasonable and proper expenses of the dependent as justice requires, giving due regard to the circumstances of the respective parties.

Sec. 12. Section 252A.5, Code 1997, is amended to read as follows:

252A.5 WHEN PROCEEDING MAY BE MAINTAINED.

Unless prohibited pursuant to ~~section 252A.20~~ 28 U.S.C. § 1738B, a proceeding to compel support of a dependent may be maintained under this chapter in any of the following cases:

1. Where the petitioner and the respondent are residents of or domiciled or found ~~in the same state~~ in this state.

~~2. Where the petitioner resides in one state and the respondent is a resident of or is domiciled or found in another state having substantially similar or reciprocal laws.~~

~~3. Where the respondent is not and never was a resident of or domiciled in the initiating state and the petitioner resides or is domiciled in such state and the respondent is believed to be a resident of or domiciled in another state having substantially similar or reciprocal laws.~~

~~4. Where the respondent was or is a resident of or domiciled in the initiating state and has departed or departs from such state leaving therein a dependent in need of and entitled to support under this chapter and is believed to be a resident of or domiciled in another state having substantially similar or reciprocal laws.~~

~~5~~ 2. Whenever the state or a political subdivision thereof furnishes support to a dependent, it has the same right through proceedings instituted by the petitioner's representative to invoke the provisions hereof as the dependent to whom the support was furnished, for the purpose of securing reimbursement of expenditures so made and of obtaining continuing support; the petition in such case may be verified by any official having knowledge of such expenditures without further verification of any person and consent of the dependent shall not be required in order to institute proceedings under this chapter. The child support recovery unit may bring the action based upon a statement of a witness, regardless of age, with knowledge of the circumstances, including, but not limited to, statements by the mother of the dependent or a relative of the mother or the putative father.

3. If the child support recovery unit is providing services, the unit has the same right to invoke the provisions of this section as the dependent for which support is owed for the purpose of securing support. The petition in such case may be verified by any official having knowledge of the request for services by the unit, without further verification by any other person, and consent of the dependent shall not be required in order to institute proceedings under this chapter. The child support recovery unit may bring the action based upon the statement of a witness, regardless of age, with knowledge of the circumstances, including, but not limited to, statements by the mother of the dependent or a relative of the mother or the putative father.

Sec. 13. Section 252A.6, Code 1997, is amended to read as follows:

252A.6 HOW COMMENCED — TRIAL.

1. A proceeding under this chapter shall be commenced by ~~a petitioner, or a petitioner's~~

~~representative, by~~ filing a verified petition in the court in equity in the county ~~of the state wherein~~ where the ~~petitioner~~ dependent resides or is domiciled, showing the name, age, residence, and circumstances of the ~~petitioner~~ dependent, alleging that the ~~petitioner~~ dependent is in need of and is entitled to support from the respondent, giving the respondent's name, age, residence, and circumstances, and praying that the respondent be compelled to furnish such support. The petitioner may include in or attach to the petition any information which may help in locating or identifying the respondent including, but without limitation by enumeration, a photograph of the respondent, a description of any distinguishing marks of the respondent's person, other names and aliases by which the respondent has been or is known, the name of the respondent's employer, the respondent's fingerprints, or social security number.

~~2. If the respondent be a resident of or domiciled in such state and the court has or can acquire jurisdiction of the person of the respondent under existing laws in effect in such state, such laws shall govern and control the procedure to be followed in such proceeding.~~

~~3. If the court of this state acting as an initiating state finds that the petition sets forth facts from which it may be determined that the respondent owes a duty of support and that a court of the responding state may obtain jurisdiction of the respondent or the respondent's property, it shall so certify and shall cause three copies of (a) the petition (b) its certificate and (c) this chapter to be transmitted to the court in the responding state. If the name and address of such court is unknown and the responding state has an information agency comparable to that established in the initiating state it shall cause such copies to be transmitted to the state information agency or other proper official of the responding state, with a request that it forward them to the proper court, and that the court of the responding state acknowledge their receipt to the court of the initiating state.~~

~~4. When the court of this state, acting as a responding state, receives from the court of an initiating state the aforesaid copies, it shall docket the cause, notify the county attorney or other official acting as petitioner's representative, set a time and place for a hearing, and take such action as is necessary in accordance with the laws of this state to serve notice and thus obtain jurisdiction over the respondent. If a court of the state, acting as a responding state, is unable to obtain jurisdiction of the respondent or the respondent's property due to inaccuracies or inadequacies in the petition or otherwise, the court shall communicate this fact to the court in the initiating state, shall on its own initiative use all means at its disposal to trace the respondent or the respondent's property, and shall hold the case pending the receipt of more accurate information or an amended petition from the court in the initiating state.~~

~~However, if the court of the responding state is unable to obtain jurisdiction because the respondent resides in or is domiciled or found in another county of the responding state, the papers received from the court of the initiating state may be forwarded by the court of the responding state which received the papers to the court of the county in the responding state in which the respondent resides or is domiciled or found, and the court of the initiating state shall be notified of the transfer. The court of the county where the respondent resides or is domiciled or found shall acknowledge receipt of the papers to both the court of the initiating state and the court of the responding state which forwarded them, and shall take full jurisdiction of the proceedings with the same powers as if it had received the papers directly from the court of the initiating state.~~

~~5~~ 2. It shall not be necessary for the ~~petitioner~~ dependent or the ~~petitioner's~~ dependent's witnesses to appear personally at ~~such~~ a hearing on the petition, but it shall be the duty of the petitioner's representative ~~of the responding state~~ to appear on behalf of and represent the petitioner at all stages of the proceeding.

~~6~~ 3. If at ~~such~~ a hearing on the petition the respondent controverts the petition and enters a verified denial of any of the material allegations ~~thereof~~, the judge presiding at ~~such~~ the hearing shall stay the proceedings ~~and transmit to the judge of the court in the initiating state a transcript of the clerk's minutes showing the denials entered by the respondent~~. The petitioner shall be given the opportunity to present further evidence to address issues which

the respondent has controverted.

~~7. Upon receipt by the judge of the court in the initiating state of such transcript, such court shall take such proof, including the testimony of the petitioner and the petitioner's witnesses and such other evidence as the court may deem proper, and, after due deliberation, the court shall make its recommendation, based on all of such proof and evidence, and shall transmit to the court in the responding state an exemplified transcript of such proof and evidence and of its proceedings and recommendation in connection therewith.~~

~~8. Upon the receipt of such transcript, the court in the responding state shall resume its hearing in the proceeding and shall give the respondent a reasonable opportunity to appear and reply.~~

~~9. Upon the resumption of such hearing, the respondent shall have the right to examine or cross-examine the petitioner and the petitioner's witnesses by means of depositions or written interrogatories, and the petitioner shall have the right to examine or cross-examine the respondent and the respondent's witnesses by means of depositions or written interrogatories.~~

~~10. If a respondent, duly summoned by a court in the responding state, willfully fails without good cause to appear as directed in the summons, the respondent shall be punished in the same manner and to the same extent as is provided by law for the punishment of a defendant or witness who willfully disobeys a summons or subpoena duly issued out of such court in any other action or proceeding cognizable by said court.~~

~~11~~ 4. If, ~~on the return day of the summons,~~ the respondent appears at the ~~time and place specified in the summons~~ hearing and fails to answer the petition or admits the allegations of the petition, or, if, after a hearing ~~has been duly held by the court in the responding state in accordance with this section,~~ the court has found and determined that the prayer of the petitioner, or any part of the prayer, is supported by the evidence adduced in the proceeding, and that the ~~petitioner~~ dependent is in need of and entitled to support from ~~the respondent~~ a party, the court shall make and enter an order directing ~~the respondent~~ a party to furnish support ~~to the petitioner~~ for the dependent and to pay a sum as the court determines pursuant to section 598.21~~, subsection 4. A certified copy of the order shall be transmitted by the court to the court in the initiating state and the copy shall be filed with and made a part of the records of the court in the proceeding.~~ Upon entry of an order for support or upon failure of a person to make payments pursuant to an order for support, the court may require ~~the respondent~~ a party to provide security, a bond, or other guarantee which the court determines is satisfactory to secure the payment of the support. Upon the ~~respondent's~~ party's failure to pay the support under the order, the court may declare the security, bond, or other guarantee forfeited.

~~12~~ 5. The court making such order may require the ~~respondent~~ party to make payment at specified intervals to the clerk of the district court~~,~~ or to the ~~dependent, or to any state or county agency~~ collection services center, and to report personally to the sheriff or any other official, at such times as may be deemed necessary.

~~13~~ 6. A ~~respondent~~ party who ~~shall~~ willfully ~~fail~~ fails to comply with or ~~violate~~ who violates the terms or conditions of the support order or of the ~~respondent's~~ party's probation shall be punished by the court in the same manner and to the same extent as is provided by law for a contempt of such court or a violation of probation ordered by such court in any other suit or proceeding cognizable by such court.

~~14. The court of this state when acting as a responding state shall have the following duties which may be carried out through the clerk of the court: Upon receipt of a payment made by the respondent pursuant to any order of the court or otherwise, to transmit the same forthwith to the court of the initiating state, and upon request to furnish to the court of the initiating state a certified statement of all payments made by the respondent.~~

~~15~~ 7. Except as provided in ~~section 252A.20~~ 28 U.S.C. § 1738B, any order of support issued by a court ~~of the state acting as a responding state~~ shall not supersede any previous order of support issued in a divorce or separate maintenance action, but the amounts for a particular period paid pursuant to either order shall be credited against amounts accruing or accrued

for the same period under both. This subsection also applies to orders entered following an administrative process including, but not limited to, the administrative processes provided pursuant to chapters 252C and 252F.

~~16. The court of the initiating state shall receive and accept all payments made by the respondent to the probation department or bureau of the court of the responding state and transmitted by the latter on behalf of the respondent. Upon receipt of any such payment, and under such rules as the court of the initiating state may prescribe, the court, or its probation department or bureau, as the court may direct, shall deliver such payment to the dependent person entitled thereto, take a proper receipt and acquittance therefor, and keep a permanent record thereof.~~

~~17. A court or administrative agency of a state that has issued a child support order consistent with 28 U.S.C. § 1738B has continuing, exclusive jurisdiction over the order if the state is the state in which the child is residing or the state is the residence of the petitioner or respondent unless the court or administrative agency of another state, acting in accordance with 28 U.S.C. § 1738B, has modified the order.~~

Sec. 14. Section 252A.6A, subsection 1, unnumbered paragraph 1, Code 1997, is amended to read as follows:

When ~~a court of this state is acting as the responding state in~~ an action is initiated under this chapter to establish paternity, all of the following shall apply:

Sec. 15. Section 252A.6A, subsection 2, unnumbered paragraph 1, Code 1997, is amended to read as follows:

When ~~a court of this state is acting as the responding state in~~ an action is initiated ~~under this chapter~~ to establish child or medical support based on a prior determination of paternity and the respondent files an answer to the notice ~~required under section 252A.6~~ denying paternity, all of the following shall apply:

Sec. 16. Section 252A.6A, subsection 2, paragraph a, subparagraph (2), Code 1997, is amended to read as follows:

(2) If the court determines that the prior determination of paternity should not be overcome, pursuant to section 600B.41A, and that the ~~respondent~~ party 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. 17. Section 252A.6A, subsection 2, paragraph b, Code 1997, is amended to read as follows:

b. If the prior determination of paternity is based on an administrative or court order or by any other means, pursuant to the laws of a foreign jurisdiction, an action to overcome the prior determination of paternity shall be filed in that jurisdiction. Unless the ~~respondent~~ party requests and is granted a stay of an action ~~initiated under this chapter~~ to establish child or medical support, the action shall proceed as otherwise provided ~~in this chapter~~.

Sec. 18. Section 252A.17, Code 1997, is amended to read as follows:

252A.17 REGISTRY OF FOREIGN SUPPORT ORDERS.

The petitioner may register ~~the~~ a foreign support order in a court of this state in the manner and with the effect provided in ~~sections 252A.18 and 252A.19~~ chapter 252K. The clerk of the court shall maintain a registry of foreign support orders in which foreign support orders shall be filed. The filing is in equity.

Sec. 19. Section 252A.18, Code 1997, is amended to read as follows:

252A.18 REGISTRATION PROCEDURE FOR FOREIGN SUPPORT ORDERS — NOTICE.

~~1. A petitioner seeking to register a foreign support order in a court of this state shall transmit to the clerk of the court three certified copies of the order reflecting all modifica-~~

~~tions, one copy of the reciprocal enforcement of support act of the state in which the order was made, and a statement verified and signed by the petitioner, showing the post-office address of the petitioner, the last known place of residence and post-office address of the respondent, the amount of support remaining unpaid, a description and the location of any property of the respondent available upon execution, and a list of the states in which the order is registered. Upon receipt of these documents the clerk of the court, with payment of a filing fee of six dollars, shall file them in the registry of foreign support orders. The filing constitutes registration under this chapter.~~

~~2. Promptly~~ Registration of a foreign support order shall be in accordance with chapter 252K except that, with regard to service, promptly upon registration, the clerk of the court shall send a notice by restricted certified mail to the respondent ~~at the address given a notice~~ of the registration with a copy of the registered support order ~~and the post-office address of the petitioner, or the petitioner may request that~~ or the respondent may be personally served with the notice and the copy of the order in the same manner as original notices are personally served. The clerk shall also docket the case and notify the prosecuting attorney of the action.

~~3. a. The respondent shall have twenty days after receiving notice of the registration in which to petition the court to vacate the registration or for other relief. If the respondent does not so petition, the respondent is in default and the registered support order is confirmed.~~

~~b. If a registration action is initiated by the child support recovery unit, issues subject to challenge are limited to issues of fact relating to the support obligation and not other issues including, but not limited to, custody and visitation, or the terms of the support order.~~

Sec. 20. Section 252A.20, Code 1997, is amended by striking the section and inserting in lieu thereof the following:

252A.20 LIMITATION ON ACTIONS.

Issues related to visitation, custody, or other provisions not related to the support provisions of a support order shall not be grounds for a hearing, modification, adjustment, or other action under this chapter.

Sec. 21. Sections 252A.4, 252A.4A, 252A.7, 252A.9, 252A.11, 252A.12, 252A.16, 252A.19, 252A.24, and 252A.25, Code 1997, are repealed.

Sec. 22. Part B, sections 8 through 21 of this Act, are effective January 1, 1998.

DIVISION II
PART A

Sec. 23. Section 252B.1, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. "Child support agency" means child support agency as defined in section 252H.2.

Sec. 24. Section 252B.1, subsection 5, Code 1997, is amended to read as follows:

5. "Obligor" means the person legally responsible for the support of a child as defined in section 252D.16A or 598.1 under a support order issued in this state or a foreign jurisdiction.

Sec. 25. Section 252B.2, Code 1997, is amended to read as follows:

252B.2 UNIT ESTABLISHED — INTERVENTION — REVIEW.

There is created within the department of human services a child support recovery unit for the purpose of providing the services required in sections 252B.3 to 252B.6. The unit is not required to intervene in actions to provide such services.

Sec. 26. Section 252B.3, Code 1997, is amended to read as follows:

252B.3 DUTY OF DEPARTMENT TO ENFORCE CHILD SUPPORT — COOPERATION — RULES.

1. Upon receipt by the department of an application for public assistance on behalf of a child and determination by the department that the child ~~has been abandoned by its parents~~

~~or that the child and one parent have been abandoned by the other parent or that the parent or other person responsible for the care, support or maintenance of the child has failed or neglected to give proper care or support to the child~~ is eligible for public assistance and that provision of child support services is appropriate, the department shall take appropriate action under the provisions of this chapter or under other appropriate statutes of this state including but not limited to chapters 239, 252A, 252C, 252D, 252E, 252F, 252G, 252H, 252I, 252J, 598, and 600B, to ensure that the parent or other person responsible for the support of the child fulfills the support obligation. The department shall also take appropriate action as required by federal law upon receiving a request from a child support agency for a child receiving public assistance in another state.

2. The department of human services may negotiate a partial payment of a support obligation with a parent or other person responsible for the support of the child, provided that the negotiation and partial payment are consistent with applicable federal law and regulation.

3. The department shall adopt rules pursuant to chapter 17A regarding cases in which, under federal law, it is a condition of eligibility for an individual who is an applicant for or recipient of public assistance to cooperate in good faith with the department in establishing the paternity of, or in establishing, modifying, or enforcing a support order by identifying and locating the parent of the child or enforcing rights to support payments. The rules shall include all of the following provisions:

a. As required by the unit, the individual shall provide the name of the noncustodial parent and additional necessary information, and shall appear at interviews, hearings, and legal proceedings.

b. If paternity is an issue, the individual and child shall submit to blood or genetic tests pursuant to a judicial or administrative order.

c. The individual may be requested to sign a voluntary affidavit of paternity, after notice of the rights and consequences of such an acknowledgment, but shall not be required to sign an affidavit or otherwise relinquish the right to blood or genetic tests.

d. The unit shall promptly notify the individual and the appropriate division of the department administering the public assistance program of each determination by the unit of noncooperation of the individual and the reason for such determination.

e. A procedure under which the individual may claim that, and the department shall determine whether, the individual has sufficient good cause or other exception for not cooperating, taking into consideration the best interest of the child.

4. Without need for a court order and notwithstanding the requirements of section 598.22A, the support payment ordered pursuant to any chapter shall be satisfied as to the department, the child, and either parent for the period during which the parents are reconciled and are cohabiting, the child for whom support is ordered is living in the same residence as the parents, and the obligor receives public assistance on the obligor's own behalf for the benefit of the child. The department shall implement this subsection as follows:

a. The unit shall file a notice of satisfaction with the clerk of court.

b. This subsection shall not apply unless all the children for whom support is ordered reside with both parents, except that a child may be absent from the home due to a foster care placement pursuant to chapter 234 or a comparable law of a foreign jurisdiction.

c. The unit shall send notice by regular mail to the obligor when the provisions of this subsection no longer apply. A copy of the notice shall be filed with the clerk of court.

d. This section shall not limit the rights of the parents or the department to proceed by other means to suspend, terminate, modify, reinstate, or establish support.

Sec. 27. Section 252B.4, unnumbered paragraph 1, Code 1997, is amended to read as follows:

The child support and paternity determination services established by the department pursuant to this chapter and other appropriate services provided by law including but not limited to the provisions of chapters 239, 252A, 252C, 252D, 252E, 252F, 598, and 600B shall be made available by the unit to an individual not otherwise eligible as a public assistance

recipient upon application by the individual for the services or upon referral as described in subsection 6. The application shall be filed with the department.

Sec. 28. Section 252B.4, subsection 3, Code 1997, is amended by striking the subsection.

Sec. 29. Section 252B.4, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 6. The unit shall also provide child support and paternity determination services and shall respond as provided in federal law for an individual not otherwise eligible as a public assistance recipient if the unit receives a request from any of the following:

a. A child support agency.

b. A foreign reciprocating country or foreign country with which the state has an arrangement as provided in 42 U.S.C. § 659A.

Sec. 30. Section 252B.5, subsection 3, Code 1997, is amended to read as follows:

3. Aid in enforcing through court or administrative proceedings an existing court order for support issued pursuant to chapter 252A, 252C, 252F, 598, or 600B, or any other chapter under which child or medical support is granted. The director may enter into a contract with a private collection agency 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 department shall utilize, to the maximum extent possible, every available automated process to collect support payments prior to referral of a case to a private collection agency. A private collection agency with whom the department enters a contract under this subsection shall comply with state and federal confidentiality requirements and debt collection laws. The director may use a portion of the state share of funds collected through this means to pay the costs of any contract authorized under this subsection.

Sec. 31. Section 252B.5, subsection 7, unnumbered paragraph 1, Code 1997, is amended to read as follows:

At the request of either parent who is subject to the order of support or upon its own initiation, review the amount of the support award in accordance with the guidelines established pursuant to section 598.21, subsection 4, and ~~the federal Family Support Act of 1988~~ Title IV-D of the federal Social Security Act, as amended, and take action to initiate modification proceedings if the criteria established pursuant to this section are met. However, a review of a support award is not required ~~in those cases for which an assignment ordered pursuant to chapter 234 or 239 is in effect~~ if the child support recovery unit determines that such a review would not be in the best interest of the child and neither parent has requested such review.

Sec. 32. Section 252B.5, subsection 9, Code 1997, is amended to read as follows:

9. The review and adjustment, ~~or~~ modification, or alteration of a support order pursuant to chapter 252H upon adoption of rules pursuant to chapter 17A ~~governing policies and procedures for review and adjustment or modification~~ and periodic notification, at a minimum of once every three years, to parents subject to a support order of their rights to these services.

Sec. 33. Section 252B.5, Code 1997, is amended by adding the following new subsections:

NEW SUBSECTION. 10. The unit shall not establish orders for spousal support. The unit shall enforce orders for spousal support only if the spouse is the custodial parent of a child for whom the unit is also enforcing a child support or medical support order.

NEW SUBSECTION. 11. a. Effective October 1, 1997, periodically certify to the secretary of the United States department of health and human services, a list of the names of obligors determined by the unit to owe delinquent child support, under a support order as defined in section 252J.1, in excess of five thousand dollars. The determination of the delinquent amount owed may be based upon one or more support orders being enforced by the unit if the

delinquent support owed exceeds five thousand dollars. The determination shall include any amounts which are delinquent pursuant to the periodic payment plan when a modified order has been retroactively applied. The certification shall be in a format and shall include any supporting documentation required by the secretary.

b. All of the following shall apply to an action initiated by the unit under this subsection:

(1) At least thirty days prior to provision of certification to the secretary, the unit shall send notice by regular mail to the last known address of the obligor. The notice shall include all of the following:

(a) A statement that the unit has determined that the obligor owes delinquent child support in excess of five thousand dollars.

(b) A statement that upon certification by the unit to the secretary, the secretary will transmit the certification to the United States secretary of state for denial, revocation, restriction, or limitation of a passport as provided in 42 U.S.C. § 652(k).

(c) Information regarding the procedures for challenging the determination by the unit, based upon mistake of fact. For the purposes of this subsection, "mistake of fact" means a mistake in the identity of the obligor or a mistake in the amount of the delinquent child support owed if the amount did not exceed five thousand dollars on the date of the unit's decision on the challenge.

(2) (a) If the obligor chooses to challenge the determination, the obligor shall submit the challenge in writing to the unit, to be received by the unit within twenty days of the date of the notice to the obligor. The obligor shall include any relevant information in the written challenge.

(b) Upon timely receipt of the written challenge, the unit shall review the determination for a mistake of fact.

(c) Following review of the determination, the unit shall send a written decision to the obligor within ten days of timely receipt of the written challenge.

(i) If the unit determines that a mistake of fact exists, the unit shall not certify the name of the obligor to the secretary.

(ii) If the unit determines that a mistake of fact does not exist, the unit shall certify the name of the obligor to the secretary no earlier than ten days following the issuance of the decision, unless, within ten days of the issuance of the decision, the obligor requests a contested case proceeding pursuant to chapter 17A or makes a payment for child support so that the amount of delinquent child support no longer exceeds five thousand dollars.

(3) Following issuance of a final decision under chapter 17A that no mistake of fact exists, the obligor may request a hearing before the district court in the county where one or more of the support orders upon which the determination is based is filed. To request a hearing, the obligor shall file a written application with the court contesting the decision and shall send a copy of the application to the unit by regular mail. Notwithstanding the time specifications of section 17A.19, an application for a hearing shall be filed with the court no later than ten days after issuance of the final decision. The clerk of the district court shall schedule a hearing and shall mail a copy of the order scheduling the hearing to the obligor and to the unit. The unit shall certify a copy of its written decision indicating the date of issuance to the court prior to the hearing. The hearing shall be held within thirty days of the filing of the application. The filing of an application for a hearing shall stay the certification by the unit to the secretary. However, if the obligor fails to appear at the scheduled hearing, the stay shall be automatically lifted and the unit shall certify the name of the obligor to the secretary. The scope of the review by the district court shall be limited to demonstration of a mistake of fact. 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 subsection.

c. Following certification to the secretary, if the unit determines that an obligor no longer owes delinquent child support in excess of five thousand dollars, the unit shall notify the secretary of the change or shall provide information to the secretary as the secretary requires.

Sec. 34. Section 252B.6, subsection 3, Code 1997, is amended to read as follows:

3. Appear on behalf of the state for the purpose of facilitating the modification of support awards consistent with guidelines established pursuant to section 598.21, subsection 4, and ~~the federal Family Support Act of 1988~~ Title IV-D of the federal Social Security Act. The unit shall not otherwise participate in the proceeding.

Sec. 35. NEW SECTION. 252B.6A EXTERNAL SERVICES.

1. Provided that the action is consistent with applicable federal law and regulation, an attorney licensed in this state shall receive compensation as provided in this section for support collected as the direct result of a judicial proceeding maintained by the attorney, if all of the following apply to the case:

a. The unit is providing services under this chapter.

b. The current support obligation is terminated and only arrearages are due under an administrative or court order and there has been no payment under the order for at least the twelve-month period prior to the provision of notice to the unit by the attorney under this section.

c. Support is assigned to the state based upon cash assistance paid under chapter 239, or its successor.

d. The attorney has provided written notice to the central office of the unit and to the obligee at the last known address of the obligee of the intent to initiate a specified judicial proceeding, at least thirty days prior to initiating the proceeding.

e. The attorney has provided documentation to the unit that the attorney is insured against loss caused by the attorney's legal malpractice or acts or omissions of the attorney which result in loss to the state or other person.

f. The collection is received by the collection services center within ninety days of provision of the notice to the unit. An attorney may provide subsequent notices to the unit to extend the time for receipt of the collection by subsequent ninety-day periods.

2. a. If, prior to February 15, 1998, notice is provided pursuant to subsection 1 to initiate a specific judicial proceeding, this section shall not apply to the proceeding unless the unit consents to the proceeding.

b. (1) If, on or after February 15, 1998, notice is provided pursuant to subsection 1 to initiate a specific judicial proceeding, this section shall apply to the proceeding only if the case is exempt from application of rules adopted by the department pursuant to subparagraph (2) which limit application of this section.

(2) The department shall adopt rules which include, but are not limited to, exemption from application of this section to proceedings based upon, but not limited to, any of the following:

(a) A finding of good cause pursuant to section 252B.3.

(b) The existence of a support obligation due another state based upon public assistance provided by that state.

(c) The maintaining of another proceeding by an attorney under this section for which the unit has not received notice that the proceeding has concluded or the ninety-day period during which a collection may be received pertaining to the same case has not yet expired.

(d) The initiation of a seek employment action under section 252B.21, and the notice from the attorney indicates that the attorney intends to pursue a contempt action.

(e) Any other basis for exemption of a specified proceeding designated by rule which relates to collection and enforcement actions provided by the unit.

3. The unit shall issue a response to the attorney providing notice within ten days of receipt of the notice. The response shall advise the attorney whether the case to which the specified judicial proceeding applies meets the requirements of this section.

4. For the purposes of this section, a "judicial proceeding" means an action to enforce support filed with a court of competent jurisdiction in which the court issues an order which identifies the amount of the support collection which is a direct result of the court proceeding. "Judicial proceedings" include but are not limited to those pursuant to chapters 598,

626, 633, 642, 654, or 684 and also include contempt proceedings if the collection payment is identified in the court order as the result of such a proceeding. "Judicial proceedings" do not include enforcement actions which the unit is required to implement under federal law including, but not limited to, income withholding.

5. All of the following are applicable to a collection which is the result of a judicial proceeding which meets the requirements of this section:

a. All payments made as the result of a judicial proceeding under this section shall be made to the clerk of the district court or to the collection services center and shall not be made to the attorney. Payments received by the clerk of the district court shall be forwarded to the collection services center as provided in section 252B.15.

b. The attorney shall be entitled to receive an amount which is equal to twenty-five percent of the support collected as the result of the specified judicial proceeding not to exceed the amount of the nonfederal share of assigned support collected as the result of that proceeding. The amount paid under this paragraph is the full amount of compensation due the attorney for a proceeding under this section and is in lieu of any attorney fees. The court shall not order the obligor to pay additional attorney fees. The amount of compensation calculated by the unit is subject, upon application of the attorney, to judicial review.

c. Any support collected shall be disbursed in accordance with federal requirements and any support due the obligee shall be disbursed to the obligee prior to disbursement to the attorney as compensation.

d. The collection services center shall disburse compensation due the attorney only from the nonfederal share of assigned collections. The collection services center shall not disburse any compensation for court costs.

e. The unit may delay disbursement to the attorney pending the resolution of any timely appeal by the obligor or obligee.

f. Negotiation of a partial payment or settlement for support shall not be made without the approval of the unit and the obligee, as applicable.

6. The attorney initiating a judicial proceeding under this section shall notify the unit when the judicial proceeding is completed.

7. a. An attorney who initiates a judicial proceeding under this section represents the state for the sole and limited purpose of collecting support to the extent provided in this section.

b. The attorney is not an employee of the state and has no right to any benefit or compensation other than as specified in this section.

c. The state is not liable or subject to suit for any acts or omissions resulting in any damages as a consequence of the attorney's acts or omissions under this section.

d. The attorney shall hold the state harmless from any act or omissions of the attorney which may result in any penalties or sanctions, including those imposed under federal bankruptcy laws, and the state may recover any penalty or sanction imposed by offsetting any compensation due the attorney under this section for collections received as a result of any judicial proceeding initiated under this section.

e. The attorney initiating a proceeding under this section does not represent the obligor.

8. The unit shall comply with all state and federal laws regarding confidentiality. The unit may release to an attorney who has provided notice under this section, information regarding child support balances due, to the extent provided under such laws.

9. This section shall not be interpreted to prohibit the unit from providing services or taking other actions to enforce support as provided under this chapter.

Sec. 36. Section 252B.7, subsection 4, Code 1997, is amended to read as follows:

4. An attorney employed by or under contract with the child support recovery unit represents and acts <u>exclusively</u> on behalf of the state when providing child support enforcement services. <u>An attorney-client relationship does not exist between the attorney and an individual party, witness, or person other than the state, regardless of the name in which the action is brought.</u>

Sec. 37. Section 252B.7A, subsection 1, paragraph a and paragraph d,* Code 1997, are amended to read as follows:

a. Income as identified in a signed statement of the parent pursuant to section 252B.9, subsection 1, paragraph "b". If evidence suggests that the statement is incomplete or inaccurate, the unit may present the evidence to the court in a judicial proceeding or to the administrator in a proceeding under chapter 252C or a comparable chapter, and the court or administrator shall weigh the evidence in setting the support obligation. Evidence includes but is not limited to income as established under paragraph "c".

d. ~~The~~ Until such time as the department adopts rules establishing a different standard for determining the income of a parent who does not provide income information or for whom income information is not available, the estimated state median income for a one-person family as published annually in the Federal Register for use by the federal office of community services, office of energy assistance, for the subsequent federal fiscal year.

Sec. 38. NEW SECTION. 252B.7B INFORMATIONAL MATERIALS PROVIDED BY THE UNIT.

1. The unit shall prepare and make available to the public, informational materials which explain the unit's procedures including, but not limited to, procedures with regard to all of the following:

a. Accepting applications for services.
b. Locating individuals.
c. Establishing paternity.
d. Establishing support.
e. Enforcing support.
f. Modifying, suspending, or reinstating support.
g. Terminating services.

2. The informational materials shall include general information about and descriptions of the processes involved relating to the services provided by the unit including application for services, fees for services, the responsibilities of the recipient of services, resolution of disagreements with the unit, rights to challenge the actions of the unit, and obtaining additional information.

Sec. 39. Section 252B.9, Code 1997, is amended to read as follows:

252B.9 INFORMATION AND ASSISTANCE FROM OTHERS — AVAILABILITY OF RECORDS.

1. a. The director may request from state, county and local agencies, information and assistance deemed necessary to carry out the provisions of this chapter. State, county and local agencies, officers and employees shall co-operate with the unit ~~in locating absent parents of children on whose behalf public assistance is being provided~~ and shall on request supply the department with available information relative to ~~the location, income and property holdings of~~ the absent parent, ~~and~~ the custodial parent, and any other necessary party, notwithstanding any provisions of law making this information confidential. The cooperation and information required by this subsection shall also be provided ~~to the department~~ when it is requested by ~~the unit on behalf of persons who have applied for support enforcement services~~ a child support agency. Information required by this subsection includes, but is not limited to, information relative to location, income, property holdings, records of licenses as defined in section 252J.1, and records concerning the ownership and control of corporations, partnerships, and other business entities. If the information is maintained in an automated database, the unit shall be provided automated access.

b. Parents of a child on whose behalf support enforcement services are provided shall provide information regarding income, resources, financial circumstances, and property holdings to the department for the purpose of establishment, modification, or enforcement of a support obligation. The department may provide the information to parents of a child as needed to implement the requirements of section 598.21, subsection 4, notwithstanding any provisions of law making this information confidential.

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* Paragraph d, unnumbered paragraph 1, probably intended

c. Notwithstanding any provisions of law making this information confidential, all persons, including for-profit, nonprofit, and governmental employers, shall, on request, promptly supply the unit or a child support agency information on the employment, compensation, and benefits of any individual employed by such person as an employee or contractor with relation to whom the unit or a child support agency is providing services.

d. Notwithstanding any provisions of law making this information confidential, the unit may subpoena or a child support agency may use the administrative subpoena form promulgated by the secretary of the United States department of health and human services under 42 U.S.C. § 652(a)(11)(C), to obtain any of the following:

(1) Books, papers, records, or information regarding any financial or other information relating to a paternity or support proceeding.

(2) Certain records held by public utilities and cable television companies with respect to individuals who owe or are owed support, or against or with respect to whom a support obligation is sought, consisting of the names and addresses of such individuals and the names and addresses of the employers of such individuals, as appearing in customer records. If the records are maintained in automated databases, the unit shall be provided with automated access.

e. The unit or a child support agency may subpoena information for one or more individuals.

f. If the unit or a child support agency issues a request under paragraph "c", or a subpoena under paragraph "d", all of the following shall apply:

(1) The unit or child support agency may issue a request or subpoena to a person by sending it by regular mail. Proof of service may be completed according to R.C.P. 82.

(2) A person who is not a parent or putative father in a paternity or support proceeding, who is issued a request or subpoena, shall be provided an opportunity to refuse to comply for good cause by filing a request for a conference with the unit or child support agency in the manner and within the time specified in rules adopted pursuant to subparagraph (7).

(3) Good cause shall be limited to mistake in the identity of the person, or prohibition under federal law to release such information.

(4) After the conference the unit shall issue a notice finding that the person has good cause for refusing to comply, or a notice finding that the person does not have good cause for failing to comply. If the person refuses to comply after issuance of notice finding lack of good cause, or refuses to comply and does not request a conference, the person is subject to a penalty of one hundred dollars per refusal.

(5) If the person fails to comply with the request or subpoena, fails to request a conference, and fails to pay a fine imposed under subparagraph (4), the unit may petition the district court to compel the person to comply with this paragraph. If the person objects to imposition of the fine, the person may seek judicial review by the district court.

(6) If a parent or putative father fails to comply with a subpoena or request for information, the provisions of chapter 252J shall apply.

(7) The unit may adopt rules pursuant to chapter 17A to implement this section.

g. Notwithstanding any provisions of law making this information confidential, the unit or a child support agency shall have access to records and information held by financial institutions with respect to individuals who owe or are owed support, or with respect to whom a support obligation is sought including information on assets and liabilities. If the records are maintained in automated databases, the unit shall be provided with automated access. For the purposes of this section, "financial institution" means financial institution as defined in section 252I.1.

h. Notwithstanding any law to the contrary, the unit and a child support agency shall have access to any data maintained by the state of Iowa which contains information that would aid the agency in locating individuals. Such information shall include, but is not limited to, driver's license, motor vehicle, and criminal justice information. However, the information does not include criminal investigative reports or intelligence files maintained

by law enforcement. The unit and child support agency shall use or disclose the information obtained pursuant to this paragraph only in accordance with subsection 3. Criminal history records maintained by the department of public safety shall be disclosed in accordance with chapter 692.

i. Liability shall not arise under this subsection with respect to any disclosure by a person as required by this subsection, and no advance notice from the unit or a child support agency is required prior to requesting information or assistance or issuing a subpoena under this subsection.

2. Notwithstanding other statutory provisions to the contrary, including but not limited to chapters 22 and 217, as the chapters relate to confidentiality of records maintained by the department, the payment records of the collection services center maintained under section 252B.13A are public records only as follows:

a. Payment records of the collection services center which are maintained pursuant to chapter 598 are public records and may be released upon request.

b. Except as otherwise provided in subsection 1, the department shall not release details related to payment records or provide alternative formats for release of the information, with the following additional exceptions:

(1) The unit or collection services center may provide additional detail or present the information in an alternative format to an individual or to the individual's legal representative if the individual owes or is owed a support obligation, to an agency assigned the obligation as the result of receipt by a party of public assistance, to an agency charged with enforcing child support pursuant to Title IV-D of the federal Social Security Act, or to the court.

(2) For support orders entered in Iowa which are being enforced by the unit, the unit may compile and make available for publication a listing of cases in which no payment has been credited to an accrued or accruing support obligation during a previous three-month period. Each case on the list shall be identified only by the name of the support obligor, the address, if known, of the support obligor, unless the information pertaining to the address of the support obligor is protected through confidentiality requirements established by law and has not otherwise been verified with the unit, the support obligor's court order docket or case number, the county in which the obligor's support order is filed, the collection services center case numbers, and the range within which the balance of the support obligor's delinquency is established. The department shall determine dates for the release of information, the specific format of the information released, and the three-month period used as a basis for identifying cases. The department may not release the information more than twice annually. In compiling the listing of cases, no prior public notice to the obligor is required, but the unit may send notice annually by mail to the current known address of any individual owing a support obligation which is being enforced by the unit. The notice shall inform the individual of the provisions of this subparagraph. Actions taken pursuant to this subparagraph are not subject to review under chapter 17A, and the lack of receipt of a notice does not prevent the unit from proceeding in implementing this subparagraph.

(3) The provisions of subparagraph (2) may be applied to support obligations entered in another state, at the request of ~~an initiating state~~ a child support agency if the ~~initiating state~~ child support agency has demonstrated that the provisions of subparagraph (2) are not in conflict with the laws of the state where the support obligation is entered and the unit is enforcing the support obligation. ~~For the purposes of this subparagraph, "initiating state" means any child support enforcement agency operating under the provisions of Title IV-D of the federal Social Security Act.~~

3. Notwithstanding other statutory provisions to the contrary, including but not limited to, chapters 22 and 217, as the chapters relate to the confidentiality of records maintained by the department, information recorded by the department pursuant to this section or obtained by the unit is confidential and, except when prohibited by federal law or regulation, may be used or disclosed as provided in subsection 1, paragraph "b" and "h", and subsection 2, and as follows:

e a. The attorney general may utilize the information ~~of the unit~~ to secure, modify, or enforce a support obligation of an individual~~, unless otherwise prohibited by federal law~~.

~~d~~ b. This subsection shall not permit or require the release of information ~~contained in the case records of the unit~~, except to the extent provided in this section.

c. The unit may release or disclose information as necessary to provide services under section 252B.5, as provided by Title IV-D of the federal Social Security Act, as amended, or as required by federal law.

d. After contact with the nonrequesting party, information on the location of a party may be released to a party unless the unit has or obtains knowledge of a protective order against the requesting party with respect to a nonrequesting party, or unless the unit has or obtains reasonable evidence of domestic violence or child abuse or reason to believe that the release of the information may result in physical or emotional harm to a nonrequesting party or a child, and if one of the following conditions is met:

(1) Release of the information is required by federal law or regulation.

(2) Release of the information is required by chapter 252K.

(3) The requesting party demonstrates a need for that information to notify a nonrequesting party of a proceeding relating to a child who is subject to a paternity or support order being enforced by the unit for a child of the parties.

e. Information may be released if directly connected with any of the following:

(1) The administration of the plan or program approved under Title I, IV-A, IV-B, IV-D, IV-E, X, XIV, XVI, XIX, or XX, or the supplemental security income program established under Title XVI of the federal Social Security Act, as amended.

(2) Any investigations, prosecutions, or criminal or civil proceeding conducted in connection with the administration of any such plan or program.

(3) The administration of any other federal or federally assisted program which provides assistance in cash or in kind or provides services, directly to individuals on the basis of need.

(4) Reporting to an appropriate agency or official, information on known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child who is the subject of a child support enforcement action under circumstances which indicate that the child's health or welfare is threatened.

~~3.~~ f. ~~Except as otherwise provided in subsection 1, paragraph "b", and in subsection 2, information recorded by the department pursuant to this section shall be available only to the unit, attorneys prosecuting a case in which the unit may participate according to sections 252B.5 and 252B.6,~~ Information may be released to courts having jurisdiction in support or abandonment proceedings~~, and agencies in other states charged with support collection and paternity determination responsibilities as determined by the rules of the department and the provisions of Title IV of the federal Social Security Act. However, information relating to the location of an absent parent shall be made available, pursuant to federal regulations, to a resident parent, legal guardian, attorney, or agent of a child who is not receiving assistance under Title IV-A of the federal Social Security Act. Unless otherwise prohibited by federal statute or regulation, the~~

g. The child support recovery unit shall release information relating to an absent parent to another unit of the department pursuant to a written request for the information approved by the director or the director's designee.

h. For purposes of this subsection, "party" means an absent parent, obligor, resident parent, or other necessary party.

Sec. 40. Section 252B.10, subsection 2, Code 1997, is amended to read as follows:

2. Any reasonable grounds for belief that a public employee has violated any provision of this chapter shall be grounds for immediate removal from all access to paternity determination and support collection data available through or recorded under section 252B.9.

Sec. 41. Section 252B.13A, Code 1997, is amended to read as follows:

252B.13A COLLECTION SERVICES CENTER.

The department shall establish within the unit a collection services center for the receipt

and disbursement of support payments as defined in section 252D.16A or 598.1 as required for orders by section 252B.14. For purposes of this section, support payments do not include attorney fees, court costs, or property settlements.

Sec. 42. Section 252B.14, subsection 1, Code 1997, is amended to read as follows:

1. For the purposes of this section, "support order" includes any order entered pursuant to chapter 234, 252A, 252C, 598, 600B, or any other support chapter or proceeding which establishes support payments as defined in section 252D.16A or 598.1.

Sec. 43. Section 252B.14, subsection 3, Code 1997, is amended to read as follows:

3. For a support order as to which subsection 2 does not apply, support payments made pursuant to the order shall be directed to and disbursed by the clerk of the district court in the county in which the order for support is filed. The clerk of the district court may require the obligor to submit payments by bank draft or money order if the obligor submits an insufficient funds support payment to the clerk of the district court.

Sec. 44. NEW SECTION. 252B.17A IMAGING OR PHOTOGRAPHIC COPIES — ORIGINALS DESTROYED.

1. If the unit, in the regular course of business or activity, has recorded or received any memorandum, writing, entry, print, document, representation, or combination thereof, of any act, transaction, occurrence, event, or communication from any source, and in the regular course of business has caused any or all of the same to be recorded, copied, or reproduced by any photographic, photostatic, microfilm, microcard, miniature photographic, electronic imaging, electronic data processing, or other process which accurately reproduces or forms a durable medium for accurately and legibly reproducing an unaltered image or reproduction of the original, the original may be destroyed. Such reproduction, when satisfactorily identified, is as admissible in evidence as the original itself in any judicial or administrative proceeding whether the original is in existence or not and an enlargement or facsimile of such reproduction is likewise admissible in evidence if the original recording, copy, or reproduction is in existence and available for inspection. The introduction of a reproduced record, enlargement, or facsimile, does not preclude admission of the original.

2. The electronically imaged, copied, or otherwise reproduced record or document maintained or received by the unit, when certified over the signature of a designated employee of the unit, shall be considered to be satisfactorily identified. Certified documents are deemed to have been imaged or copied or otherwise reproduced accurately and unaltered in the regular course of business, and such documents are admissible in any judicial or administrative proceeding as evidence. Additional proof of the official character of the person certifying the record or authenticity of the person's signature shall not be required. Whenever the unit or an employee of the unit is served with a summons, subpoena, subpoena duces tecum, or order directing production of such records, the unit or employee may comply by transmitting a copy of the record certified as described above to the district court.

Sec. 45. COOPERATION OF APPLICANT OR RECIPIENT — RULES.

Until the department adopts rules pursuant to section 252B.3, subsection 3, relating to cooperation by applicants or recipients of public assistance, the department shall apply existing rules regarding cooperation, except that the child support recovery unit, rather than the income maintenance unit, shall determine noncooperation of an applicant or recipient of public assistance under that subsection.

PART B

Sec. 46. Section 252B.6, subsections 1, 2, and 4, Code 1997, are amended to read as follows:

1. Represent the ~~child~~ state in obtaining a support order necessary to meet the child's needs or in enforcing a similar order previously entered.

2. ~~Appear as a friend of the court~~ Represent the state's interest in obtaining support for a

child in dissolution of marriage and separate maintenance proceedings, or proceedings supplemental ~~thereto~~ to these proceedings or any other support proceedings, when either or both of the parties to the proceedings are receiving public assistance, for the purpose of advising the court of the financial interest of the state in the proceeding.

4. ~~If public assistance has been applied for or granted on behalf of a child of parents who are legally separated or whose marriage has been legally dissolved, the unit may apply~~ Apply to the district court ~~for a court order directing either or both parents to show cause for the following:~~ or initiate an administrative action, as necessary, to obtain, enforce, or modify support.

~~a. Why an order of support for the child should not be entered, or~~

~~b. Why the parent should not be held in contempt for failure to comply with a support order previously entered.~~

Sec. 47. Section 252B.7, subsection 1, paragraph b, Code 1997, is amended to read as follows:

b. Cases under chapter 252A, the ~~Uniform~~ Support of Dependents Law.

Sec. 48. Section 252B.12, Code 1997, is amended to read as follows:

252B.12 JURISDICTION OVER NONRESIDENT PARENTS.

In an action to establish paternity or to establish or enforce a child support obligation, or to modify a support order, a nonresident person is subject to the jurisdiction of the courts of this state ~~upon service of process of original notice in accordance with the rules of civil procedure, Iowa court rules, third edition, if any of the following circumstances exists:~~ as specified in section 252K.201.

~~1. Any circumstance in which the nonresident has the necessary minimum contact with this state for the exercise of jurisdiction, consistent with the constitutions of this state and the United States.~~

~~2. The affected child was conceived in this state while at least one of the parents was a resident of this state and the nonresident is the parent or alleged parent of the child.~~

~~3. The affected child resides in this state as a result of the acts or directives or with the approval of the nonresident.~~

~~4. The nonresident has resided with the affected child in this state.~~

Sec. 49. Part B, sections 46 through 48 of this Act, are effective January 1, 1998.

DIVISION III

Sec. 50. Section 252C.2, subsections 1 and 2, Code 1997, are amended to read as follows:

1. ~~By accepting~~ If public assistance ~~for~~ is provided by the department to or on behalf of a dependent child or a dependent child's caretaker, ~~the recipient is deemed to have made~~ there is an assignment by operation of law to the department of any and all right in, title to, and interest in any support obligation ~~and~~, payment, and arrearages owed to or for the child or caretaker up to the amount of public assistance paid for or on behalf of the child or caretaker. Unless otherwise specified in the order, an equal and proportionate share of any child support awarded is presumed to be payable on behalf of each child subject to the order or judgment for purposes of an assignment under this section.

2. The payment of public assistance to or for the benefit of a dependent child or a dependent child's caretaker creates a support debt due and owing to the department by the responsible person in an amount equal to the public assistance payment, except that the support debt is limited to the amount of a support obligation established by court order or by the administrator. The administrator may establish a support debt as to amounts accrued and accruing pursuant to section 598.21, subsection 4. However, when establishing a support ~~debt is not created in favor of the department~~ obligation against a responsible person, no debt shall be created for the period during which the responsible person is a recipient on the person's own behalf of public assistance for the benefit of the dependent child or the depen-

dent child's caretaker~~.~~, if any of the following conditions exist:

a. The parents have reconciled and are cohabiting, and the child for whom support would otherwise be sought is living in the same residence as the parents.

b. The child is living with the parent from whom support would otherwise be sought.

Sec. 51. Section 252C.3, subsection 1, paragraph c, subparagraphs (2) and (4), Code 1997, are amended to read as follows:

(2) A statement that if a negotiation conference is requested, then the responsible person shall have ten days from the date set for the negotiation conference or ~~twenty~~ thirty days from the date of service of the original notice, whichever is later, to send a request for a hearing to the office of the child support recovery unit which issued the notice.

(4) A statement that if the administrator issues a new notice and finding of financial responsibility for child support or medical support, or both, then the responsible person shall have ~~ten~~ thirty days from the date of issuance of the new notice ~~or twenty days from the date of service of the original notice, whichever is later,~~ to send a request for a hearing to the office of the child support recovery unit which issued the notice. If the administrator does not issue a new notice and finding of financial responsibility for child support or medical support, or both, the responsible party shall have ten days from the date of issuance of the conference report to send a request for a hearing to the office of the child support recovery unit which issued the conference report.

Sec. 52. Section 252C.3, subsection 1, paragraph d, Code 1997, is amended to read as follows:

d. A statement that if the responsible person objects to all or any part of the notice or finding of financial responsibility for child support or medical support, or both, and a negotiation conference is not requested, the responsible person shall, within ~~twenty~~ thirty days of the date of service send to the office of the child support recovery unit which issued the notice a written response setting forth any objections and requesting a hearing.

Sec. 53. Section 252C.3, subsection 5, Code 1997, is amended to read as follows:

5. The responsible person shall be sent a copy of the order by regular mail addressed to the responsible person's last known address, or if applicable, to the last known address of the responsible person's attorney. The order is final, and action by the administrator to enforce and collect upon the order, including arrearages and medical support, or both, may be taken from the date of ~~issuance~~ approval of the order by the court pursuant to section 252C.5.

Sec. 54. Section 252C.5, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 4. If the responsible party appeals the order approved by the court under this section, and the court on appeal establishes an amount of support which is less than the amount of support established under the approved order, the court, in the order issued on appeal, shall reconcile the amounts due and shall provide that any amount which represents the unpaid difference between the amount under the approved order and the amount under the order of the court on appeal is satisfied.

Sec. 55. Section 252C.7, Code 1997, is repealed.

DIVISION IV
PART A

Sec. 56. Section 252D.1, Code 1997, is amended to read as follows:

252D.1 ~~SUPPORT DEFINITION~~ — DELINQUENT SUPPORT PAYMENTS — ~~ASSIGNMENT OF INCOME~~.

~~1. As used in this chapter, unless the context otherwise requires, "support" or "support payments" means any amount which the court may require a person to pay for the benefit of a child under a temporary order or a final judgment or decree, and may include child sup-~~

~~port, maintenance, medical support as defined in chapter 252E, and, if contained in a child support order, spousal support, and any other term used to describe these obligations. These obligations may include support for a child who is between the ages of eighteen and twenty-two years and who is regularly attending an accredited school in pursuance of a course of study leading to a high school diploma or its equivalent, or regularly attending a course of vocational technical training either as a part of a regular school program or under special arrangements adapted to the individual person's needs, or is, in good faith, a full-time student in a college, university, or community college, or has been accepted for admission to a college, university, or community college and the next regular term has not yet begun; and may include support for a child of any age who is dependent on the parties to the dissolution proceedings because of physical or mental disability.~~

~~2.~~ If support payments ordered under chapter 232, 234, 252A, 252C, 252D, 252E, 252F, 598, 600B, or any other applicable chapter, or under a comparable statute of a foreign jurisdiction, as certified to the child support recovery unit established in section 252B.2, are not paid to the clerk of the district court or the collection services center pursuant to section 598.22 and become delinquent in an amount equal to the payment for one month, the child support recovery unit may enter an ex parte order or, upon application of a person entitled to receive the support payments, ~~the child support recovery unit or~~ the district court may enter an ex parte order, notifying the person whose income is to be ~~assigned~~ withheld, of the delinquent amount, of the amount of income~~, wages, compensation, or benefits~~ to be withheld, and of the procedure to file a motion to quash the order ~~of assignment~~ for income withholding, and ~~shall order an assignment of income requiring~~ ordering the withholding of specified sums to be deducted from the delinquent person's ~~periodic earnings, trust income, compensation, benefits, or other~~ income as defined in section 252D.16A sufficient to pay the support obligation and, except as provided in section 598.22, requiring the payment of such sums to the clerk of the district court or the collection services center. Notification of income withholding shall be provided to the obligor and to the payor of ~~earnings, trust income, or other~~ income pursuant to section 252D.17.

~~3. A person entitled by court order to receive support payments or a person responsible for enforcing such a court order may petition the clerk of the district court for an assignment of income. If the petition is verified and establishes that support payments are delinquent in an amount equal to the payment for one month and if the clerk of the district court determines, after providing an opportunity for a hearing, that notice of the mandatory assignment of income as provided in section 252D.3 has been given, the clerk of the district court shall order an assignment of income under subsection 2.~~

Sec. 57. Section 252D.3, Code 1997, is amended to read as follows:

252D.3 NOTICE OF ~~ASSIGNMENT~~ INCOME WITHHOLDING.

All orders for support entered on or after July 1, 1984 shall notify the person ordered to pay support of the mandatory ~~assignment~~ withholding of income required under section 252D.1. However, for orders for support entered before July 1, 1984, the clerk of the district court, the child support recovery unit, or the person entitled by the order to receive the support payments, shall notify each person ordered to pay support under such orders of the mandatory ~~assignment~~ withholding of income required under section 252D.1. The notice shall be sent by certified mail to the person's last known address or the person shall be personally served with the notice in the manner provided for service of an original notice at least fifteen days prior to ~~the filing of a petition under section 252D.1, subsection 3 or~~ the ordering of ~~an assignment of~~ income withholding under section 252D.1~~, subsection 2 or 3~~. A person ordered to pay support may waive the right to receive the notice at any time.

Sec. 58. Section 252D.9, Code 1997, is amended to read as follows:

252D.9 SUMS SUBJECT TO IMMEDIATE WITHHOLDING.

Specified sums shall be deducted from the obligor's ~~earnings, trust income, or other~~ income sufficient to pay the support obligation and any judgment established or delinquency

accrued under the support order. The amount withheld pursuant to an ~~assignment of~~ income withholding order or notice of order for income withholding shall not exceed the amount specified in 15 U.S.C. § 1673(b).

Sec. 59. Section 252D.10, Code 1997, is amended to read as follows:

252D.10 NOTICE OF ~~ASSIGNMENT~~ IMMEDIATE INCOME WITHHOLDING.

The notice requirements of section 252D.3 do not apply to this subchapter. An order for support entered after November 1, 1990, shall contain the notice of immediate income withholding. However, this subchapter is sufficient notice for implementation of immediate income withholding without any further notice.

Sec. 60. NEW SECTION. 252D.16A DEFINITIONS.

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

1. "Income" means all of the following:

a. Any periodic form of payment due an individual, regardless of source, including but not limited to wages, salaries, commissions, bonuses, worker's compensation, disability payments, payments pursuant to a pension or retirement program, and interest.

b. A sole payment or lump sum as provided in section 252D.18C.

c. Irregular income as defined in section 252D.18B.

2. "Payor of income" or "payor" means and includes, but is not limited to, an obligor's employer, trustee, the state of Iowa and all governmental subdivisions and agencies and any other person from whom an obligor receives income.

3. "Support" or "support payments" means any amount which the court or administrative agency may require a person to pay for the benefit of a child under a temporary order or a final judgment or decree entered under chapter 232, 234, 252A, 252C, 252F, 252H, 598, 600B, or any other comparable chapter, and may include child support, maintenance, medical support as defined in chapter 252E, spousal support, and any other term used to describe these obligations. These obligations may include support for a child of any age who is dependent on the parties to the dissolution proceedings because of physical or mental disability. The obligations may include support for a child eighteen or more years of age with respect to whom a child support order has been issued pursuant to the laws of a foreign jurisdiction. These obligations shall not include amounts for a postsecondary education subsidy as defined in section 598.1.

Sec. 61. Section 252D.17, Code 1997, is amended to read as follows:

252D.17 NOTICE TO ~~EMPLOYER OR INCOME~~ PAYOR OF INCOME — DUTIES AND LIABILITY — CRIMINAL PENALTY.

The district court shall provide notice by sending a copy of the order for income withholding or a notice of the order for income withholding to the obligor and the obligor's ~~employer, trustee, or other~~ payor of income by regular mail, with proof of service completed according to rule of civil procedure 82. The child support recovery unit shall provide notice of the income withholding order by sending a notice of the order to the obligor's ~~employer, trustee, or other~~ payor of income by regular mail or by electronic means. Proof of service may be completed according to rule of civil procedure 82. The ~~order or the~~ child support recovery unit's notice of 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 all other instances, the income withholding order shall be filed with the clerk of court prior to sending the notice of the order to the payor of income. In addition to the amount to be withheld for payment of support, the order or the ~~child support recovery unit's~~ notice of the order shall be in a standard format as prescribed by the unit and shall include all of the following information regarding the duties of the payor in implementing the withholding order:

1. The withholding order or notice of the order for income withholding for child support or child support and spousal support has priority over a garnishment or an assignment for ~~a~~ any other purpose ~~other than the support of the dependents in the court order being enforced~~.

2. As reimbursement for the payor's processing costs, the payor may deduct a fee of no more than two dollars for each payment in addition to the amount withheld for support. The payor of income is not required to vary the payroll cycle to comply with the frequency of payment of a support order.

3. The amount withheld for support, including the processing fee, shall not exceed the amounts specified in 15 U.S.C. § 1673(b).

4. The income withholding order is binding on an existing or future ~~employer, trustee, or other~~ payor of income ten days after receipt of the copy of the order or the ~~child support recovery unit's~~ notice of the order, and is binding whether or not the copy of the order received is file-stamped.

5. The payor shall send the amounts withheld to the collection services center or the clerk of the district court within ~~ten working~~ seven business days of the date the obligor is paid. "Business day" means a day on which state offices are open for regular business.

6. The payor may combine amounts withheld from the ~~obligor's wages~~ obligors' income in a single payment to the clerk of the district court or to the collection services center, as appropriate. Whether combined or separate, payments shall be identified by the name of the obligor, account number, amount, and the date withheld. If payments for multiple obligors are combined, the portion of the payment attributable to each obligor shall be specifically identified.

~~7. The payor shall deliver or send a copy of the order or the child support recovery unit's notice of the order to the obligor within one business day after receipt of the order or the child support recovery unit's notice of the order.~~

~~8.~~ 7. The withholding is binding on the payor until further notice by the court or the child support recovery unit.

~~9.~~ 8. If the payor knowingly fails to withhold income or to pay the amounts withheld to the collection services center or the clerk of court in accordance with the provisions of the order or the ~~child support recovery unit's~~ notice of the order, the payor commits a simple misdemeanor and is liable for the accumulated amount which should have been withheld, together with costs, interest, and reasonable attorney fees related to the collection of the amounts due from the payor.

~~10.~~ 9. The payor shall promptly notify the court or the child support recovery unit when the obligor's employment or other income terminates, and provide the obligor's last known address and the name and address of the obligor's new employer, if known.

~~11.~~ 10. Any payor who discharges an obligor, refuses to employ an obligor, or takes disciplinary action against an obligor based upon income withholding is guilty of a simple misdemeanor. A withholding order or the ~~child support recovery unit's~~ notice of the order for income withholding has the same force and effect as any other district court order, including, but not limited to, contempt of court proceedings for noncompliance.

11. a. Beginning July 1, 1997, if a payor of income does business in another state through a registered agent and receives a notice of income withholding issued by another state the payor shall, and beginning January 1, 1998, any payor of income shall withhold funds as directed in a notice issued by another state, except that a payor of income shall follow the laws of the obligor's principal place of employment when determining all of the following:

(1) The payor's fee for processing an income withholding payment.

(2) The maximum amount permitted to be withheld from the obligor's income.

(3) The time periods for implementing the income withholding order and forwarding the support payments.

(4) The priorities for withholding and allocating income withheld for multiple child support obligees.

(5) Any withholding terms or conditions not specified in the order.

b. A payor of income who complies with an income withholding notice that is regular on its face shall not be subject to any civil liability to any individual or agency for conduct in compliance with the notice.

Sec. 62. NEW SECTION. 252D.17A NOTICE TO OBLIGOR OF IMPLEMENTATION OF INCOME WITHHOLDING ORDER.

The child support recovery unit or the district court shall send a notice of the income withholding order to the obligor at the time the notice is sent to the payor of income.

Sec. 63. Section 252D.18A, unnumbered paragraph 1, Code 1997, is amended to read as follows:

When the obligor is responsible for paying more than one support obligation and the ~~employer or the income~~ payor of income has received more than one income withholding order or ~~the child support recovery unit's~~ notice of an order for the obligor, the payor shall withhold amounts in accordance with all of the following:

Sec. 64. Section 252D.18A, subsection 3, paragraph a, Code 1997, is amended to read as follows:

a. To arrive at the amount to be withheld for each obligee, the payor shall total the amounts due for current support under the income withholding orders and the ~~child support recovery unit's~~ notices of orders and determine the proportionate share for each obligee. The proportionate share shall be determined by dividing the amount due for current support for each order or ~~child support recovery unit's~~ notice of order by the total due for current support for all orders and ~~child support recovery unit's~~ notices of orders. The results are the percentages of the obligor's net income which shall be withheld for each obligee.

Sec. 65. NEW SECTION. 252D.19A DISPARITY BETWEEN ORDER AND PAY DATES — NOT DELINQUENT.

1. An obligor whose support payments are automatically withheld from the obligor's paycheck shall not be delinquent or in arrears if all of the following conditions are met:

a. Any delinquency or arrearage is caused solely by a disparity between the schedules of the obligor's regular pay dates and the scheduled date the support is due.

b. The amount calculated to be withheld is such that the total amount of current support to be withheld from the paychecks of the obligor and the amount ordered to be paid in the support order are the same on an annual basis.

c. The automatic deductions for support are continuous and occurring.

2. If the unit takes an enforcement action during a calendar year against an obligor and the obligor is not delinquent or in arrears solely due to the applicability of this section to the obligor, upon discovering the circumstances, the unit shall promptly discontinue the enforcement action.

Sec. 66. Section 252D.21, Code 1997, is amended to read as follows:

252D.21 PENALTY FOR MISREPRESENTATION.

A person who knowingly makes a false statement or representation of a material fact or knowingly fails to disclose a material fact in order to secure an ~~assignment of~~ income withholding order or notice of income withholding against another person and to receive support payments or additional support payments pursuant to this chapter, is guilty, upon conviction, of a serious misdemeanor.

Sec. 67. Section 252D.23, Code 1997, 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. For the purposes of demonstrating compliance by the ~~employer, trustee, or other~~ payor of income, the copy of the withholding order or the ~~child support recovery unit's~~ notice of the order received, whether or not the copy of the order 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~~ a payor of income for noncompliance. However,

any information contained in the income withholding order or the ~~child support recovery unit's~~ notice of the 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. 68. NEW SECTION. 252D.31 MOTION TO QUASH.

An obligor under this chapter may move to quash an income withholding order or a notice of income withholding by filing a motion to quash with the clerk of court.

1. Grounds for contesting a withholding order under this chapter include all of the following:

a. A mistake of fact, which for purposes of this chapter means an error in the amount withheld or the amount of the withholding or the identity of the obligor.

b. For immediate withholding only, the conditions for exception to immediate income withholding as defined under section 252D.8 existed at the time of implementation of the withholding.

2. The clerk of the district court shall schedule a hearing on the motion to quash for a time not later than seven days after the filing of the motion to quash and the notice of the motion to quash. The clerk shall mail to the parties copies of the motion to quash, the notice of the motion to quash, and the order scheduling the hearing.

3. The payor shall withhold and transmit the amount specified in the order or notice of the order of income withholding to the clerk of the district court or the collection services center, as appropriate, until the notice that a motion to quash has been granted is received.

Sec. 69. Sections 252D.2 and 252D.11, Code 1997, are repealed.

PART B

Sec. 70. Section 252D.17, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 12. The payor of income shall comply with chapter 252K when receiving a notice of income withholding from another state.

Sec. 71. Section 252D.24, subsection 3, Code 1997, is amended to read as follows:

3. Income withholding for a support order issued by a foreign jurisdiction is ~~subject to the law and procedures for income withholding of the jurisdiction where the income withholding order is implemented. With respect to when the obligor becomes subject to withholding, however, the law and procedures of the jurisdiction where the support order was entered apply~~ governed by chapter 252K, articles 5 or 6, and this chapter, as appropriate.

Sec. 72. Part B, sections 70 and 71 of this Act, are effective January 1, 1998.

DIVISION V

Sec. 73. Section 252E.2, subsection 2, unnumbered paragraph 1, Code 1997, is amended to read as follows:

An insurer who is subject to the federal ~~Omnibus Budget Reconciliation Act of 1993, section 4301~~ Employee Retirement Income Security Act, as codified in ~~42 U.S.C. § 1936g-1~~ 29 U.S.C. § 1169, shall provide benefits in accordance with that section which meet the requirements of a qualified medical child support order. For the purposes of this subsection "qualified medical child support order" means a child support order which creates or recognizes the existence of a child's right to, or assigns to a child the right to, receive benefits for which a participant or child is eligible under a group health plan and which specifies the following:

Sec. 74. Section 252E.4, subsection 1, Code 1997, is amended to read as follows:

1. When a support order requires an obligor to provide coverage under a health benefit plan, the district court or the department may enter an ex parte order directing an employer

to take all actions necessary to enroll an obligor's dependent for coverage under a health benefit plan or may include the provisions in an ex parte income withholding order or notice of income withholding pursuant to chapter 252D. The department may amend the information in the ex parte order regarding health insurance provisions if necessary to comply with health insurance requirements including but not limited to the provisions of section 252E.2, subsection 2.

Sec. 75. NEW SECTION. 252E.6A MOTION TO QUASH.

1. An obligor may move to quash the order to the employer under section 252E.4 by following the same procedures and alleging a mistake of a fact as provided in section 252D.31. If the unit is enforcing an income withholding order and a medical support order simultaneously, any challenge to the income withholding order and medical support enforcement shall be filed and heard simultaneously.

2. The employer shall comply with the requirements of this chapter until the employer receives notice that a motion to quash has been granted.

Sec. 76. Section 252E.13, subsection 2, Code 1997, is amended to read as follows:

2. In addition, if ~~an administrative~~ a support order ~~entered pursuant to chapter 252C~~ does not provide medical support as defined in this chapter or equivalent medical support, the department or a party to the order may ~~obtain a medical support order pursuant to chapter 252C~~ seek a modification of the order. ~~A medical support order obtained pursuant to chapter 252C may be an additional or separate support judgment and shall be known as an administrative order for medical support.~~

DIVISION VI

Sec. 77. Section 252F.3, subsection 1, paragraph f, subparagraph (2), subparagraph subpart (c), Code 1997, is amended to read as follows:

(c) If paternity was contested and paternity testing was conducted, and the putative father does not deny paternity after the testing or challenge the paternity test results, ~~ten~~ twenty days from the date paternity test results are issued or mailed by the unit to the putative father.

Sec. 78. Section 252F.3, subsection 1, paragraph f, subparagraph (4), subparagraph subpart (c), Code 1997, is amended to read as follows:

(c) If paternity was contested and paternity testing conducted, and the putative father does not deny paternity after the testing or challenge the paternity test results, ~~ten~~ twenty days from the date the paternity test results are issued or mailed to the putative father by the unit.

Sec. 79. Section 252F.3, subsection 1, paragraph g, Code 1997, is amended to read as follows:

g. A statement that if a conference is not requested, and the putative father does not deny paternity or challenge the results of any paternity testing conducted but objects to the finding of financial responsibility or the amount of child support or medical support, or both, the putative father shall send a written request for a court hearing on the issue of support to the unit within twenty days of the date of service of the original notice, or, if paternity was contested and paternity testing conducted, and the putative father does not deny paternity after the testing or challenge the paternity test results, within ~~ten~~ twenty days from the date the paternity test results are issued or mailed to the putative father by the unit, whichever is later.

Sec. 80. Section 252F.3, subsection 4, paragraphs b and c, Code 1997, are amended to read as follows:

b. If paternity establishment was contested and paternity tests conducted, a court hearing on the issue of paternity shall be ~~scheduled~~ held no earlier than ~~fifty~~ thirty days from the date paternity test results are issued to all parties by the unit, unless the parties mutually

agree to waive the time frame pursuant to section 252F.8.

c. ~~If a court hearing is scheduled regarding the issue of paternity establishment, any~~ Any objection to the results of paternity tests shall be filed no later than ~~thirty~~ twenty days ~~before~~ after the date ~~the court hearing is originally scheduled~~ paternity test results are issued or mailed to the putative father by the unit. Any objection to paternity test results filed by a party ~~less~~ more than ~~thirty~~ twenty days ~~before~~ after the date ~~the court hearing is originally scheduled~~ paternity tests are issued or mailed to the putative father by the unit shall not be accepted or considered by the court.

Sec. 81. Section 252F.3, subsection 6, paragraph d, Code 1997, is amended to read as follows:

d. If a paternity test is ordered under this section, the administrator shall direct that inherited characteristics be analyzed and interpreted, and shall appoint an expert qualified as an examiner of genetic markers to analyze and interpret the results. The test shall be of a type generally acknowledged as reliable by accreditation entities designated by the secretary of the United States department of health and human services and shall be performed by a laboratory approved by an accreditation entity.

Sec. 82. Section 252F.3, subsection 6, paragraph i, subparagraph (1), Code 1997, is amended to read as follows:

(1) In order to challenge the presumption of paternity, a party shall file a written notice of the challenge with the district court within twenty days from the date the paternity test results are issued or mailed to all parties by the unit~~, or if a court hearing is scheduled to resolve the issue of paternity, no later than thirty days before the scheduled date of the court hearing, whichever occurs later. Any subsequent rescheduling or continuances of the originally scheduled hearing shall not extend the initial time frame.~~ Any challenge to a presumption of paternity resulting from paternity tests, or to paternity test results filed after the ~~initial~~ lapse of the twenty-day time frame shall not be accepted or admissible by the unit or the court.

Sec. 83. Section 252F.3, subsection 6, paragraph k, Code 1997, is amended to read as follows:

k. If the results of the test or the verified expert's analysis are timely challenged as provided in this subsection, the administrator, upon the request of a party and advance payment by the contestant or upon the unit's own initiative, shall order that an additional test be performed by the same laboratory or an independent laboratory ~~or~~. If the party requesting additional testing does not advance payment, the administrator shall certify the case to the district court in accordance with paragraph "i" and section 252F.5.

Sec. 84. Section 252F.3, subsection 6, paragraph n, Code 1997, is amended to read as follows:

n. Except as provided in paragraph "k", the unit shall advance the costs of genetic testing. If paternity is established and paternity testing was conducted, the unit shall enter an order or, if the action proceeded to a court hearing, request that the court enter a judgment for the costs of the paternity tests consistent with applicable federal law. In a proceeding under this chapter, a copy of a bill for genetic testing shall be admitted as evidence without requiring third-party foundation testimony and shall constitute prima facie evidence of the amount incurred for genetic testing.

Sec. 85. Section 252F.4, subsection 6, Code 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. j. Statements as required pursuant to section 598.22B.

Sec. 86. Section 252F.5, subsection 3, paragraph d, Code 1997, is amended by striking the paragraph.

DIVISION VII

Sec. 87. Section 252G.1, Code 1997, is amended by adding the following new subsections:

NEW SUBSECTION. 4A. "Business day" means a day on which state offices are open for regular business.

NEW SUBSECTION. 8A. "Labor organization" means any organization of any kind, or any agency, or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

Sec. 88. Section 252G.1, subsection 8, Code 1997, is amended to read as follows:

8. "Employer" means a person doing business in this state who engages an employee for compensation and for whom the employer withholds federal or state tax liabilities from the employee's compensation. "Employer" includes any governmental entity and any labor organization.

Sec. 89. Section 252G.3, subsection 1, paragraph d, Code 1997, is amended to read as follows:

d. The address to which income withholding orders or the ~~child support recovery unit's~~ notices of orders and garnishments should be sent.

Sec. 90. Section 252G.3, subsection 3, Code 1997, is amended to read as follows:

3. ~~Until such time as the Iowa employee's withholding allowance certificate is amended to provide for inclusion of all of the information required under subsection 1, submission of the certificate constitutes compliance with this section.~~ An employer with employees in two or more states that transmits reports magnetically or electronically may comply with subsection 1 by transmitting the report described in subsection 1 to each state, or by designating as the recipient state one state, in which the employer has employees, and transmitting the report to that state. An employer that transmits reports pursuant to this subsection shall notify the United States secretary of health and human services, in writing, of the state designated by the employer for the purpose of transmitting reports.

Sec. 91. NEW SECTION. 252G.7 DATA ENTRY AND TRANSMITTING CENTRALIZED EMPLOYEE REGISTRY RECORDS TO THE NATIONAL NEW HIRE REGISTRY.

The unit shall enter new hire data into the centralized employee directory database within five business days of receipt from employers and shall transmit the records of the centralized employee registry to the national directory of new hires within three business days after the date information regarding a newly hired employee is entered into the centralized employee registry.

Sec. 92. NEW SECTION. 252G.8 INCOME WITHHOLDING REQUIREMENTS.

Within two business days after the date information regarding a newly hired employee is entered into the centralized employee registry and matched with obligors in cases being enforced by the unit, the unit shall transmit a notice to the employer or payor of income of the employee directing the employer or payor of income to withhold from the income of the employee in accordance with chapter 252D.

DIVISION VIII

Sec. 93. Section 252H.1, Code 1997, is amended to read as follows:

252H.1 PURPOSE AND INTENT.

This chapter is intended to provide a means for state compliance with ~~the~~ Title IV-D of the federal ~~Family Support~~ Social Security Act ~~of 1988~~, as amended, requiring states to provide procedures for the review and adjustment of support orders being enforced under Title IV-D

of the federal Social Security Act, and also to provide an expedited modification process when review and adjustment procedures are not required, appropriate, or applicable. Actions under this chapter shall be initiated only by the child support recovery unit.

Sec. 94. Section 252H.2, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. "Cost-of-living alteration" means a change in an existing child support order which equals an amount which is the amount of the support obligation following application of the percentage change of the consumer price index for all urban consumers, United States city average, as published in the federal register by the federal department of labor, bureau of labor statistics.

Sec. 95. Section 252H.2, subsection 6, paragraph a, Code 1997, is amended to read as follows:

a. ~~An alteration,~~ A change, correction, or termination of an existing support order.

Sec. 96. Section 252H.2, subsection 8, Code 1997, is amended to read as follows:

8. "Public assistance" means benefits received in this state or any other state, under Title IV-A (~~aid to dependent children~~ temporary assistance to needy families), IV-E (foster care), or XIX (medicaid) of the Act.

Sec. 97. Section 252H.3, subsection 1, Code 1997, is amended to read as follows:

1. Any action initiated under this chapter, including any court hearing resulting from an action, shall be limited in scope to the adjustment or modification of the child or medical support or cost-of-living alteration of the child support provisions of a support order.

Sec. 98. Section 252H.4, subsections 1 and 4, Code 1997, are amended to read as follows:

1. The unit may administratively adjust or modify or may provide for an administrative cost-of-living alteration of a support order entered under chapter 234, 252A, 252C, 598, or 600B, or any other support chapter if the unit is providing enforcement services pursuant to chapter 252B. The unit is not required to intervene to administratively adjust or modify or provide for an administrative cost-of-living alteration of a support order under this chapter.

4. The unit shall adopt rules pursuant to chapter 17A to establish the process for the review of requests for adjustment, the criteria and procedures for conducting a review and determining when an adjustment is appropriate, the procedure and criteria for a cost-of-living alteration, the criteria and procedure for a request for review pursuant to section 252H.18A, and other rules necessary to implement this chapter.

Sec. 99. Section 252H.6, Code 1997, is amended to read as follows:

252H.6 COLLECTION OF INFORMATION.

The unit ~~shall~~ may request, obtain, and validate information concerning the financial circumstances of the parents of a child as necessary to determine the appropriate amount of support pursuant to the guidelines established in section 598.21, subsection 4, including but not limited to those sources and procedures described in sections 252B.7A and 252B.9. The collection of information does not constitute a review conducted pursuant to section 252H.16.

Sec. 100. Section 252H.8, subsection 4, paragraph f, Code 1997, is amended to read as follows:

f. Copies of any financial statements and supporting documentation provided by the parents including proof of a substantial change in circumstances for a request filed pursuant to section 252H.18A.

Sec. 101. Section 252H.9, subsections 2 and 7, Code 1997, are amended to read as follows:

2. ~~The~~ For orders to which subchapter II or III is applicable, the unit shall determine the appropriate amount of the child support obligation using the current child support guide-

lines established pursuant to section 598.21, subsection 4, and the criteria established pursuant to section 252B.7A and shall determine the provisions for medical support pursuant to chapter 252E.

7. A copy of the order shall be sent by regular mail within fourteen days after filing to each parent's last known address, or if applicable, to the last known address of the parent's attorney.

Sec. 102. Section 252H.11, subsection 2, unnumbered paragraph 1, Code 1997, is amended to read as follows:

If the modification action filed by the parent is subsequently dismissed before being heard by the court, the unit shall continue the action previously initiated under ~~this chapter~~ subchapter II or III, or initiate a new action as follows:

Sec. 103. Section 252H.13, Code 1997, is amended to read as follows:

252H.13 RIGHT TO REQUEST REVIEW.

A parent shall have the right to request the review of a support order for which the unit is currently providing enforcement services of an ongoing child support obligation pursuant to chapter 252B including by objecting to a cost-of-living alteration pursuant to section 252H.24, subsections 1 and 2.

Sec. 104. Section 252H.14, Code 1997, is amended to read as follows:

252H.14 REVIEWS INITIATED BY THE CHILD SUPPORT RECOVERY UNIT.

1. The unit ~~shall~~ may periodically initiate a review of support orders meeting the conditions in section 252H.12 in accordance with the following:

a. The right to any ongoing child support obligation is currently assigned to the state due to the receipt of public assistance.

b. The right to any ongoing medical support obligation is currently assigned to the state due to the receipt of public assistance unless:

(1) The support order already includes provisions requiring the parent ordered to pay child support to also provide medical support.

(2) The parent entitled to receive support has satisfactory health insurance coverage for the children, excluding coverage resulting from the receipt of public assistance benefits.

c. The review is otherwise necessary to comply with this* Act.

2. The unit ~~shall~~ may periodically initiate a request to a child support agency of another state to conduct a review of a support order entered in that state when the right to any ongoing child or medical support obligation due under the order is currently assigned to the state of Iowa.

3. The unit shall adopt rules establishing criteria to determine the appropriateness of initiating a review.

4. The unit shall initiate reviews under this section in accordance with the ~~federal Family Support~~ Act ~~of 1988~~.

Sec. 105. NEW SECTION. 252H.18A REQUEST FOR REVIEW OUTSIDE APPLICABLE TIME FRAMES.

1. If a support order is not eligible for review and adjustment because the support order is outside of the minimum time frames specified by rule of the department, a parent may request a review and administrative modification by submitting all of the following to the unit:

a. A request for review of the support order which is outside of the applicable time frames.

b. Verified documentation of a substantial change in circumstances as specified by rule of the department.

2. Upon receipt of the request and all documentation required in subsection 1, the unit shall review the request and documentation and if appropriate shall issue a notice of intent to modify as provided in section 252H.19.

3. Notwithstanding section 598.21, subsections 8 and 9, for purposes of this section, a

* The word "the" probably intended

substantial change in circumstances means there has been a change of fifty percent or more in the income of a parent, and the change is due to financial circumstances which have existed for a minimum period of three months and can reasonably be expected to exist for an additional three months.

SUBCHAPTER IV
COST-OF-LIVING ALTERATION

Sec. 106. NEW SECTION. 252H.21 PURPOSE — INTENT — EFFECT ON REQUIREMENTS FOR GUIDELINES.

1. This subchapter is intended to provide a procedure to accommodate a request of both parents to expeditiously change a support order due to changes in the cost of living.

2. All of the following shall apply to a cost of living alteration under this subchapter:

a. To the extent permitted under 42 U.S.C. § 666(a)(10)(A)(i)(II), the cost-of-living alteration shall be an exception to any requirement under law for the application of the child support guidelines established pursuant to section 598.21, subsection 4, including but not limited to, any requirement in this chapter or chapter 234, 252A, 252B, 252C, 252F, 598, or 600B.

b. The cost-of-living alteration shall not prevent any subsequent modification or adjustment to the support order as otherwise provided in law based on application of the child support guidelines.

c. The calculation of a cost-of-living alteration to a child support order shall be compounded as follows:

(1) Increase or decrease the child support order by the percentage change of the appropriate consumer price index for the month and year after the month and year the child support order was last issued, modified, adjusted, or altered.

(2) Increase or decrease the amount of the child support order calculated in subparagraph (1) for each subsequent year by applying the appropriate consumer price index for each subsequent year to the result of the calculation for the previous year. The final year in the calculation shall be the year immediately preceding the year the unit received the completed request for the cost-of-living alteration.

d. The amount of the cost-of-living alteration in the notice in section 252H.24, subsection 1, shall be the result of the calculation in paragraph "c".

Sec. 107. NEW SECTION. 252H.22 SUPPORT ORDERS SUBJECT TO COST-OF-LIVING ALTERATION.

A support order meeting all of the following conditions is eligible for a cost-of-living alteration under this subchapter.

1. The support order is subject to the jurisdiction of this state for the purposes of a cost-of-living alteration.

2. The support order provides for the ongoing support of at least one child under the age of eighteen or a child between the ages of eighteen and nineteen who has not yet graduated from high school but who is reasonably expected to graduate from high school before attaining the age of nineteen.

3. The unit is providing enforcement services for the ongoing support obligation pursuant to chapter 252B.

4. A parent requests a cost-of-living alteration as provided in section 252H.23.

5. The support order addresses medical support for the child.

Sec. 108. NEW SECTION. 252H.23 RIGHT TO REQUEST COST-OF-LIVING ALTERATION.

A parent may request a cost-of-living alteration by submitting all of the following to the unit:

1. A written request for a cost-of-living alteration to the support order signed by the parent making the request.

2. A statement signed by the nonrequesting parent agreeing to the cost-of-living alteration to the support order.

3. A statement signed by each parent waiving that parent's right to personal service and accepting service by regular mail.

4. Other documentation specified by rule of the department.

Sec. 109. NEW SECTION. 252H.24 ROLE OF THE CHILD SUPPORT RECOVERY UNIT — FILING AND DOCKETING OF COST-OF-LIVING ALTERATION ORDER — ORDER EFFECTIVE AS DISTRICT COURT ORDER.

1. Upon receipt of a request and required documentation for a cost-of-living alteration, the unit shall issue a notice of the amount of cost-of-living alteration by regular mail to the last known address of each parent, or, if applicable, each parent's attorney. The notice shall include all of the following:

a. A statement that either parent may contest the cost-of-living alteration within thirty days of the date of the notice by making a request for a review of a support order as provided in section 252H.13, and if either parent does not make a request for a review within thirty days, the unit shall prepare an administrative order as provided in subsection 4.

b. A statement that the parent may waive the thirty-day notice waiting period provided for in this section.

2. Upon timely receipt of a request and required documentation for a review of a support order as provided in subsection 1 from either parent, the unit shall terminate the cost-of-living alteration process and apply the provisions of subchapters I and II of this chapter relating to review and adjustment.

3. Upon receipt of signed requests from both parents subject to the support order, waiving the notice waiting period, the unit may prepare an administrative order pursuant to subsection 4 altering the support obligation.

4. If timely request for a review pursuant to section 252H.13 is not made, and if the thirty-day notice waiting period has expired, or if both parents have waived the notice waiting period, the unit shall prepare and present an administrative order for a cost-of-living alteration, ex parte, to the district court where the order to be altered is filed.

5. Unless defects appear on the face of the administrative order or on the attachments, the district court shall approve the order. Upon filing, the approved order shall have the same force, effect, and attributes of an order of the district court.

6. Upon filing, the clerk of the district court shall enter the order in the judgment docket and judgment lien index.

7. If the parents jointly waive the thirty-day notice waiting period, the signed statements of both parents waiving the notice period shall be filed in the court record with the administrative order altering the support obligation.

8. The unit shall send a copy of the order by regular mail to each parent's last known address, or, if applicable, to the last known address of the parent's attorney.

9. An administrative order approved by the district court is final, and action by the unit to enforce and collect upon the order may be taken from the date of the entry of the order by the district court.

DIVISION IX

Sec. 110. Section 252I.1, subsections 1, 3, 5, and 8, Code 1997, are amended to read as follows:

1. "Account" means "account" as defined in section 524.103, "share account or shares" as defined in section 534.102, the savings or deposits of a member received or being held by a credit union, or certificates of deposit. "Account" also includes deposits held by an agent, a broker-dealer, or an issuer as defined in section 502.102 and money-market mutual fund accounts. However, "account" does not include amounts held by a financial institution as collateral for loans extended by the financial institution.

3. "Court order" means "support order"* as defined in section ~~252C.1~~ 252J.1.

5. "Financial institution" ~~includes a bank, credit union, or savings and loan association~~ means "financial institution" as defined in 42 U.S.C. § 669A(d)(1). "Financial institution" also includes an institution which holds deposits for an agent, broker-dealer, or an issuer as defined in section 502.102.

8. "Support" or "support payments" means "support" or "support payments" as defined in section ~~252D.1~~ 252D.16A.

Sec. 111. Section 252I.4, Code 1997, is amended to read as follows:

252I.4 VERIFICATION OF ACCOUNTS AND IMMUNITY FROM LIABILITY.

1. The unit may contact a financial institution to obtain verification of the account number, the names and social security numbers listed for the account, and the account balance of any account held by an obligor. Contact with a financial institution may be by telephone or by written communication. The financial institution may require positive voice recognition and may require the telephone number of the authorized person from the unit before releasing an obligor's account information by telephone.

2. The unit and financial institutions doing business in Iowa shall enter into agreements to develop and operate a data match system, using automated data exchanges to the maximum extent feasible. The data match system shall allow a means by which each financial institution shall provide to the unit for each calendar quarter the name, record address, social security number or other taxpayer identification number, and other identifying information for each obligor who maintains an account at the institution and who owes past-due support, as identified by the unit by name and social security number or other taxpayer identification number. The unit shall work with representatives of financial institutions to develop a system to assist nonautomated financial institutions in complying with the provisions of this section.

3. The unit may pay a reasonable fee to a financial institution for conducting the data match required in subsection 2, not to exceed the actual costs incurred by the financial institution.

~~2.~~ 4. The financial institution is immune from any liability, civil or criminal, which might otherwise be incurred or imposed for any of the following:

a. Any information released by the financial institution to the unit pursuant to this ~~chapter~~ section.

b. Any encumbrance or surrender of any assets held by the financial institution in response to a notice of lien or levy issued by the unit.

c. Any other action taken in good faith to comply with section 252I.4 or 252I.7.

~~3.~~ 5. The financial institution or the unit is not liable for the cost of any early withdrawal penalty of an obligor's certificate of deposit.

DIVISION X

Sec. 112. Section 252J.1, subsections 1, 2, 3, 4, 6, and 9, Code 1997, are amended to read as follows:

1. "Certificate of noncompliance" means a document provided by the child support recovery unit certifying that the named ~~obligor~~ individual is not in compliance with ~~a~~ any of the following:

a. A support order, ~~or with a~~

b. A written agreement for payment of support entered into by the unit and the obligor.

c. A subpoena or warrant relating to a paternity or support proceeding.

2. "License" means a license, certification, registration, permit, approval, renewal, or other similar authorization issued to an ~~obligor~~ individual by a licensing authority which evidences the admission to, or granting of authority to engage in, a profession, occupation, business, ~~or~~ industry, or recreation or to operate or register a motor vehicle. "License" ~~does not mean or include~~ includes licenses for hunting, fishing, boating, or other recreational activity.

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* "~~court~~ support order" probably intended

3. "Licensee" means an ~~obligor~~ individual to whom a license has been issued, or who is seeking the issuance of a license.

4. "Licensing authority" means a county treasurer, county recorder or designated depositary, 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~~ individual to register or operate a motor vehicle or to engage in a business, occupation, profession, recreation, or industry.

6. "Support" means support or support payments as defined in section ~~252D.1~~ 252D.16A, whether established through court or administrative order.

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~~ individual's license.

Sec. 113. Section 252J.1, Code 1997, is amended by adding the following new subsections:

NEW SUBSECTION. 1A. "Individual" means a parent, an obligor, or a putative father in a paternity or support proceeding.

NEW SUBSECTION. 5A. "Subpoena or warrant" means a subpoena or warrant relating to a paternity or support proceeding initiated or obtained by the unit or a child support agency as defined in section 252H.2.

Sec. 114. Section 252J.2, subsections 1, 2, and 4, Code 1997, are amended to read as follows:

1. Notwithstanding other statutory provisions to the contrary, and if an ~~obligor~~ individual 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. For cases in which services are provided by the unit all of the following apply:

a. 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~~ three months, 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.

b. An individual is subject to the provisions of this chapter if the individual has failed, after receiving appropriate notice, to comply with a subpoena or warrant.

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.~~ 22 all of the following apply:

a. Information ~~exchanged~~ obtained by the unit under this chapter shall be used solely 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~~ 252B.

b. Information obtained by a licensing authority shall be used solely for the purposes of this chapter.

Sec. 115. Section 252J.3, Code 1997, is amended to read as follows:

252J.3 NOTICE TO ~~OBLIGOR~~ INDIVIDUAL OF POTENTIAL SANCTION OF LICENSE.

The unit shall proceed in accordance with this chapter only if notice is served on the ~~obligor~~ individual in accordance with R.C.P. 56.1 or notice is sent by certified mail addressed to the ~~obligor's~~ individual'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 or the individual has not complied with a subpoena or warrant.

3. A statement that the ~~obligor~~ individual 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~~ individual, the ~~obligor~~ individual fails to contact the unit to schedule a conference, the unit shall issue a certificate of noncompliance, bearing the ~~obligor's~~ individual's name, social security number~~,~~ and 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 or an individual has not complied with a subpoena or warrant.

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~~ individual.

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~~ individual's license, unless the unit provides the licensing authority with a withdrawal of a certificate of noncompliance.

Sec. 116. Section 252J.4, Code 1997, is amended to read as follows:

252J.4 CONFERENCE.

1. The ~~obligor~~ individual 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~~ individual 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~~ individual 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~~ individual.

b. The unit finds a mistake in determining that the amount of delinquent support is equal to or greater than ~~ninety days~~ three months.

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.

e. The unit finds a mistake in determining the compliance of the individual with a subpoena or warrant.

f. The individual complies with a subpoena or warrant.

5. The unit shall grant the ~~obligor~~ individual 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 or if the individual complies with a subpoena or warrant.

6. If the ~~obligor~~ individual does not timely request a conference or does not comply with a subpoena or warrant or if the obligor does not 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. 117. Section 252J.5, subsection 1, unnumbered paragraph 1, Code 1997, is amended to read as follows:

If an obligor is subject to this chapter as established in section 252J.2, subsection 2, paragraph "a", 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:

Sec. 118. Section 252J.6, Code 1997, is amended to read as follows:

252J.6 DECISION OF THE UNIT.

1. If an obligor is not in compliance with a support order or the individual is not in compliance with a subpoena or warrant pursuant to section 252J.2, the unit notifies the ~~obligor~~ individual pursuant to section 252J.3, and the ~~obligor~~ individual 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~~ individual 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~~ individual by regular mail at the ~~obligor's~~ individual'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 or the individual shall comply with a subpoena or warrant.

d. That if the unit issues a written decision, which includes a certificate of noncompliance, that all of the following apply:

(1) The ~~obligor~~ individual may request a hearing as provided in section 252J.9, before the district court as follows:

(a) If the action is a result of section 252J.2, subsection 2, paragraph "a", 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.

(b) If the action is a result of section 252J.2, subsection 2, paragraph "b" and the individual is not an obligor, in the county in which the dependent child or children reside if the child or children reside in Iowa; in the county in which the dependent child or children last received public assistance if the child or children received public assistance in Iowa; or in

the county in which the individual resides if the action is the result of a request from a child support agency in a foreign jurisdiction.

(2) The ~~obligor~~ individual may retain an attorney at the ~~obligor's~~ individual's own expense to represent the ~~obligor~~ individual 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 or the compliance of the individual with a subpoena or warrant.

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~~ individual.

b. The unit finds a mistake in determining compliance with a subpoena or warrant.

~~b.~~ c. The unit or the court finds a mistake in determining that the amount of delinquent support due is equal to or greater than ~~ninety days~~ three months.

~~c.~~ d. 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.

e. The individual complies with the subpoena or warrant.

~~d.~~ f. 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. 119. Section 252J.7, Code 1997, is amended to read as follows:

252J.7 CERTIFICATE OF NONCOMPLIANCE — CERTIFICATION TO LICENSING AUTHORITY.

1. If the ~~obligor~~ individual 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~~ individual 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 or the individual is not in compliance with a subpoena or warrant and shall include a copy of the certificate of noncompliance.

2. The certificate of noncompliance shall contain the ~~obligor's~~ individual's name~~,~~ and 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~~ individual'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~~ individual, 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~~ individual.

Sec. 120. Section 252J.8, subsections 3, 4, and 5, Code 1997, are amended to read as follows:

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 or a subpoena or warrant.

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~~ individual. 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~~ individual 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~~ individual. 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~~ individual's license due to the receipt of a certificate of noncompliance from the unit.

b. The ~~obligor~~ individual 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~~ individual'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~~ individual 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~~ individual is otherwise in compliance with licensing requirements established by the licensing authority.

Sec. 121. Section 252J.9, subsections 1, 2, and 3, Code 1997, are amended to read as follows:

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~~ individual by a licensing authority pursuant to section 252J.8, an ~~obligor~~ individual may seek review of the decision and request a hearing before the district court as follows:

a. If the action is a result of section 252J.2, subsection 2, paragraph "a", 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.

b. If the action is a result of section 252J.2, subsection 2, paragraph "b" and the individual is not an obligor, in a county in which the dependent child or children reside if the child or children reside in Iowa; in the county in which the dependent child or children last received public assistance if the child or children received public assistance in Iowa; or in the county in which the individual resides if the action is the result of a request from a child support agency in a foreign jurisdiction.

PARAGRAPH DIVIDED. 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~~ individual 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~~ individual 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 or the noncompliance of the individual with a subpoena or warrant. 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.

DIVISION XI
UNIFORM INTERSTATE FAMILY SUPPORT ACT
(1996)
ARTICLE 1
GENERAL PROVISIONS

Sec. 122. NEW SECTION. 252K.101 DEFINITIONS.

In this chapter:

1. "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent.

2. "Child-support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state.

3. "Duty of support" means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.

4. "Home state" means the state in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the state in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month or other period.

5. "Income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this state.

6. "Income-withholding order" means an order or other legal process directed to an obligor's employer or other payor of income, as defined by the income-withholding law of this state, to withhold support from the income of the obligor.

7. "Initiating state" means a state from which a proceeding is forwarded or in which a proceeding is filed for forwarding to a responding state under this chapter or a law or procedure substantially similar to this chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act.

8. "Initiating tribunal" means the authorized tribunal in an initiating state.

9. "Issuing state" means the state in which a tribunal issues a support order or renders a judgment determining parentage.

10. "Issuing tribunal" means the tribunal that issues a support order or renders a judgment determining parentage.

11. "Law" includes decisional and statutory law and rules and regulations having the force of law.

12. "Obligee" means any of the following:

a. An individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage has been rendered.

b. A state or political subdivision to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee.

c. An individual seeking a judgment determining parentage of the individual's child.

13. "Obligor" means an individual, or the estate of a decedent, to which any of the following applies:

a. Who owes or is alleged to owe a duty of support.

b. Who is alleged but has not been adjudicated to be a parent of a child.

c. Who is liable under a support order.

14. "Register" means to file a support order or judgment determining parentage in the appropriate location for the filing of foreign judgments.

15. "Registering tribunal" means a tribunal in which a support order is registered.

16. "Responding state" means a state in which a proceeding is filed or to which a proceeding is forwarded for filing from an initiating state under this chapter or a law or procedure substantially similar to this chapter, the Uniform Reciprocal Enforcement of Support Act, or

the Revised Uniform Reciprocal Enforcement of Support Act.

17. "Responding tribunal" means the authorized tribunal in a responding state.

18. "Spousal-support order" means a support order for a spouse or former spouse of the obligor.

19. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United states. The term includes:

a. An Indian tribe.

b. A foreign jurisdiction that has enacted a law or established procedures for issuance and enforcement of support orders which are substantially similar to the procedures under this chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act.

20. "Support enforcement agency" means a public official or agency authorized to seek any of the following:

a. Enforcement of support orders or laws relating to the duty of support.

b. Establishment or modification of child support.

c. Determination of parentage.

d. Location of obligors or their assets.

21. "Support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, or reimbursement, and may include related costs and fees, interest, income withholding, attorney's fees, and other relief.

22. "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.

Sec. 123. NEW SECTION. 252K.102 TRIBUNALS OF THIS STATE.

The child support recovery unit when the unit establishes or modifies an order, upon ratification by the court, and the court, are the tribunals of this state.

Sec. 124. NEW SECTION. 252K.103 REMEDIES CUMULATIVE.

Remedies provided by this chapter are cumulative and do not affect the availability of remedies under other law.

ARTICLE 2
JURISDICTION
PART 1
EXTENDED PERSONAL JURISDICTION

Sec. 125. NEW SECTION. 252K.201 BASES FOR JURISDICTION OVER NONRESIDENT.

In a proceeding to establish, enforce, or modify a support order or to determine parentage, a tribunal of this state may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if any of the following applies:

1. The individual is personally served with notice within this state.

2. The individual submits to the jurisdiction of this state by consent, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction.

3. The individual resided with the child in this state.

4. The individual resided in this state and provided prenatal expenses or support for the child.

5. The child resides in this state as a result of the acts or directives of the individual.

6. The individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse.

7. The individual asserted parentage in the declaration of paternity registry maintained

in this state by the Iowa department of public health pursuant to section 144.12A or established paternity by affidavit under section 252A.3A.

8. There is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.

Sec. 126. NEW SECTION. 252K.202 PROCEDURE WHEN EXERCISING JURISDICTION OVER NONRESIDENT.

A tribunal of this state exercising personal jurisdiction over a nonresident under section 252K.201 may apply section 252K.316 to receive evidence from another state, and section 252K.318 to obtain discovery through a tribunal of another state. In all other respects, Articles 3 through 7 do not apply and the tribunal shall apply the procedural and substantive law of this state, including the rules on choice of law other than those established by this chapter.

PART 2
PROCEEDINGS INVOLVING TWO OR MORE STATES

Sec. 127. NEW SECTION. 252K.203 INITIATING AND RESPONDING TRIBUNAL OF THIS STATE.

Under this chapter, a tribunal of this state may serve as an initiating tribunal to forward proceedings to another state and as a responding tribunal for proceedings initiated in another state.

Sec. 128. NEW SECTION. 252K.204 SIMULTANEOUS PROCEEDINGS IN ANOTHER STATE.

1. A tribunal of this state may exercise jurisdiction to establish a support order if the petition or comparable pleading is filed after a pleading is filed in another state only if all of the following apply:

a. The petition or comparable pleading in this state is filed before the expiration of the time allowed in the other state for filing a responsive pleading challenging the exercise of jurisdiction by the other state.

b. The contesting party timely challenges the exercise of jurisdiction in the other state.

c. If relevant, this state is the home state of the child.

2. A tribunal of this state may not exercise jurisdiction to establish a support order if the petition or comparable pleading is filed before a petition or comparable pleading is filed in another state if all of the following apply:

a. The petition or comparable pleading in the other state is filed before the expiration of the time allowed in this state for filing a responsive pleading challenging the exercise of jurisdiction by this state.

b. The contesting party timely challenges the exercise of jurisdiction in this state.

c. If relevant, the other state is the home state of the child.

Sec. 129. NEW SECTION. 252K.205 CONTINUING, EXCLUSIVE JURISDICTION.

1. A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a child-support order if any of the following applies:

a. As long as this state remains the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued.

b. Until all of the parties who are individuals have filed written consents with the tribunal of this state for a tribunal of another state to modify the order and assume continuing, exclusive jurisdiction.

2. A tribunal of this state issuing a child-support order consistent with the law of this state may not exercise its continuing jurisdiction to modify the order if the order has been modified by a tribunal of another state pursuant to this chapter or a law substantially similar to this chapter.

3. If a child support order of this state is modified by a tribunal of another state pursuant

to this chapter or a law substantially similar to this chapter, a tribunal of this state loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the order issued in this state, and may only:

a. Enforce the order that was modified as to amounts accruing before the modification.

b. Enforce nonmodifiable aspects of that order.

c. Provide other appropriate relief for violations of that order which occurred before the effective date of the modification.

4. A tribunal of this state shall recognize the continuing, exclusive jurisdiction of a tribunal of another state which has issued a child support order pursuant to this chapter or a law substantially similar to this chapter.

5. A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

6. A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a spousal support order throughout the existence of the support obligation. A tribunal of this state may not modify a spousal support order issued by a tribunal of another state having continuing, exclusive jurisdiction over that order under the law of that state.

Sec. 130. NEW SECTION. 252K.206 ENFORCEMENT AND MODIFICATION OF SUPPORT ORDER BY TRIBUNAL HAVING CONTINUING JURISDICTION.

1. A tribunal of this state may serve as an initiating tribunal to request a tribunal of another state to enforce or modify a support order issued in that state.

2. A tribunal of this state having continuing, exclusive jurisdiction over a support order may act as a responding tribunal to enforce or modify the order. If a party subject to the continuing, exclusive jurisdiction of the tribunal no longer resides in the issuing state, in subsequent proceedings the tribunal may apply section 252K.316 to receive evidence from another state and section 252K.318 to obtain discovery through a tribunal of another state.

3. A tribunal of this state which lacks continuing, exclusive jurisdiction over a spousal-support order may not serve as a responding tribunal to modify a spousal-support order of another state.

PART 3
RECONCILIATION OF MULTIPLE ORDERS

Sec. 131. NEW SECTION. 252K.207 RECOGNITION OF CONTROLLING CHILD-SUPPORT ORDER.

1. If a proceeding is brought under this chapter and only one tribunal has issued a child support order, the order of that tribunal controls and must be so recognized.

2. If a proceeding is brought under this chapter, and two or more child-support orders have been issued by tribunals of this state or another state with regard to the same obligor and child, a tribunal of this state shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction:

a. If only one of the tribunals would have continuing, exclusive jurisdiction under this chapter, the order of that tribunal controls and must be so recognized.

b. If more than one of the tribunals would have continuing, exclusive jurisdiction under this chapter, an order issued by a tribunal in the current home state of the child controls and must be so recognized, but if an order has not been issued in the current home state of the child, the order most recently issued controls and must be so recognized.

c. If none of the tribunals would have continuing, exclusive jurisdiction under this chapter, the tribunal of this state having jurisdiction over the parties shall issue a child-support order, which controls and must be so recognized.

3. If two or more child support orders have been issued for the same obligor and child and if the obligor or the individual obligee resides in this state, a party may request a tribunal of this state to determine which order controls and must be so recognized under subsection 2.

The request must be accompanied by a certified copy of every support order in effect. The requesting party shall give notice of the request to each party whose rights may be affected by the determination.

4. The tribunal that issued the controlling order under subsection 1, 2, or 3 is the tribunal that has continuing, exclusive jurisdiction under section 252K.205.

5. A tribunal of this state which determines by order the identity of the controlling order under subsection 2, paragraph "a" or "b", or which issues a new controlling order under subsection 2, paragraph "c", shall state in that order the basis upon which the tribunal made its determination.

6. Within thirty days after issuance of an order determining the identity of the controlling order, the party obtaining the order shall file a certified copy of it with each tribunal that issued or registered an earlier order of child support. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the controlling order.

Sec. 132. NEW SECTION. 252K.208 MULTIPLE CHILD SUPPORT ORDERS FOR TWO OR MORE OBLIGEES.

In responding to multiple registrations or requests for enforcement of two or more child support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one of which was issued by a tribunal of another state, a tribunal of this state shall enforce those orders in the same manner as if the multiple orders had been issued by a tribunal of this state.

Sec. 133. NEW SECTION. 252K.209 CREDIT FOR PAYMENTS.

Amounts collected and credited for a particular period pursuant to a support order issued by a tribunal of another state must be credited against the amounts accruing or accrued for the same period under a support order issued by the tribunal of this state.

ARTICLE 3
CIVIL PROVISIONS OF GENERAL APPLICATION

Sec. 134. NEW SECTION. 252K.301 PROCEEDINGS UNDER THIS CHAPTER.

1. Except as otherwise provided in this chapter, this article applies to all proceedings under this chapter.

2. This chapter provides for the following proceedings:

a. Establishment of an order for spousal support or child support pursuant to Article 4.

b. Enforcement of a support order and income withholding order of another state without registration pursuant to Article 5.

c. Registration of an order for spousal support or child support of another state for enforcement pursuant to Article 6.

d. Modification of an order for child support or spousal support issued by a tribunal of this state pursuant to Article 2, part 2.

e. Registration of an order for child support of another state for modification pursuant to Article 6.

f. Determination of parentage pursuant to Article 7.

g. Assertion of jurisdiction over nonresidents pursuant to Article 2, part 1.

3. An individual movant or a support enforcement agency may commence a proceeding authorized under this chapter by filing a petition or a comparable pleading in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state which has or can obtain personal jurisdiction over the respondent or nonmoving party.

Sec. 135. NEW SECTION. 252K.302 ACTION BY MINOR PARENT.

A minor parent, or a guardian or other legal representative of a minor parent, may maintain a proceeding on behalf of or for the benefit of the minor's child.

Sec. 136. NEW SECTION. 252K.303 APPLICATION OF LAW OF THIS STATE.

Except as otherwise provided by this chapter, a responding tribunal of this state shall do all of the following:

1. Apply the procedural and substantive law, including the rules on choice of law, generally applicable to similar proceedings originating in this state, and may exercise all powers and provide all remedies available in those proceedings.

2. Determine the duty of support and the amount payable in accordance with the law and support guidelines of this state.

Sec. 137. NEW SECTION. 252K.304 DUTIES OF INITIATING TRIBUNAL.

1. Upon the filing of a petition or comparable pleading authorized by this chapter, an initiating tribunal of this state shall forward three copies of the petition or comparable pleading and its accompanying documents:

a. To the responding tribunal or appropriate support enforcement agency in the responding state.

b. If the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

2. If a responding state has not enacted this law or a law or procedure substantially similar to this chapter, a tribunal of this state may issue a certificate or other document and make findings required by the law of the responding state. If the responding state is a foreign jurisdiction, the tribunal may specify the amount of support sought and provide other documents necessary to satisfy the requirements of the responding state.

Sec. 138. NEW SECTION. 252K.305 DUTIES AND POWERS OF RESPONDING TRIBUNAL.

1. When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly pursuant to section 252K.301, subsection 3, it shall cause the petition or pleading to be filed and notify the movant where and when it was filed.

2. A responding tribunal of this state, to the extent otherwise authorized by law, may do one or more of the following:

a. Issue or enforce a support order, modify a child-support order, or render a judgment to determine parentage.

b. Order an obligor to comply with a support order, specifying the amount and the manner of compliance.

c. Order income withholding.

d. Determine the amount of any arrearages, and specify a method of payment.

e. Enforce orders by civil or criminal contempt, or both.

f. Set aside property for satisfaction of the support order.

g. Place liens and order execution on the obligor's property.

h. Order an obligor to keep the tribunal informed of the obligor's current residential address, telephone number, employer, address of employment, and telephone number at the place of employment.

i. Issue a bench warrant for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the bench warrant in any local and state computer systems for criminal warrants.

j. Order the obligor to seek appropriate employment by specified methods.

k. Award reasonable attorney's fees and other fees and costs.

l. Grant any other available remedy.

3. A responding tribunal of this state shall include in a support order issued under this chapter, or in the documents accompanying the order, the calculations on which the support order is based.

4. A responding tribunal of this state may not condition the payment of a support order issued under this chapter upon compliance by a party with provisions for visitation.

5. If a responding tribunal of this state issues an order under this chapter, the tribunal shall send a copy of the order to the movant and the respondent and to the initiating tribunal, if any.

Sec. 139. NEW SECTION. 252K.306 INAPPROPRIATE TRIBUNAL.

If a petition or comparable pleading is received by an inappropriate tribunal of this state, it shall forward the pleading and accompanying documents to an appropriate tribunal in this state or another state and notify the movant where and when the pleading was sent.

Sec. 140. NEW SECTION. 252K.307 DUTIES OF SUPPORT ENFORCEMENT AGENCY.

1. A support enforcement agency of this state, upon request, shall provide services to a movant in a proceeding under this chapter.

2. A support enforcement agency that is providing services to the movant as appropriate shall:

a. Take all steps necessary to enable an appropriate tribunal in this state or another state to obtain jurisdiction over the respondent.

b. Request an appropriate tribunal to set a date, time, and place for a hearing.

c. Make a reasonable effort to obtain all relevant information, including information as to income and property of the parties.

d. Within five days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written notice from an initiating, responding, or registering tribunal, send a copy of the notice to the movant.

e. Within five days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written communication from the respondent or the respondent's attorney, send a copy of the communication to the movant.

f. Notify the movant if jurisdiction over the respondent cannot be obtained.

3. This chapter does not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

Sec. 141. NEW SECTION. 252K.308 DUTY OF ATTORNEY GENERAL.

If the attorney general determines that the support enforcement agency is neglecting or refusing to provide services to an individual, the attorney general may order the agency to perform its duties under this chapter or may provide those services directly to the individual.

Sec. 142. NEW SECTION. 252K.309 PRIVATE COUNSEL.

An individual may employ private counsel to represent the individual in proceedings authorized by this chapter.

Sec. 143. NEW SECTION. 252K.310 DUTIES OF STATE INFORMATION AGENCY.

1. The child support recovery unit is the state information agency under this chapter.

2. The state information agency shall:

a. Compile and maintain a current list, including addresses, of the tribunals in this state which have jurisdiction under this chapter and any support enforcement agencies in this state and transmit a copy to the state information agency of every other state.

b. Maintain a register of tribunals and support enforcement agencies received from other states.

c. Forward to the appropriate tribunal in the place in this state in which the individual obligee or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under this chapter received from an initiating tribunal or the state information agency of the initiating state.

d. Obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's

address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and social security.

Sec. 144. NEW SECTION. 252K.311 PLEADINGS AND ACCOMPANYING DOCUMENTS.

1. A movant seeking to establish or modify a support order or to determine parentage in a proceeding under this chapter must verify the petition. Unless otherwise ordered under section 252K.312, the petition or accompanying documents must provide, so far as known, the name, residential address, and social security numbers of the obligor and the obligee, and the name, sex, residential address, social security number, and date of birth of each child for whom support is sought. The petition must be accompanied by a certified copy of any support order in effect. The petition may include any other information that may assist in locating or identifying the respondent.

2. The petition must specify the relief sought. The petition and accompanying documents shall conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency.

Sec. 145. NEW SECTION. 252K.312 NONDISCLOSURE OF INFORMATION IN EXCEPTIONAL CIRCUMSTANCES.

Upon a finding, which may be made ex parte, that the health, safety, or liberty of a party or child would be unreasonably put at risk by the disclosure of identifying information, or if an existing order so provides, a tribunal shall order that the address of the child or party or other identifying information not be disclosed in a pleading or other document filed in a proceeding under this chapter.

Sec. 146. NEW SECTION. 252K.313 COSTS AND FEES.

1. The movant shall not be required to pay a filing fee or other costs.

2. If an obligee prevails, a responding tribunal may assess against an obligor filing fees, reasonable attorney's fees, other costs, and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal may not assess fees, costs, or expenses against the obligee or the support enforcement agency of either the initiating or the responding state, except as provided by other law. Attorney's fees may be taxed as costs, and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of support owed to the obligee has priority over fees, costs, and expenses.

3. The tribunal shall order the payment of costs and reasonable attorney's fees if the tribunal determines that a hearing was requested primarily for delay. In a proceeding under Article 6, a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

Sec. 147. NEW SECTION. 252K.314 LIMITED IMMUNITY OF MOVANT.

1. Participation by a movant in a proceeding before a responding tribunal, whether in person, by private attorney, or through services provided by the support enforcement agency, does not confer personal jurisdiction over the movant in another proceeding.

2. A movant is not amenable to service of civil process while physically present in this state to participate in a proceeding under this chapter.

3. The immunity granted by this section does not extend to civil litigation based on acts unrelated to a proceeding under this chapter committed by a party while present in this state to participate in the proceeding.

Sec. 148. NEW SECTION. 252K.315 NONPARENTAGE AS DEFENSE.

A party whose parentage of a child has been previously determined by or pursuant to law may not plead nonparentage as a defense to a proceeding under this chapter.

Sec. 149. NEW SECTION. 252K.316 SPECIAL RULES OF EVIDENCE AND PROCEDURE.

1. The physical presence of the movant in a responding tribunal of this state is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage.

2. A verified petition, affidavit, document substantially complying with federally mandated forms, and a document incorporated by reference in any of them, not excluded under the hearsay rule if given in person, is admissible in evidence if given under oath by a party or witness residing in another state.

3. A copy of the record of child-support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it, and is admissible to show whether payments were made.

4. Copies of bills for testing for parentage, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least ten days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.

5. Documentary evidence transmitted from another state to a tribunal of this state by telephone, telecopier, or other means that do not provide an original writing may not be excluded from evidence on an objection based on the means of transmission.

6. In a proceeding under this chapter, a tribunal of this state may permit a party or witness residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means at a designated tribunal or other location in that state. A tribunal of this state shall cooperate with tribunals of other states in designating an appropriate location for the deposition or testimony.

7. If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

8. A privilege against disclosure of communications between spouses does not apply in a proceeding under this chapter.

9. The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under this chapter.

Sec. 150. NEW SECTION. 252K.317 COMMUNICATIONS BETWEEN TRIBUNALS.

A tribunal of this state may communicate with a tribunal of another state in writing, or by telephone or other means, to obtain information concerning the laws of that state, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding in the other state. A tribunal of this state may furnish similar information by similar means to a tribunal of another state.

Sec. 151. NEW SECTION. 252K.318 ASSISTANCE WITH DISCOVERY.

A tribunal of this state may:

1. Request a tribunal of another state to assist in obtaining discovery.

2. Upon request, compel a person over whom it has jurisdiction to respond to a discovery order issued by a tribunal of another state.

Sec. 152. NEW SECTION. 252K.319 RECEIPT AND DISBURSEMENT OF PAYMENTS.

A support enforcement agency or tribunal of this state shall disburse promptly any amounts received pursuant to a support order, as directed by the order. The agency or tribunal shall furnish to a requesting party or a tribunal of another state a certified statement by the custodian of the record of the amounts and dates of all payments received.

ARTICLE 4
ESTABLISHMENT OF SUPPORT ORDER

Sec. 153. NEW SECTION. 252K.401 PETITION TO ESTABLISH SUPPORT ORDER.

1. If a support order entitled to recognition under this chapter has not been issued, a responding tribunal of this state may issue a support order if any of the following applies:

a. The individual seeking the order resides in another state.

b. The support enforcement agency seeking the order is located in another state.

2. The tribunal may issue a temporary child-support order if any of the following applies:

a. The respondent has signed a verified statement acknowledging parentage.

b. The respondent has been determined by or pursuant to law to be the parent.

c. There is other clear and convincing evidence that the respondent is the child's parent.

3. Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to section 252K.305.

ARTICLE 5
ENFORCEMENT OF ORDER OF ANOTHER STATE WITHOUT REGISTRATION

Sec. 154. NEW SECTION. 252K.501 EMPLOYER'S RECEIPT OF INCOME-WITHHOLDING ORDER OF ANOTHER STATE.

An income-withholding order issued in another state may be sent to the person or entity defined as the obligor's employer under the income-withholding law of this state without first filing a petition or comparable pleading or registering the order with a tribunal of this state.

Sec. 155. NEW SECTION. 252K.502 EMPLOYER'S COMPLIANCE WITH INCOME-WITHHOLDING ORDER OF ANOTHER STATE.

1. Upon receipt of an income-withholding order, the obligor's employer shall immediately provide a copy of the order to the obligor.

2. The employer shall treat an income-withholding order issued in another state which appears regular on its face as if it had been issued by a tribunal of this state.

3. Except as otherwise provided in subsection 4 and section 252K.503 the employer shall withhold and distribute the funds as directed in the withholding order by complying with terms of the order which specify:

a. The duration and amount of periodic payments of current child support, stated as a sum certain.

b. The person or agency designated to receive payments and the address to which the payments are to be forwarded.

c. Medical support, whether in the form of periodic cash payment, stated as a sum certain, or ordering the obligor to provide health insurance coverage for the child under a policy available through the obligor's employment.

d. The amount of periodic payments of fees and costs for a support enforcement agency, the issuing tribunal, and the obligee's attorney, stated as sums certain.

e. The amount of periodic payments of arrearages and interest on arrearages, stated as sums certain.

4. An employer shall comply with the law of the state of the obligor's principal place of employment for withholding from income with respect to:

a. The employer's fee for processing an income-withholding order.

b. The maximum amount permitted to be withheld from the obligor's income.

c. The times within which the employer must implement the withholding order and forward the child support payment.

Sec. 156. NEW SECTION. 252K.503 COMPLIANCE WITH MULTIPLE INCOME-WITHHOLDING ORDERS.

If an obligor's employer receives multiple income-withholding orders with respect to the earnings of the same obligor, the employer satisfies the terms of the multiple orders if the employer complies with the law of the state of the obligor's principal place of employment to establish the priorities for withholding and allocating income withheld for multiple child support obligees.

Sec. 157. NEW SECTION. 252K.504 IMMUNITY FROM CIVIL LIABILITY.

An employer who complies with an income-withholding order issued in another state in accordance with this article is not subject to civil liability to an individual or agency with regard to the employer's withholding of child support from the obligor's income.

Sec. 158. NEW SECTION. 252K.505 PENALTIES FOR NONCOMPLIANCE.

An employer who willfully fails to comply with an income-withholding order issued by another state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of this state.

Sec. 159. NEW SECTION. 252K.506 CONTEST BY OBLIGOR.

1. An obligor may contest the validity or enforcement of an income-withholding order issued in another state and received directly by an employer in this state in the same manner as if the order had been issued by a tribunal of this state. Section 252K.604 applies to the contest.

2. The obligor shall give notice of the contest to:

a. A support enforcement agency providing services to the obligee.

b. Each employer that has directly received an income-withholding order.

c. The person or agency designated to receive payments in the income-withholding order, or if no person or agency is designated, to the obligee.

Sec. 160. NEW SECTION. 252K.507 ADMINISTRATIVE ENFORCEMENT OF ORDERS.

1. A party seeking to enforce a support order or an income-withholding order, or both, issued by a tribunal of another state may send the documents required for registering the order to a support enforcement agency of this state.

2. Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this state to enforce a support order or an income-withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to this chapter.

ARTICLE 6
ENFORCEMENT AND MODIFICATION OF SUPPORT ORDER
AFTER REGISTRATION
PART 1
REGISTRATION AND ENFORCEMENT OF SUPPORT ORDER

Sec. 161. NEW SECTION. 252K.601 REGISTRATION OF ORDER FOR ENFORCEMENT.

A support order or an income-withholding order issued by a tribunal of another state may be registered in this state for enforcement.

Sec. 162. NEW SECTION. 252K.602 PROCEDURE TO REGISTER ORDER FOR ENFORCEMENT.

1. A support order or income-withholding order of another state may be registered in this state by sending the following documents and information to the appropriate tribunal in this state:

a. A letter of transmittal to the tribunal requesting registration and enforcement.

b. Two copies, including one certified copy, of all orders to be registered, including any modification of an order.

c. A sworn statement by the party seeking registration or a certified statement by the custodian of the records showing the amount of any arrearage.

d. The name of the obligor and, if known:

(1) The obligor's address and social security number.

(2) The name and address of the obligor's employer and any other source of income of the obligor.

(3) A description and the location of property of the obligor in this state not exempt from execution.

e. The name and address of the obligee and, if applicable, the agency or person to whom support payments are to be remitted.

2. On receipt of a request for registration, the registering tribunal shall cause the order to be filed as a foreign judgment, together with one copy of the documents and information, regardless of their form.

3. A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this state may be filed at the same time as the request for registration or later. The pleading must specify the grounds for the remedy sought.

Sec. 163. NEW SECTION. 252K.603 EFFECT OF REGISTRATION FOR ENFORCEMENT.

1. A support order or income-withholding order issued in another state is registered when the order is filed in the registering tribunal of this state.

2. A registered order issued in another state is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this state.

3. Except as otherwise provided in this article, a tribunal of this state shall recognize and enforce, but may not modify, a registered order if the issuing tribunal had jurisdiction.

Sec. 164. NEW SECTION. 252K.604 CHOICE OF LAW.

1. The law of the issuing state governs the nature, extent, amount, and duration of current payments and other obligations of support and the payment of arrearages under the order.

2. In a proceeding for arrearages, the statute of limitation under the laws of this state or of the issuing state, whichever is longer, applies.

PART 2
CONTEST OF VALIDITY OR ENFORCEMENT

Sec. 165. NEW SECTION. 252K.605 NOTICE OF REGISTRATION OF ORDER.

1. When a support order or income-withholding order issued in another state is registered, the registering tribunal shall notify the nonregistering party. The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

2. The notice must inform the nonregistering party:

a. That a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state.

b. That a hearing to contest the validity or enforcement of the registered order must be requested within twenty days after the date of mailing or personal service of the notice.

c. That failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages and precludes further contest of that order with respect to any matter that could have been asserted.

d. Of the amount of any alleged arrearages.

3. Upon registration of an income-withholding order for enforcement, the registering

tribunal shall notify the obligor's employer pursuant to the income-withholding law of this state.

Sec. 166. NEW SECTION. 252K.606 PROCEDURE TO CONTEST VALIDITY OR ENFORCEMENT OF REGISTERED ORDER.

1. A nonregistering party seeking to contest the validity or enforcement of a registered order in this state shall request a hearing within twenty days after the date of mailing or personal service of notice of the registration. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to section 252K.607.

2. If the nonregistering party fails to contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law.

3. If a nonregistering party requests a hearing to contest the validity or enforcement of the registered order, the registering tribunal shall schedule the matter for hearing and give notice to the parties of the date, time, and place of the hearing.

Sec. 167. NEW SECTION. 252K.607 CONTEST OF REGISTRATION OR ENFORCEMENT.

1. A party contesting the validity or enforcement of a registered order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

a. The issuing tribunal lacked personal jurisdiction over the contesting party.

b. The order was obtained by fraud.

c. The order has been vacated, suspended, or modified by a later order.

d. The issuing tribunal has stayed the order pending appeal.

e. There is a defense under the law of this state to the remedy sought.

f. Full or partial payment has been made.

g. The statute of limitation under section 252K.604 precludes enforcement of some or all of the arrearages.

2. If a party presents evidence establishing a full or partial defense under subsection 1, a tribunal may stay enforcement of the registered order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered order may be enforced by all remedies available under the law of this state.

3. If the contesting party does not establish a defense under subsection 1 to the validity or enforcement of the order, the registering tribunal shall issue an order confirming the order.

Sec. 168. NEW SECTION. 252K.608 CONFIRMED ORDER.

Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

PART 3

REGISTRATION AND MODIFICATION OF CHILD-SUPPORT ORDER

Sec. 169. NEW SECTION. 252K.609 PROCEDURE TO REGISTER CHILD-SUPPORT ORDER OF ANOTHER STATE FOR MODIFICATION.

A party or support enforcement agency seeking to modify, or to modify and enforce, a child-support order issued in another state shall register that order in this state in the same manner provided in Part 1 if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or later. The pleading must specify the grounds for modification.

Sec. 170. NEW SECTION. 252K.610 EFFECT OF REGISTRATION FOR MODIFICATION.

A tribunal of this state may enforce a child-support order of another state registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of this state, but the registered order may be modified only if the requirements of section 252K.611 have been met.

Sec. 171. NEW SECTION. 252K.611 MODIFICATION OF CHILD-SUPPORT ORDER OF ANOTHER STATE.

1. After a child-support order issued in another state has been registered in this state, the responding tribunal of this state may modify that order only if section 252K.613 does not apply and after notice and hearing it finds that paragraph "a" or "b" applies:

a. The following requirements are met:

(1) The child, the individual obligee, and the obligor do not reside in the issuing state.

(2) A movant who is a nonresident of this state seeks modification.

(3) The respondent is subject to the personal jurisdiction of the tribunal of this state.

b. The child, or a party who is an individual, is subject to the personal jurisdiction of the tribunal of this state and all of the parties who are individuals have filed written consents in the issuing tribunal for a tribunal of this state to modify the support order and assume continuing, exclusive jurisdiction over the order. However, if the issuing state is a foreign jurisdiction that has not enacted a law or established procedures substantially similar to the procedures under this chapter, the consent otherwise required of an individual residing in this state is not required for the tribunal to assume jurisdiction to modify the child-support order.

2. Modification of a registered child-support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by a tribunal of this state and the order may be enforced and satisfied in the same manner.

3. A tribunal of this state may not modify any aspect of a child-support order that may not be modified under the law of the issuing state. If two or more tribunals have issued child-support orders for the same obligor and child, the order that controls and must be so recognized under section 252K.207 establishes the aspects of the support order which are nonmodifiable.

4. On issuance of an order modifying a child-support order issued in another state, a tribunal of this state becomes the tribunal having continuing, exclusive jurisdiction.

Sec. 172. NEW SECTION. 252K.612 RECOGNITION OF ORDER MODIFIED IN ANOTHER STATE.

A tribunal of this state shall recognize a modification of its earlier child-support order by a tribunal of another state which assumed jurisdiction pursuant to this chapter or a law substantially similar to this chapter and, upon request, except as otherwise provided in this chapter, shall:

1. Enforce the order that was modified only as to amounts accruing before the modification.

2. Enforce only nonmodifiable aspects of that order.

3. Provide other appropriate relief only for violations of the order which occurred before the effective date of the modification.

4. Recognize the modifying order of the other state, upon registration, for the purpose of enforcement.

Sec. 173. NEW SECTION. 252K.613 JURISDICTION TO MODIFY CHILD-SUPPORT ORDER OF ANOTHER STATE WHEN INDIVIDUAL PARTIES RESIDE IN THIS STATE.

1. If all of the parties who are individuals reside in this state and the child does not reside

in the issuing state, a tribunal of this state has jurisdiction to enforce and to modify the issuing state's child-support order in a proceeding to register that order.

2. A tribunal of this state exercising jurisdiction under this section shall apply the provisions of Articles 1 and 2, this article, and the procedural and substantive law of this state to the proceeding for enforcement or modification. Articles 3, 4, 5, 7, and 8 do not apply.

Sec. 174. NEW SECTION. 252K.614 NOTICE TO ISSUING TRIBUNAL OF MODIFICATION.

Within thirty days after issuance of a modified child-support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal that had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows the earlier order has been registered. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the modified order of the new tribunal having continuing, exclusive jurisdiction.

ARTICLE 7
DETERMINATION OF PARENTAGE

Sec. 175. NEW SECTION. 252K.701 PROCEEDING TO DETERMINE PARENTAGE.

1. A tribunal of this state may serve as an initiating or responding tribunal in a proceeding brought under this chapter or a law or procedure substantially similar to this chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act to determine that the petitioner is a parent of a particular child or to determine that a respondent is a parent of that child.

2. In a proceeding to determine parentage, a responding tribunal of this state shall apply the procedural and substantive laws pursuant to chapters 252A and 252F, and the rules of this state on choice of law.

ARTICLE 8
INTERSTATE RENDITION

Sec. 176. NEW SECTION. 252K.801 GROUNDS FOR RENDITION.

1. For purposes of this article, "governor" includes an individual performing the functions of governor or the executive authority of a state covered by this chapter.

2. The governor of this state may:

a. Demand that the governor of another state surrender an individual found in the other state who is charged criminally in this state with having failed to provide for the support of an obligee.

b. On the demand by the governor of another state, surrender an individual found in this state who is charged criminally in the other state with having failed to provide for the support of an obligee.

3. A provision for extradition of individuals not inconsistent with this chapter applies to the demand even if the individual whose surrender is demanded was not in the demanding state when the crime was allegedly committed and has not fled therefrom.

Sec. 177. NEW SECTION. 252K.802 CONDITIONS OF RENDITION.

1. Before making demand that the governor of another state surrender an individual charged criminally in this state with having failed to provide for the support of an obligee, the governor of this state may require a prosecutor of this state to demonstrate that at least sixty days previously the obligee had initiated proceedings for support pursuant to this chapter or that the proceeding would be of no avail.

2. If, under this chapter, or a law substantially similar to this chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act, the governor of another state makes a demand that the governor of this state

surrender an individual charged criminally in that state with having failed to provide for the support of a child or other individual to whom a duty of support is owed, the governor may require a prosecutor to investigate the demand and report whether a proceeding for support has been initiated or would be effective. If it appears that a proceeding would be effective but has not been initiated, the governor may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

3. If a proceeding for support has been initiated and the individual whose rendition is demanded prevails, the governor may decline to honor the demand. If the movant prevails and the individual whose rendition is demanded is subject to a support order, the governor may decline to honor the demand if the individual is complying with the support order.

ARTICLE 9
MISCELLANEOUS PROVISIONS

Sec. 178. NEW SECTION. 252K.901 UNIFORMITY OF APPLICATION AND CONSTRUCTION.

This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

Sec. 179. NEW SECTION. 252K.902 SHORT TITLE.

This chapter may be cited as the Uniform Interstate Family Support Act.

Sec. 180. NEW SECTION. 252K.903 SEVERABILITY CLAUSE.

If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or application of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

Sec. 181. NEW SECTION. 252K.904 EFFECTIVE DATE — PENDING MATTERS.

1. This chapter takes effect January 1, 1998.

2. A tribunal of this state shall apply this chapter beginning January 1, 1998, with the following conditions:

a. Matters pending on January 1, 1998, shall be governed by this chapter.

b. Pleadings and accompanying documents on pending matters are sufficient if the documents substantially comply with the requirements of chapter 252A in effect on December 31, 1997.

DIVISION XII

Sec. 182. Section 598.1, subsections 3 and 5, Code 1997, are amended to read as follows:

3. "Joint custody" or "joint legal custody" means an award of legal custody of a minor child to both parents jointly under which both parents have legal custodial rights and responsibilities toward the child and under which neither parent has legal custodial rights superior to those of the other parent. ~~The court may award physical care to one parent only.~~ Rights and responsibilities of joint legal custody include, but are not limited to, equal participation in decisions affecting the child's legal status, medical care, education, extracurricular activities, and religious instruction.

5. "Physical care" means the right and responsibility to maintain ~~the principal~~ a home ~~of~~ for the minor child and provide for the routine care of the child.

Sec. 183. Section 598.1, Code 1997, is amended by adding the following new subsections:

NEW SUBSECTION. 3A. "Joint physical care" means an award of physical care of a minor child to both joint legal custodial parents under which both parents have rights and responsibilities toward the child including, but not limited to, shared parenting time with

the child, maintaining homes for the child, providing routine care for the child and under which neither parent has physical care rights superior to those of the other parent.

NEW SUBSECTION. 3B. "Legal custody" or "custody" means an award of the rights of legal custody of a minor child to a parent under which a parent has legal custodial rights and responsibilities toward the child. Rights and responsibilities of legal custody include, but are not limited to, decision making affecting the child's legal status, medical care, education, extracurricular activities, and religious instruction.

Sec. 184. Section 598.1, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. "Postsecondary education subsidy" means an amount which either of the parties may be required to pay under a temporary order or final judgment or decree for educational expenses of a child who is between the ages of eighteen and twenty-two years if the child is regularly attending a course of vocational-technical training either as a part of a regular school program or under special arrangements adapted to the individual person's needs; or is, in good faith, a full-time student in a college, university, or community college; or has been accepted for admission to a college, university, or community college and the next regular term has not yet begun.

Sec. 185. Section 598.1, subsection 6, Code 1997, is amended to read as follows:

6. "Support" or "support payments" means an amount which the court may require either of the parties to pay under a temporary order or a final judgment or decree, and may include alimony, child support, maintenance, and any other term used to describe these obligations. For orders entered on or after July 1, 1990, unless the court specifically orders otherwise, medical support is not included in the monetary amount of child support. The obligations ~~may~~ shall include support for a child who is between the ages of eighteen and ~~twenty-two~~ nineteen years who is ~~regularly attending an accredited school in pursuance of a course of study leading to a high school diploma or its equivalent, or regularly attending a course of vocational-technical training either as a part of a regular school program or under special arrangements adapted to the individual person's needs; or is, in good faith, a full-time student in a college, university, or community college; or has been accepted for admission to a college, university, or community college and the next regular term has not yet begun; or~~ engaged full-time in completing high school graduation or equivalency requirements in a manner which is reasonably expected to result in completion of the requirements prior to the person reaching nineteen years of age; and may include support for a child of any age who is dependent on the parties to the dissolution proceedings because of physical or mental disability.

Sec. 186. Section 598.5, subsection 5, Code 1997, is amended to read as follows:

5. State whether or not a separate action for dissolution of marriage or child support has been commenced ~~by the respondent~~ and whether such action is pending in any court in this state or elsewhere. State whether the entry of an order would violate 28 U.S.C. § 1738B. If there is an existing child support order, the party shall disclose identifying information regarding the order.

Sec. 187. NEW SECTION. 598.14A RETROACTIVE MODIFICATION OF TEMPORARY SUPPORT ORDER.

An order for temporary support may be retroactively modified only from three months after notice of hearing for temporary support pursuant to section 598.11 or from three months after notice of hearing for modification of a temporary order for support pursuant to section 598.14. The three-month limitation applies to modification actions pending on or after July 1, 1997.

Sec. 188. Section 598.21, subsection 4, paragraph a, Code 1997, is amended to read as follows:

a. ~~Upon~~ Unless prohibited pursuant to 28 U.S.C. § 1738B, upon every judgment of annul-

ment, dissolution, or separate maintenance, the court may order either parent or both parents to pay an amount reasonable and necessary for supporting a child. In establishing the amount of support, consideration shall be given to the responsibility of both parents to support and provide for the welfare of the minor child and of a child's need, whenever practicable, for a close relationship with both parents. There shall be a rebuttable presumption that the amount of child support which would result from the application of the guidelines prescribed by the supreme court is the correct amount of child support to be awarded. A variation from the guidelines shall not be considered by a court without a record or written finding, based on stated reasons, that the guidelines would be unjust or inappropriate as determined under the criteria prescribed by the supreme court.

The court shall order as child medical support a health benefit plan as defined in chapter 252E if available to either parent at a reasonable cost. A health benefit plan is considered reasonable in cost if it is employment-related or other group health insurance, regardless of the service delivery mechanism. The premium cost of the health benefit plan may be considered by the court as a reason for varying from the child support guidelines. If a health benefit plan is not available at a reasonable cost, the court may order any other provisions for medical support as defined in chapter 252E.

Sec. 189. Section 598.21, subsection 4A, paragraph c,* Code 1997, 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 file a written statement with the court that both parties agree that the established father is not the biological father of the child.

~~(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".~~

Sec. 190. Section 598.21, Code 1997, is amended by adding the following new subsections:

NEW SUBSECTION. 5A. The court may order a postsecondary education subsidy if good cause is shown.

a. In determining whether good cause exists for ordering a postsecondary education subsidy, the court shall consider the age of the child, the ability of the child relative to postsecondary education, the child's financial resources, whether the child is self-sustaining, and the financial condition of each parent. If the court determines that good cause is shown for ordering a postsecondary education subsidy, the court shall determine the amount of subsidy as follows:

(1) The court shall determine the cost of postsecondary education based upon the cost of attending an in-state public institution for a course of instruction leading to an undergraduate degree and shall include the reasonable costs for only necessary postsecondary education expenses.

(2) The court shall then determine the amount, if any, which the child may reasonably be expected to contribute, considering the child's financial resources, including but not limited to the availability of financial aid whether in the form of scholarships, grants, or student loans, and the ability of the child to earn income while attending school.

(3) The child's expected contribution shall be deducted from the cost of postsecondary education and the court shall apportion responsibility for the remaining cost of postsecondary education to each parent. The amount paid by each parent shall not exceed thirty-three and one-third percent of the total cost of postsecondary education.

b. A postsecondary education subsidy shall be payable to the child, to the educational institution, or to both, but shall not be payable to the custodial parent.

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* Paragraph c, unnumbered paragraph 1 and subparagraphs (1) and (2), probably intended

c. A postsecondary education subsidy shall not be awarded if the child has repudiated the parent by publicly disowning the parent, refusing to acknowledge the parent, or by acting in a similar manner.

d. The child shall forward, to each parent, reports of grades awarded at the completion of each academic session, within ten days of receipt of the reports. Unless otherwise specified by the parties, a postsecondary education subsidy awarded by the court shall be terminated upon the child's completion of the first calendar year of course instruction if the child fails to maintain a cumulative grade point average in the median range or above during that first calendar year.

NEW SUBSECTION. 8A. If a parent awarded joint legal custody and physical care or sole legal custody is relocating the residence of the minor child to a location which is one hundred fifty miles or more from the residence of the minor child at the time that custody was awarded, the court may consider the relocation a substantial change in circumstances. If the court determines that the relocation is a substantial change in circumstances, the court shall modify the custody order to, at a minimum, preserve, as nearly as possible, the existing relationship between the minor child and the nonrelocating parent. If modified, the order may include a provision for extended visitation during summer vacations and school breaks and scheduled telephone contact between the nonrelocating parent and the minor child. The modification may include a provision assigning the responsibility for transportation of the minor child for visitation purposes to either or both parents. If the court makes a finding of past interference by the parent awarded joint legal custody and physical care or sole legal custody with the minor child's access to the other parent, the court may order the posting of a cash bond to assure future compliance with the visitation provisions of the decree. The supreme court shall prescribe guidelines for the forfeiting of the bond and restoration of the bond following forfeiting of the bond.

Sec. 191. Section 598.21, subsection 8, unnumbered paragraphs 2 and 3, Code 1997, are amended to read as follows:

~~A~~ Unless otherwise provided pursuant to 28 U.S.C. § 1738B, a modification of a support order entered under chapter 234, 252A, 252C, 600B, this chapter, or any other support chapter or proceeding between parties to the order is void unless the modification is approved by the court, after proper notice and opportunity to be heard is given to all parties to the order, and entered as an order of the court. If support payments have been assigned to the department of human services pursuant to section 234.39, 239.3, or 252E.11, or if services are being provided pursuant to chapter 252B, the department ~~shall be considered~~ is a party to the support order. Modifications of orders pertaining to child custody shall be made pursuant to chapter 598A. If the petition for a modification of an order pertaining to child custody asks either for joint custody or that joint custody be modified to an award of sole custody, the modification, if any, shall be made pursuant to section 598.41.

Judgments for child support or child support awards entered pursuant to this chapter, chapter 234, 252A, 252C, 252F, 600B, or any other chapter of the Code which are subject to a modification proceeding may be retroactively modified only from three months after the date the notice of the pending petition for modification is served on the opposing party. The three-month limitation applies to a modification action pending on or after July 1, 1997. The prohibition of retroactive modification does not bar the child support recovery unit from obtaining orders for accrued support for previous time periods. Any retroactive modification which increases the amount of child support or any order for accrued support under this paragraph shall include a periodic payment plan. A retroactive modification shall not be regarded as a delinquency unless there are subsequent failures to make payments in accordance with the periodic payment plan.

Sec. 192. Section 598.21, subsection 9, unnumbered paragraph 2, Code 1997, is amended to read as follows:

This basis for modification is applicable to petitions filed on or after July 1, 1992, notwith-

standing whether the guidelines prescribed by subsection 4 were used in establishing the current amount of support. Upon application for a modification of an order for child support for which services are being received pursuant to chapter 252B, the court shall set the amount of child support based upon the most current child support guidelines established pursuant to subsection 4, including provisions for medical support pursuant to chapter 252E. The child support recovery unit shall, in submitting an application for modification, ~~or~~ adjustment, or alteration of an order for support, employ additional criteria and procedures as provided in chapter 252H and as established by rule.

Sec. 193. Section 598.21, subsection 10, Code 1997, is amended to read as follows:

10. Notwithstanding any other provision of law to the contrary, when an application for modification or adjustment of support is submitted by the child support recovery unit, the sole issues which may be considered by the court in that action are the application of the guidelines in establishing the amount of support pursuant to subsection 4, and provision for medical support under chapter 252E. When an application for a cost-of-living alteration of support is submitted by the child support recovery unit pursuant to section 252H.24, the sole issue which may be considered by the court in the action is the application of the cost-of-living alteration in establishing the amount of child support. Issues related to custody, visitation, or other provisions unrelated to support shall be considered only under a separate application for modification.

Sec. 194. Section 598.22, Code 1997, is amended to read as follows:

598.22 SUPPORT PAYMENTS — CLERK OF COURT — COLLECTION SERVICES CENTER — DEFAULTS — SECURITY.

Except as otherwise provided in section 598.22A, this section applies to all initial or modified orders for support entered under this chapter, chapter 234, 252A, 252C, 252F, 600B, or any other chapter of the Code. All orders or judgments entered under chapter 234, 252A, 252C, 252F, or 600B, or under this chapter or any other chapter which provide for temporary or permanent support payments shall direct the payment of those sums to the clerk of the district court or the collection services center in accordance with section 252B.14 for the use of the person for whom the payments have been awarded. Payments to persons other than the clerk of the district court and the collection services center do not satisfy the support obligations created by the orders or judgments, except as provided for trusts governed by the federal Retirement Equity Act of 1984, Pub. L. No. 98-397, for tax refunds or rebates in section 602.8102, subsection 47, or for dependent benefits paid to the child support obligee as the result of disability benefits awarded to the child support obligor under the federal Social Security Act. For trusts governed by the federal Retirement Equity Act of 1984, Pub. L. No. 98-397, the ~~assignment of~~ order for income withholding or notice of the order for income withholding shall require the payment of such sums to the alternate payee in accordance with the federal Act.

~~Upon a finding of previous failure to pay child support, the court may order the person obligated for permanent child support to make an assignment of periodic earnings or trust income to the clerk of court or the collection services center established pursuant to section 252B.13A for the use of the person for whom the assignment is ordered. The assignment of earnings ordered by the court shall not exceed the amounts set forth in 15 U.S.C. § 1673(b)(1982). The assignment is binding on the employer, trustee, or other payor of the funds two weeks after service upon that person of notice that the assignment has been made. The payor shall withhold from the earnings or trust income payable to the person obligated the amount specified in the assignment and shall transmit the payments to the clerk or the collection services center, as appropriate.~~ An income withholding order or notice of the order for income withholding shall be entered under the terms and conditions of chapter 252D. However, for trusts governed by the federal Retirement Equity Act of 1984, Pub. L. No. 98-397, the payor shall transmit the payments to the alternate payee in accordance with the federal Act. ~~The payor may deduct from each payment a sum not exceeding two dollars as a~~

~~reimbursement for costs. An employer who dismisses an employee due to the entry of an assignment order commits a simple misdemeanor.~~

~~An assignment of periodic income may also be entered under the terms and conditions of chapter 252D.~~

An order or judgment entered by the court for temporary or permanent support or for ~~an assignment~~ income withholding shall be filed with the clerk. The orders have the same force and effect as judgments when entered in the judgment docket and lien index and are records open to the public. The clerk or the collection services center, as appropriate, shall disburse the payments received pursuant to the orders or judgments within two working days of the receipt of the payments. All moneys received or disbursed under this section shall be entered in records kept by the clerk, or the collection services center, as appropriate, which shall be available to the public. The clerk or the collection services center shall not enter any moneys paid in the record book if not paid directly to the clerk or the center, as appropriate, except as provided for trusts and federal social security disability payments in this section, and for tax refunds or rebates in section 602.8102, subsection 47.

If the sums ordered to be paid in a support payment order are not paid to the clerk or the collection services center, as appropriate, at the time provided in the order or judgment, the clerk or the collection services center, as appropriate, shall certify a default to the court which may, on its own motion, proceed as provided in section 598.23.

Prompt payment of sums required to be paid under sections 598.11 and 598.21 is the essence of such orders or judgments and the court may act pursuant to section 598.23 regardless of whether the amounts in default are paid prior to the contempt hearing.

Upon entry of an order for support or upon the failure of a person to make payments pursuant to an order for support, the court may require the person to provide security, a bond, or other guarantee which the court determines is satisfactory to secure the payment of the support. Upon the person's failure to pay the support under the order, the court may declare the security, bond, or other guarantee forfeited.

For the purpose of enforcement, medical support is additional support which, upon being reduced to a dollar amount, may be collected through the same remedies available for the collection and enforcement of child support.

The clerk of the district court in the county in which the order for support is filed and to whom support payments are made pursuant to the order may require the person obligated to pay support to submit payments by bank draft or money order if the obligor submits an insufficient funds support payment to the clerk of the district court.

Sec. 195. NEW SECTION. 598.22B INFORMATION REQUIRED IN ORDER OR JUDGMENT.

This section applies to all initial or modified orders for paternity or support entered under this chapter, chapter 234, 252A, 252C, 252F, 252H, 252K, 600B, or under any other chapter, and any subsequent order to enforce such support orders.

1. All such orders or judgments shall direct each party to file with the clerk of court or the child support recovery unit, as appropriate, upon entry of the order, and to update as appropriate, information on location and identity of the party, including social security number, residential and mailing addresses, telephone number, driver's license number, and name, address, and telephone number of the party's employer. The order shall also include a provision that the information filed will be disclosed and used pursuant to this section. The party shall file the information with the clerk of court, or, if support payments are to be directed to the collection services center as provided in sections 252B.14 and 252B.16, with the child support recovery unit.

2. All such orders or judgments shall include a statement that in any subsequent child support action initiated by the child support recovery unit or between the parties, upon sufficient showing that diligent effort has been made to ascertain the location of such a party, the unit or the court may deem due process requirements for notice and service of

process to be met with respect to the party, upon delivery of written notice to the most recent residential or employer address filed with the clerk of court or unit pursuant to subsection 1.

3. a. Information filed pursuant to subsection 1 shall not be a public record.

b. Information filed with the clerk of court pursuant to subsection 1 shall be available to the child support recovery unit, upon request.

c. Information filed with the clerk of court shall be available, upon request, to a party unless the party filing the information also files an affidavit alleging the party has reason to believe that release of the information may result in physical or emotional harm to the affiant or child.

d. If the child support recovery unit is providing services pursuant to chapter 252B, information filed with the unit shall only be disclosed as provided in section 252B.9.

Sec. 196. Section 598.23, subsection 2, paragraph a, Code 1997, is amended by striking the paragraph and inserting in lieu thereof the following:

a. Withholds income under the terms and conditions of chapter 252D.

Sec. 197. Section 598.23, subsection 2, Code 1997, is amended by adding the following new paragraphs:

NEW PARAGRAPH. c. Directs the parties to provide contact with the child through a neutral party or neutral site or center.

NEW PARAGRAPH. d. Imposes sanctions or specific requirements or orders the parties to participate in mediation to enforce the joint custody provisions of the decree.

Sec. 198. Section 598.34, Code 1997, is amended to read as follows:

598.34 RECIPIENTS OF PUBLIC ASSISTANCE — ASSIGNMENT OF SUPPORT PAYMENTS.

~~A person entitled to periodic support payments pursuant to an order or judgment entered in an action for dissolution of marriage, who is also a recipient of public assistance, is deemed to have assigned the person's rights to the support payments, to the extent of public assistance received by the person, to the department of human services.~~ If public assistance is provided by the department of human services to or on behalf of a dependent child or a dependent child's caretaker, there is an assignment by operation of law to the department of any and all rights in, title to, and interest in any support obligation, payment, and arrearages owed to or for the child or caretaker not to exceed the amount of public assistance paid for or on behalf of the child or caretaker. The department shall immediately notify the clerk of court by mail when ~~a person entitled to support payments~~ such a child or caretaker has been determined to be eligible for public assistance. Upon notification by the department ~~that a person entitled to periodic support payments pursuant to this chapter is receiving public assistance~~, the clerk of court shall make a notation of the automatic assignment in the judgment docket and lien index. The notation constitutes constructive notice of the assignment. For public assistance approved and provided on or after July 1, 1997, if the applicant for public assistance is a person other than a parent of the child, the department shall send a notice by regular mail to the last known addresses of the obligee and obligor. The clerk of court shall forward support payments received pursuant to section 598.22, to which the department is entitled, to the department, which may secure support payments in default through other proceedings ~~provided for in chapter 252A or section 598.24~~.

The clerk shall furnish the department with copies of all orders or decrees ~~awarding~~ and temporary or domestic abuse orders addressing support ~~to parties having custody of minor children~~ when the parties are receiving public assistance or services are otherwise provided by the child support recovery unit pursuant to chapter 252B. Unless otherwise specified in the order, an equal and proportionate share of any child support awarded shall be presumed to be payable on behalf of each child subject to the order or judgment for purposes of an assignment under this section.

Sec. 199. Section 598.41, subsections 5 and 6, Code 1997, are amended to read as follows:

5. Joint physical care may be in the best interest of the child, but joint legal custody does not require joint physical care. When the court determines such action would be in the best interest of the child and would preserve the relationship between each parent and the child, joint physical care may be ~~given~~ awarded to both joint custodial parents or physical care may be awarded to one joint custodial parent ~~and not to the other~~. If one joint custodial parent is awarded physical care, the ~~court shall hold that~~ parent responsible for providing ~~for the best interest of~~ physical care shall support the other parent's relationship with the child. ~~However, physical~~ Physical care ~~given~~ awarded to one parent does not affect the other parent's rights and responsibilities as a joint legal custodian of the child. Rights and responsibilities as joint legal custodian of the child include, but are not limited to, equal participation in decisions affecting the child's legal status, medical care, education, extracurricular activities, and religious instruction.

6. When ~~the~~ a parent awarded legal custody or physical care of ~~the~~ a child cannot act as custodian or caretaker because the parent has died or has been judicially adjudged incompetent, the court shall award legal custody including physical care of the child to the surviving parent unless the court finds that such an award is not in the child's best interest.

Sec. 200. EFFECTIVE DATE. Sections 182, 183, 189, and 199 of this Division XII, being deemed of immediate importance, are effective upon enactment.

DIVISION XIII

Sec. 201. NEW SECTION. 252B.22 STATEWIDE SUPPORT LIEN INDEX.

1. The child support recovery unit created in chapter 252B shall establish a task force to assist in the development of a plan for a statewide support lien index. The unit, in consultation with the task force, may recommend additional statutory changes to the general assembly by January 1, 1999, to facilitate implementation of a statewide index.

2. The plan shall provide for an index pertaining to any person against whom a support judgment is entered, registered, or otherwise filed with a court in this state, against whom the unit is enforcing a support judgment, or against whom an interstate lien form promulgated by the United States secretary of health and human services is filed. The plan shall also provide for implementation and administration of an automated statewide support lien index, access to at least one location in every county, and the development of procedures to periodically update the lien information.

3. Members of the task force may include, but shall not be limited to, representatives, appointed by the respective entity, of the Iowa land title association, the Iowa realtors' association, the Iowa state bar association, the Iowa county recorders' association, the Iowa clerks of court association, the Iowa county treasurers' association, the Iowa automobile dealers' association, department of revenue and finance, state department of transportation, the office of the secretary of state, the office of the state court administrator, and other constituency groups and agencies which have an interest in a statewide support lien index to the record liens. Appointments are not subject to sections 69.16 and 69.16A. Vacancies shall be filled by the original appointment authority and in the manner of the original appointments.

Sec. 202. Section 624.23, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 4. In addition to other provisions relating to the attachment of liens, full faith and credit shall be afforded to liens arising for overdue support due on support judgments entered by a court or administrative agency of another state on real estate in this state owned by the obligor, for the period of ten years from the date of the judgment. Notwithstanding any other provisions of law, including but not limited to, the formatting of

forms or requirement of signatures, the lien attaches on the date that a notice of interstate lien promulgated by the United States secretary of health and human services is filed with the clerk of district court in the county where the real estate is located.

The lien shall apply only prospectively as of the date of attachment to all real estate the obligor may subsequently acquire and does not retroactively apply to the chain of title for any real estate that the obligor had disposed of prior to the date of attachment.

Sec. 203. NEW SECTION. 624.24A LIENS OF SUPPORT JUDGMENTS.

1. In addition to other provisions relating to the attachment of liens, support judgments in the appellate or district courts of this state, are liens upon the personal property titled in this state and owned by the obligor at the time of such rendition or subsequently acquired by the obligor.

2. The lien shall attach from the date of the notation on the title.

3. In addition to other provisions relating to the attachment of liens, full faith and credit shall be afforded to a lien arising for overdue support due on support judgments entered by a court or administrative agency of another state on personal property titled in this state and owned by the obligor. In this state a lien attaches on the date that a notice of interstate lien promulgated by the United States secretary of health and human services is filed with the clerk of district court in the county where the personal property is titled and the lien is noted on the title.

The lien shall apply only prospectively as of the date of attachment, shall attach to any titled personal property the obligor may subsequently acquire, and does not retroactively apply to the chain of title for any personal property that the obligor had disposed of prior to the date of attachment.

DIVISION XIV
PART A

Sec. 204. Section 600B.9, Code 1997, is amended to read as follows:

600B.9 TIME OF INSTITUTING PROCEEDINGS.

The proceedings may be instituted during the pregnancy of the mother or after the birth of the child, but, except with the consent of all parties, the trial shall not be held until after the birth of the child and shall be held no earlier than twenty days from the date the alleged father is served with notice of the action or, if blood or genetic tests are conducted, no earlier than ~~fifty~~ thirty days from the date the test results are filed with the clerk of the district court as provided under section 600B.41.

Sec. 205. Section 600B.18, Code 1997, is amended to read as follows:

600B.18 METHOD OF TRIAL.

The trial shall be by ~~jury, if either party demands a jury, otherwise by~~ the court, and shall be conducted as in other civil cases.

Sec. 206. Section 600B.23, Code 1997, is amended to read as follows:

600B.23 COSTS PAYABLE BY COUNTY.

If the ~~verdict of the jury at the trial or the~~ finding of the court be in favor of the defendant the costs of the action shall be paid by the county.

Sec. 207. Section 600B.24, subsection 2, Code 1997, is amended to read as follows:

2. Upon a finding ~~or verdict~~ of paternity against the defendant, the court shall enter a judgment against the defendant declaring paternity and ordering support of the child.

Sec. 208. Section 600B.25, Code 1997, is amended to read as follows:

600B.25 FORM OF JUDGMENT — CONTENTS OF SUPPORT ORDER — EVIDENCE — COSTS.

1. Upon a finding ~~or verdict~~ of paternity pursuant to section 600B.24, the court shall

establish the father's monthly support payment and the amount of the support debt accrued or accruing pursuant to section 598.21, subsection 4, until the child reaches majority or until the child finishes high school, if after majority. The court may order the father to pay amounts the court deems appropriate for the past support and maintenance of the child and for the reasonable and necessary expenses incurred by or for the mother in connection with prenatal care, the birth of the child, and postnatal care of the child and the mother, and other medical support as defined in section 252E.1. The court may award the prevailing party the reasonable costs of suit, including but not limited to reasonable attorney fees.

2. A copy of a bill for the costs of prenatal care or the birth of the child shall be admitted as evidence, without requiring third-party foundation testimony, and shall constitute prima facie evidence of amounts incurred.

Sec. 209. Section 600B.38, Code 1997, is amended to read as follows:

600B.38 RECIPIENTS OF PUBLIC ASSISTANCE — ASSIGNMENT OF SUPPORT PAYMENTS.

~~A person entitled to periodic support payments pursuant to an order or judgment entered in a paternity action under this chapter, who is also a recipient of public assistance, is deemed to have assigned the person's rights to the support payments, to the extent of public assistance received by the person, to the department of human services.~~ If public assistance is provided by the department of human services to or on behalf of a dependent child or a dependent child's caretaker, there is an assignment by operation of law to the department of any and all rights in, title to, and interest in any support obligation, payment, and arrearages owed to or on behalf of the child or caretaker, not to exceed the amount of public assistance paid for or on behalf of the child or caretaker. The department shall immediately notify the clerk of court by mail when ~~a person entitled to support payments~~ such a child or caretaker has been determined to be eligible for public assistance. Upon notification by the department ~~that a person entitled to periodic support payments pursuant to this chapter is receiving public assistance~~, the clerk of court shall make a notation of the automatic assignment in the judgment docket and lien index. The notation constitutes constructive notice of the assignment. For public assistance approved and provided on or after July 1, 1997, if the applicant for public assistance is a person other than a parent of the child, the department shall send notice by regular mail to the last known addresses of the obligee and obligor. The clerk of court shall forward support payments received pursuant to section 600B.25, to which the department is entitled, to the department, which may secure support payments in default through other proceedings ~~prescribed in chapter 252A or section 600B.37~~. The clerk shall furnish the department with copies of all orders or decrees ~~awarding~~ and temporary or domestic abuse orders addressing support ~~to parties having custody of minor children~~ when the parties are receiving public assistance or services are otherwise provided by the child support recovery unit. Unless otherwise specified in the order, an equal and proportionate share of any child support awarded shall be presumed to be payable on behalf of each child subject to the order or judgment for purposes of an assignment under this section.

Sec. 210. Section 600B.41, subsections 2 and 4, Code 1997, are amended to read as follows:

2. If a blood or genetic test is required, the court shall direct that inherited characteristics 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. Appropriate testing procedures shall include any genetic test generally acknowledged as reliable by accreditation bodies designated by the secretary of the United States department of health and human services and which are performed by a laboratory approved by such an accreditation body.

4. A verified expert's report shall be admitted at trial. A copy of a bill for blood or genetic testing shall be admitted as evidence, without requiring third-party foundation testimony, and shall constitute prima facie evidence of amounts incurred for blood or genetic testing.

Sec. 211. Section 600B.41, subsection 5, paragraph a, unnumbered paragraph 1, Code 1997, is amended to read as follows:

Test results which show a statistical probability of paternity are admissible. To challenge the test results, a party shall file a notice of the challenge, with the court, ~~within~~ no later than twenty days ~~of~~ after the filing of the expert's report with the clerk of the district court~~, or, if a court hearing is scheduled to resolve the issue of paternity, no later than thirty days before the original court hearing date~~.

Sec. 212. Section 600B.41A, subsection 3, paragraph e, subparagraph (1), Code 1997, is amended to read as follows:

(1) Unless otherwise specified pursuant to subsection 2 or 8, blood or genetic testing shall be conducted ~~in all cases prior to the determination by the court of the best interest of the child~~ in an action to overcome the establishment of paternity.

Sec. 213. Section 600B.41A, subsection 3, paragraph f, Code 1997, is amended to read as follows:

f. The court finds ~~that~~ all of the following:

(1) That the conclusion of the expert as disclosed by the evidence based upon blood or genetic testing demonstrates that the established father is not the biological father of the child.

(2) If paternity was established pursuant to section 252A.3A, the signed affidavit was based on fraud, duress, or material mistake of fact, as shown by the petitioner.

Sec. 214. Section 600B.41A, subsection 3, paragraph g, Code 1997, is amended by striking the paragraph.

Sec. 215. Section 600B.41A, subsections 4 and 6, Code 1997, are amended by striking the subsections and inserting in lieu thereof the following:

4. If the court finds that the establishment of paternity is overcome, in accordance with all of the conditions prescribed, the court shall enter an order which provides all of the following:

a. That the established father is relieved of any and all future support obligations owed on behalf of the child from the date that the order determining that the established father is not the biological father is filed.

b. That any unpaid support due prior to the date the order determining that the established father is not the biological father is filed, is satisfied.

6. a. If the court determines that test results conducted in accordance with section 600B.41 or chapter 252F exclude the established father as the biological father, the court may dismiss the action to overcome paternity and preserve the paternity determination only if all of the following apply:

(1) The established father requests that paternity be preserved and that the parent-child relationship, as defined in section 600A.2, be continued.

(2) The court finds that it is in the best interest of the child to preserve paternity. In determining the best interest of the child, the court shall consider all of the following:

(a) The age of the child.

(b) The length of time since the establishment of paternity.

(c) The previous relationship between the child and the established father, including but not limited to the duration and frequency of any time periods during which the child and established father resided in the same household or engaged in a parent-child relationship as defined in section 600A.2.

(d) The possibility that the child could benefit by establishing the child's actual paternity.

(e) Additional factors which the court determines are relevant to the individual situation.

(3) The biological father is a party to the action and does not object to termination of the

biological father's parental rights, or the established father petitions the court for termination of the biological father's parental rights and the court grants the petition pursuant to chapter 600A.

b. If the court dismisses the action to overcome paternity and preserves the paternity determination under this subsection, the court shall enter an order establishing that the parent-child relationship exists between the established father and the child, and including establishment of a support obligation pursuant to section 598.21 and provision of custody and visitation pursuant to section 598.41.

Sec. 216. Section 600B.41A, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. a. For any order entered under this section on or before the effective date of this subsection in which the court's determination excludes the established father as the biological father but dismisses the action to overcome paternity and preserves paternity, the established father may petition the court to issue an order which provides all of the following:

(1) That the parental rights of the established father are terminated.

(2) That the established father is relieved of any and all future support obligations owed on behalf of the child from the date the order under this subsection is filed.

b. The established father may proceed pro se under this subsection. The supreme court shall prescribe standard forms for use under this subsection and shall distribute the forms to the clerks of the district court.

c. If a petition is filed pursuant to this section and notice is served on any parent of the child not filing the petition and any assignee of the support obligation, the court shall grant the petition.

Sec. 217. Section 600B.30, Code 1997, is repealed.

Sec. 218. Sections 214, 215, and 216 of this Act, being deemed of immediate importance, take effect upon enactment.

PART B

Sec. 219. Section 600B.41A, subsection 2, paragraph a, Code 1997, is amended to read as follows:

a. A paternity determination made in or by a foreign jurisdiction ~~and, notwithstanding section 252A.20,~~ or a paternity determination which has been made in or by a foreign jurisdiction and registered in this state in accordance with section 252A.18 or chapter 252K.

Sec. 220. Section 600B.34, Code 1997, is repealed.

Sec. 221. EFFECTIVE DATE. Part B, sections 219 and 220 of this Act, are effective January 1, 1998.

DIVISION XV

Sec. 222. Section 96.3, subsection 9, paragraph c, Code 1997, is amended to read as follows:

c. However, if the department is notified of ~~an assignment of~~ income withholding by the child support recovery unit under chapter 252D or section 598.22 or 598.23 or if income is garnisheed by the child support recovery unit under chapter 642 and an individual's benefits are condemned to the satisfaction of the child support obligation being enforced by the child support recovery unit, the department shall deduct and withhold from the individual's benefits that amount required through legal process.

Notwithstanding section 642.2, subsections 2, 3, 6, and 7, which restrict garnishments under chapter 642 to wages of public employees, the department may be garnisheed under

chapter 642 by the child support recovery unit established in section 252B.2, pursuant to a judgment for child support against an individual eligible for benefits under this chapter.

Notwithstanding section 96.15, benefits under this chapter are not exempt from income ~~assignment~~ withholding, garnishment, attachment, or execution if ~~assigned to~~ withheld for or garnisheed by the child support recovery unit, established in section 252B.2, or if an ~~assignment~~ income withholding order or notice of the income withholding order under section 598.22 or 598.23 is being enforced by the child support recovery unit to satisfy the child support obligation of an individual who is eligible for benefits under this chapter.

Sec. 223. Section 144.13, subsection 2, Code 1997, is amended to read as follows:

2. If the mother was married ~~either~~ at the time of conception, ~~or~~ birth, or at any time during the period between conception and birth, the name of the husband shall be entered on the certificate as the father of the child unless paternity has been determined otherwise by a court of competent jurisdiction, in which case the name of the father as determined by the court shall be entered by the department.

Sec. 224. Section 144.13, subsection 3, Code 1997, is amended to read as follows:

3. If the mother was not married ~~either~~ at the time of conception, ~~or~~ birth, and at any time during the period between conception and birth, the name of the father shall not be entered on the certificate of birth ~~without the written consent of the mother and the person to be named as the father~~, unless a determination of paternity has been made pursuant to section 252A.3, in which case the name of the father as established shall be entered by the department. If the father is not named on the certificate of birth, no other information about the father shall be entered on the certificate.

Sec. 225. Section 144.13, subsection 4, paragraph c, Code 1997, is amended to read as follows:

c. A copy of the affidavit of paternity if filed pursuant to section 252A.3A and any subsequent recision form which rescinds the affidavit.

Sec. 226. Section 144.26, Code 1997, is amended to read as follows:

144.26 DEATH CERTIFICATE.

1. A death certificate for each death which occurs in this state shall be filed ~~with the county~~ as directed by the state registrar ~~of the county in which the death occurs,~~ within three days after the death and prior to final disposition, and shall be registered by the county registrar if it has been completed and filed in accordance with this chapter. A death certificate shall include the social security number, if provided, of the deceased person. All information including the certifying physician's name shall be typewritten.

2. All information included on a death certificate may be provided as mutually agreed upon by the division and the child support recovery unit, including by automated exchange.

~~If the place of death is unknown, a death certificate shall be filed in the county in which a dead body is found within three days after the body is found.~~

3. The county in which a dead body is found is the county of death. If death occurs in a moving conveyance, ~~a death certificate shall be filed in~~ the county in which the dead body is first removed from the conveyance is the county of death.

~~If a person dies outside of the county of the person's residence, the state registrar shall send a copy of the death certificate to the county registrar of the county of the decedent's residence. The county registrar shall record the death certificate in the same records in which death certificates of persons who died within the county are recorded.~~

Sec. 227. Section 234.39, subsections 1, 2, and 3, Code 1997, are 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 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, or under chapter 252H.

2. For an individual who is served by the department of human services under section 234.35, and is not subject to a dispositional order of the juvenile court requiring the provision of foster care, the department shall determine the obligation of the individual's parent or guardian pursuant to chapter 252C and in accordance with the child support guidelines prescribed under section 598.21, subsection 4. However, the department may adjust the prescribed obligation for expenses related to goals and objectives of a case permanency plan as defined under section 237.15. An obligation determined under this subsection may be modified only in accordance with conditions under section 598.21, subsection 8, or under chapter 252H.

3. A person entitled to periodic support payments pursuant to an order or judgment entered in any action for support, who also is or has a child receiving foster care services, is deemed to have assigned to the department current and accruing support payments attributable to the child effective as of the date the child enters foster care placement, to the extent of expenditure of foster care funds. The department shall notify the clerk of the district court when a child entitled to support payments is receiving foster care services pursuant to chapter 234. Upon notification by the department that a child entitled to periodic support payments is receiving foster care services, the clerk of the district court shall make a notation of the automatic assignment in the judgment docket and lien index. The notation constitutes constructive notice of assignment. The clerk of court shall furnish the department with copies of all orders and decrees awarding support when the child is receiving foster care services. At the time the child ceases to receive foster care services, the assignment of support shall be automatically terminated. Unpaid support accrued under the assignment of support rights during the time that the child was in foster care remains due to the department up to the amount of unreimbursed foster care funds expended. The department shall notify the clerk of court of the automatic termination of the assignment. Unless otherwise specified in the support order, an equal and proportionate share of any child support awarded shall be presumed to be payable on behalf of each child subject to the order or judgment for purposes of an assignment under this section.

Sec. 228. Section 236.5, subsection 2, paragraph e, Code 1997, is amended to read as follows:

e. ~~That~~ Unless prohibited pursuant to 28 U.S.C. § 1738B, that the defendant pay the clerk a sum of money for the separate support and maintenance of the plaintiff and children under eighteen.

Sec. 229. Section 236.10, Code 1997, is amended to read as follows:

236.10 CONFIDENTIALITY OF RECORDS.

The file in a domestic abuse case shall be sealed by the clerk of court when it is complete and after the time for appeal has expired. However, the clerk shall open the file upon application to and order of the court for good cause shown or upon request of the child support recovery unit.

Sec. 230. Section 239.3, Code 1997, is amended to read as follows:

239.3 APPLICATION FOR ASSISTANCE — ASSIGNMENT OF SUPPORT RIGHTS.

1. An application for assistance shall be made to the department. The application shall be in writing or reduced to writing in the manner and upon the form prescribed by the administrator. The application shall be made by the specified relative with whom the dependent child resides or will reside, and shall contain the information required on the application form. One application may be made for several children of the same family if they reside or will reside with the same specified relative.

2. An assignment of support rights is created by any of the following:

a. An applicant for assistance under this chapter and other persons covered by an application are deemed to have assigned to the department of human services at the time of application all rights to periodic support payments to the extent of public assistance received by the applicant and other persons covered by the application.

b. A determination that a child or another person covered by an application is eligible for assistance under this chapter creates an assignment by operation of law to the department of all rights to periodic support payments not to exceed the amount of public assistance received by the child and other persons covered by the application.

3. An assignment takes effect upon determination that an applicant or another person covered by an application is eligible for assistance under this chapter, applies to both current and accrued support obligations, and terminates when an applicant or another person covered by an application ceases to receive assistance under this chapter, except with respect to the amount of unpaid support obligations accrued under the assignment. If an applicant or another person covered by an application ceases to receive assistance under this chapter and the applicant or other person covered by the application receives a periodic support payment subject to limitations of federal law, the department of human services is entitled only to that amount of the periodic support payment above the current periodic support obligation.

Sec. 231. Section 421.17, subsection 21, unnumbered paragraph 1, Code 1997, 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 assigned to the department of human services, or which the child support recovery unit is otherwise attempting to collect ~~on behalf of an individual not eligible as a public assistance recipient~~, or which the foster care recovery unit of the department of human services is attempting to collect on behalf of a child receiving foster care provided by the department of human services.

Sec. 232. Section 535.3, subsection 3, Code 1997, is amended to read as follows:

3. Interest on periodic payments for child, spousal, or medical support shall not accrue until thirty days after the payment becomes due and owing. Additionally, interest on these payments shall not accrue on amounts being paid through income withholding pursuant to chapter 252D for the time these payments are unpaid solely because the date on which the payor of income withholds income based upon the payor's regular pay cycle varies from the provisions of the support order.

Sec. 233. NEW SECTION. 595.3A APPLICATION FORM AND LICENSE, INCLUSION OF ABUSE PREVENTION LANGUAGE.

In addition to any other information contained in an application form for a marriage

license and a marriage license, the application form and license shall contain the following statement in bold print:

"The laws of this state affirm your right to enter into this marriage and at the same time to live within the marriage under the full protection of the laws of this state with regard to violence and abuse. Neither of you is the property of the other. Assault, sexual abuse, and willful injury of a spouse or other family member are violations of the laws of this state and are punishable by the state."

Sec. 234. Section 595.4, unnumbered paragraph 1, Code 1997, is amended to read as follows:

Previous to the issuance of any license to marry, the parties desiring the license shall sign and file a verified application with the 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 county registrar in the county in which the license is to be issued. The application shall include the social security number of each applicant and shall set forth at least one affidavit of some competent and disinterested person stating the facts as to age and qualification of the parties. Upon the filing of the application for a license to marry, the county registrar shall file the application in a record kept for that purpose and shall take all necessary steps to ensure the confidentiality of the social security number of each applicant. All information included on an application may be provided as mutually agreed upon by the division of records and statistics and the child support recovery unit, including by automated exchange.

Sec. 235. Section 614.1, subsection 6, Code 1997, is amended to read as follows:

6. JUDGMENTS OF COURTS OF RECORD. Those founded on a judgment of a court of record, whether of this or of any other of the United States, or of the federal courts of the United States, within twenty years, except that a time period limitation shall not apply to an action to recover a judgment for child support, spousal support, or a judgment of distribution of marital assets.

Sec. 236. Section 626A.2, subsection 2, Code 1997, is amended to read as follows:

2. ~~In a~~ A proceeding to enforce a child support order~~, the law of this state shall apply except as follows:~~ is governed by 28 U.S.C. § 1738B.

~~a. In interpreting a child support order, a court shall apply the law of the state of the court that issued the order.~~

~~b. In an action to enforce a child support order, a court shall apply the statute of limitations of this state or the state of the court that issued the order, whichever statute provides the longer period of limitations.~~

Sec. 237. NEW SECTION. 627.6A EXEMPTIONS FOR SUPPORT — PENSIONS AND SIMILAR PAYMENTS.

1. Notwithstanding the provisions of section 627.6, a debtor shall not be permitted to claim exemptions with regard to payment or a portion of payment under a pension, annuity, individual retirement account, profit-sharing plan, universal life insurance policy, or similar plan or contract due to illness, disability, death, age, or length of service for child, spousal, or medical support.

2. In addition to subsection 1, if another provision of law otherwise provides that payments, income, or property are subject to attachment for child, spousal, or medical support, those provisions shall supersede section 627.6.

Sec. 238. Section 627.11, Code 1997, is amended to read as follows:

627.11 EXCEPTION UNDER DECREE FOR SPOUSAL SUPPORT.

If the party in whose favor the order, judgment, or decree for the support of a spouse was rendered has not remarried, the personal earnings of the debtor are not exempt from an order, judgment, or decree for temporary or permanent support, as defined in section ~~252D.1~~ 252D.16A, of a spouse, nor from an installment of an order, judgment, or decree for the support of a spouse.

Sec. 239. Section 627.12, Code 1997, is amended to read as follows:

627.12 EXCEPTION UNDER DECREE FOR CHILD SUPPORT.

The personal earnings of the debtor are not exempt from an order, judgment, or decree for the support, as defined in section ~~252D.1~~ 252D.16A, of a child, nor from an installment of an order, judgment, or decree for the support of a child.

Sec. 240. Section 642.2, subsections 1 and 5, Code 1997, are amended to read as follows:

1. The state of Iowa, and all of its governmental subdivisions and agencies, may be ~~garnisheed~~ garnished, only as provided in this section and the consent of the state and of its governmental subdivisions and agencies to those garnishment proceedings is hereby given. However, notwithstanding the requirements of this chapter, income withholding notices shall be served on the state, and all of its governmental subdivisions and agencies, pursuant to the requirements of chapter 252D.

5. ~~Service~~ Except as provided in subsection 1, service upon the garnishee shall be made by serving an original notice with a copy of the judgment against the defendant, and with a copy of the questions specified in section 642.5, by certified mail or by personal service upon the attorney general, county attorney, city attorney, secretary of the school district, or legal counsel of the appropriate governmental unit. The garnishee shall be required to answer within thirty days following receipt of the notice.

Sec. 241. PUBLIC ASSISTANCE — ACCRUED SUPPORT AND ARREARAGES — REVIEW AND RECOMMENDATIONS. The child support recovery unit shall review and make recommendations to the general assembly on or before February 1, 1998, regarding the establishment of an accrued support debt which is based upon receipt of public assistance and the determination of the amount to be withheld as payment of arrearages under an income withholding order.

DIVISION XVI
SURCHARGE

Sec. 242. Section 252B.9, subsection 2, paragraph b, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (4) Records relating to the administration, collection, and enforcement of surcharges pursuant to section 252B.22 which are recorded by the unit or a collection entity shall be confidential records except that information, as necessary for support collection and enforcement, may be provided to other governmental agencies, the obligor or the resident parent, or a collection entity under contract with the unit unless otherwise prohibited by the federal law. A collection entity under contract with the unit shall use information obtained for the sole purpose of fulfilling the duties required under the contract, and shall disclose any records obtained by the collection entity to the unit for use in support establishment and enforcement.

Sec. 243. Section 252B.13A, Code 1997, is amended to read as follows:

252B.13A COLLECTION SERVICES CENTER.

The department shall establish within the unit a collection services center for the receipt and disbursement of support payments as defined in section 598.1 as required for orders by section 252B.14. For purposes of this section, support payments do not include attorney fees, court costs, or property settlements. The center may also receive and disburse surcharges as provided in section 252B.22.

Sec. 244. NEW SECTION. 252B.22 SURCHARGE.

1. A surcharge shall be due and payable by the obligor on a support arrearage identified as difficult to collect and referred by the unit on or after January 1, 1998, to a collection entity under contract with the unit or other state entity. The amount of the surcharge shall be a percent of the amount of the support arrearage referred to the collection entity and shall be

specified in the contract with the collection entity. For the purpose of this chapter, a "collection entity" includes but is not limited to a state agency, including the central collection unit of the department of revenue and finance, or a private collection agency. Use of a collection entity is in addition to any other legal means by which support payments may be collected. The unit shall continue to use other enforcement actions, as appropriate.

2. a. Notice that a surcharge may be assessed on a support arrearage referred to a collection entity pursuant to this section shall be provided to an obligor in accordance with one of the following as applicable:

(1) In the order establishing or modifying the support obligation. The unit or district court shall include notice in any new or modified support order issued on or after July 1, 1997.

(2) Through notice sent by the unit by regular mail to the last known address of the support obligor.

b. The notice shall also advise that any appropriate information may be provided to a collection entity for purposes of administering and enforcing the surcharge.

3. Arrearages submitted for referral and surcharge pursuant to this section shall meet all of the following criteria:

a. The arrearages owed shall be based on a court or administrative order which establishes the support obligation.

b. The arrearage is due for a case in which the unit is providing services pursuant to this chapter and one for which the arrearage has been identified as difficult to collect by the unit.

c. The obligor was provided notice pursuant to subsection 2 at least fifteen days prior to sending the notice of referral pursuant to subsection 4.

4. The unit shall send notice of referral to the obligor by regular mail to the obligor's last known address, with proof of service completed according to R.C.P. § 82, at least thirty days prior to the date the arrearage is referred to the collection entity. The notice shall inform the obligor of all of the following:

a. The arrearage will be referred to a collection entity.

b. Upon referral, a surcharge is due and payable by the obligor.

c. The amount of the surcharge.

d. That the obligor may avoid referral by paying the amount of the arrearage to the collection services center within twenty days of the date of notice of referral.

e. That the obligor may contest the referral by submitting a written request for review of the unit. The request shall be received by the unit within twenty days of the date of the notice of referral.

f. The right to contest the referral is limited to a mistake of fact, which includes a mistake in the identity of the obligor, a mistake as to fulfillment of the requirements for referral under this subsection, or a mistake in the amount of the arrearages.

g. The unit shall issue a written decision following a requested review.

h. Following the issuance of a written decision by the unit denying that a mistake of fact exists, the obligor may request a hearing to challenge the surcharge by sending a written request for a hearing to the office of the unit which issued the decision. The request shall be received by the office of the unit which issued the decision within ten days of the unit's written decision. The only grounds for a hearing shall be mistake of fact. Following receipt of the written request, the unit which receives the request shall certify the matter for hearing in the district court in the county in which the underlying support order is filed.

i. The address of the collection services center for payment of the arrearages.

5. If the obligor pays the amount of arrearage within twenty days of the date of the notice of referral, referral of the arrearage to a collection entity shall not be made.

6. If the obligor requests a review or court hearing pursuant to this section, referral of the arrearages shall be stayed pending the decision of the unit or the court.

7. Actions of the unit under this section 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. However, the department shall establish, by rule pursuant to chapter 17A, an internal process to provide an additional review by the administrator of the child support recovery unit or the administrator's designee.

8. If an obligor does not pay the amount of the arrearage, does not contest the referral, or if following the unit's review and any court hearing the unit or court does not find a mistake of fact, the arrearages shall be referred to a collection entity. Following the review or hearing, if the unit or court finds a mistake in the amount of the arrearage, the arrearages shall be referred to the collection entity in the appropriate arrearage amount. For arrearages referred to a collection entity, the obligor shall pay a surcharge equal to a percent of the amount of the support arrearage due as of the date of the referral. The surcharge is in addition to the arrearages and any other fees or charges owed, and shall be enforced by the collection entity as provided under section 252B.5. Upon referral to the collection entity, the surcharge is an automatic judgment against the obligor.

9. The director or the director's designee may file a notice of the surcharge with the clerk of the district court in the county in which the underlying support order is filed. Upon filing, the clerk shall enter the amount of the surcharge on the lien index and judgment docket.

10. Following referral of a support arrearage to a collection entity, the surcharge shall be due and owing and enforceable by a collection entity or the unit notwithstanding satisfaction of the support obligation or whether the collection entity is enforcing a support arrearage. However, the unit may waive payment of all or a portion of the surcharge if waiver will facilitate the collection of the support arrearage.

11. All surcharge payments shall be received and disbursed by the collection services center.

12. a. A payment received by the collection services center which meets all the following conditions shall be allocated as specified in paragraph "b":

(1) The payment is for a case in which arrearages have been referred to a collection entity.

(2) A surcharge is assessed on the arrearages.

(3) The payment is collected under the provisions of the contract with the collection entity.

b. A payment meeting all of the conditions in paragraph "a" shall be allocated between support and costs and fees, and the surcharge according to the following formula:

(1) The payment shall be divided by the sum of one hundred percent plus the percent specified in the contract.

(2) The quotient shall be the amount allocated to the support arrearage and other fees and costs.

(3) The difference between the dividend and the quotient shall be the amount allocated to the surcharge.

13. Any computer or software programs developed and any records used in relation to a contract with a collection entity remain the property of the department.

Approved May 21, 1997

CHAPTER 176

CHILD ABUSE INFORMATION AND CENTRAL REGISTRY

H.F. 698

AN ACT relating to child abuse information and the central registry for child abuse information maintained by the department of human services and providing an effective date.

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

DIVISION I
CHILD ABUSE REGISTRY

Section 1. Section 232.68, unnumbered paragraph 1, Code 1997, is amended to read as follows:

The definitions in section 235A.13 are applicable to this part 2 of division III. As used in sections 232.67 through 232.77 and 235A.12 through 235A.23, unless the context otherwise requires:

Sec. 2. Section 232.70, subsection 4, Code 1997, is amended to read as follows:

4. ~~The~~ Upon receipt of a report the department ~~of human services~~ shall do all of the following:

a. Immediately, upon receipt of an oral report, make a determination as to whether the report constitutes an allegation of child abuse as defined in section 232.68~~;~~.

~~b. Make a report to the central registry if the oral report has been determined to constitute a child abuse allegation;~~

~~c. Forward a copy of the written report to the registry; and~~

~~d.~~ b. Notify the appropriate county attorney of the receipt of ~~any~~ the report.

Sec. 3. Section 232.71, subsections 7, 8, and 9, Code 1997, are amended to read as follows:

7. The department, upon completion of its investigation, shall make a preliminary report of its investigation ~~as required~~ containing the information required by subsection 2. A copy of this report shall be transmitted to juvenile court within four regular working days after the department initially receives the abuse report unless the juvenile court grants an extension of time for good cause shown. If the preliminary report is not a complete report, a complete report shall be filed within ten working days of the receipt of the abuse report, unless the juvenile court grants an extension of time for good cause shown. If required under section 232.71D, the report of the investigation shall be placed in the central registry. The department shall notify a subject of the report of the result of the investigation, of the subject's right to correct the ~~information~~ report data and disposition data pursuant to section 235A.19, and of the procedures to correct the ~~information~~ data. The juvenile court shall notify the ~~registry~~ department of any action it takes with respect to a suspected case of child abuse.

~~8. The department of human services shall transmit a copy of the report of its investigation, including actions taken or contemplated, to the registry. The department of human services shall make periodic follow-up reports thereafter in a manner prescribed by the registry so that the registry is kept up-to-date and fully informed concerning the handling of a suspected case of child abuse.~~

~~9~~ 8. The department ~~of human services~~ shall also transmit a copy of the report of its investigation to the county attorney. The county attorney shall notify the ~~registry~~ department office which transmitted the report to the county attorney of any actions or contemplated actions with respect to a ~~suspected~~ alleged case of child abuse so that the ~~registry~~ department office is kept up-to-date and fully informed concerning the handling of ~~such a~~ the case. If the report was placed in the central registry in accordance with section 232.71D,

the department office shall notify the registry of any actions or contemplated actions by the county attorney concerning the report.

Sec. 4. Section 232.71A, subsection 7, Code 1997, is amended by striking the subsection.

Sec. 5. NEW SECTION. 232.71D FOUNDED CHILD ABUSE — CENTRAL REGISTRY.

1. The requirements of this section shall apply to child abuse information in the report of an investigation performed in accordance with section 232.71 or in the report of an assessment performed in accordance with section 232.71A.

2. If the alleged child abuse meets the definition of child abuse under section 232.68, subsection 2, paragraph "a" or "d", and the department determines the injury or risk of harm to the child was minor and isolated and is unlikely to reoccur, the names of the child and the alleged perpetrator of the child abuse and any other child abuse information shall not be placed in the central registry as a case of founded child abuse.

3. Except as otherwise provided in section 232.68, subsection 2, paragraph "d", regarding parents legitimately practicing religious beliefs, the names of the child and the alleged perpetrator and the report data and disposition data shall be placed in the central registry as a case of founded child abuse under any of the following circumstances:

a. The case was referred for juvenile or criminal court action as a result of the acts or omissions of the alleged perpetrator or a criminal or juvenile court action was initiated by the county attorney or juvenile court within twelve months of the date of the department's report concerning the case, in which the alleged perpetrator was convicted of a crime involving the child or there was a delinquency or child in need of assistance adjudication.

b. The department determines the acts or omissions of the alleged perpetrator meet the definition of child abuse under section 232.68, subsection 2, paragraph "a", involving nonaccidental physical injury suffered by the child and the injury was not minor or was not isolated or is likely to reoccur.

c. The department determines the acts or omissions of the alleged perpetrator meet the definition of child abuse and the department has previously determined within the eighteen-month period preceding the issuance of the department's report that the acts or omissions of the alleged perpetrator in a prior case met the definition of child abuse.

d. The department determines the acts or omissions of the alleged perpetrator meet the definition of child abuse under section 232.68, subsection 2, paragraph "b", involving mental injury.

e. The department determines the acts or omissions meet the definition of child abuse under section 232.68, subsection 2, paragraph "c", and the alleged perpetrator of the acts or omissions is age fourteen or older. However, the juvenile court may order the removal from the central registry of the name of an alleged perpetrator placed in the registry pursuant to this paragraph who is age fourteen through seventeen upon a finding of good cause. The name of an alleged perpetrator who is less than age fourteen shall not be placed in the central registry pursuant to this paragraph.

f. The department determines the acts or omissions of the alleged perpetrator meet the definition of child abuse under section 232.68, subsection 2, paragraph "d", involving failure to provide care necessary for the child's health and welfare, and any injury to the child or risk to the child's health and welfare was not minor or was not isolated or is likely to reoccur, in any of the following ways:

(1) Failure to provide adequate food and nutrition.
(2) Failure to provide adequate shelter.
(3) Failure to provide adequate health care.
(4) Failure to provide adequate mental health care.
(5) Gross failure to meet emotional needs.
(6) Failure to respond to an infant's life-threatening condition.

g. The department determines the acts or omissions of the alleged perpetrator meet the definition of child abuse under section 232.68, subsection 2, paragraph "e", involving prostitution.

h. The department determines the acts or omissions of the alleged perpetrator meet the definition of child abuse under section 232.68, subsection 2, paragraph "f", involving the presence of an illegal drug.

i. The alleged abuse took place in any of the following licensed, registered, unregistered, or regulated facilities or services:

(1) Substance abuse program licensed under chapter 125.

(2) Hospital licensed under chapter 135B.

(3) Health care facility or residential care facility licensed under chapter 135C.

(4) Psychiatric medical institution licensed under chapter 135H.

(5) Medical assistance home and community-based waiver for persons with mental retardation residential program regulated by the department of human services and the department of inspections and appeals.

(6) An institution controlled by the department and enumerated in section 218.1.

(7) Mental health center, juvenile shelter care facility, or juvenile detention facility.

(8) Child foster care licensee under chapter 237.

(9) Child day care provider under chapter 237A.

(10) Public or private school which provides overnight care.

(11) The Iowa braille and sight saving school and the Iowa school for the deaf controlled by the state board of regents.

j. The department determines the alleged perpetrator of the child abuse will continue to pose a danger to the child who is the subject of the report of child abuse or to another child with whom the alleged perpetrator may come into contact.

4. If report data and disposition data are placed in the central registry in accordance with this section, the department shall make periodic follow-up reports in a manner prescribed by the registry so that the registry is kept up-to-date and fully informed concerning the case.

5. a. The confidentiality of all of the following shall be maintained in accordance with section 217.30:

(1) Investigation or assessment data.

(2) Information pertaining to an allegation of child abuse for which there was no investigation or assessment performed.

(3) Information pertaining to an allegation of child abuse which was determined to not meet the definition of child abuse. Individuals identified in section 235A.15, subsection 4, are authorized to have access to such information under section 217.30.

(4) Report data and disposition data pertaining to an allegation of child abuse determined to meet the definition of child abuse which is not subject to placement in the central registry. Individuals identified in section 235A.15, subsection 3, are authorized to have access to such data under section 217.30.

b. The confidentiality of report data and disposition data pertaining to an allegation of child abuse determined to meet the definition of child abuse which is subject to placement in the central registry, shall be maintained as provided in chapter 235A.

Sec. 6. Section 235A.13, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. "Department" means the department of human services.

Sec. 7. Section 235A.13, subsections 1, 6, and 8, Code 1997, are amended to read as follows:

1. "Child abuse information" means any or all of the following data maintained by the department in a manual or automated data storage system and individually identified:

a. Report data.

b. Investigation or assessment data.

c. Disposition data.

6. "Investigation or assessment data" means any of the following information pertaining to the department's evaluation of ~~report data, including~~ a family:

~~a. Additional information as to the nature, extent and cause of the injury, and the identity of persons responsible therefor.~~

~~b. The names and conditions of other children in the home.~~

~~c. The child's home environment and relationships with parents or others responsible for the child's care.~~

a. Identification of the strengths and needs of the child, and of the child's parent, home, and family.

b. Identification of services available from the department and informal and formal services and other support available in the community to meet identified strengths and needs.

8. "Report data" means any of the following information pertaining to ~~any occasion involving or reasonably believed to involve~~ an investigation or assessment of an allegation of child abuse~~, including~~ in which the department has determined the alleged child abuse meets the definition of child abuse:

a. The name and address of the child and the child's parents or other persons responsible for the child's care.

b. The age of the child.

c. The nature and extent of the injury, including evidence of any previous injury.

d. ~~Any other~~ Additional information ~~believed to be helpful in establishing~~ as to the nature, extent, and cause of the injury, and the identity of the person or persons alleged to be responsible ~~therefor~~ for the injury.

e. The names and conditions of other children in the child's home.

f. Any other information believed to be helpful in establishing the information in paragraph "d".

Sec. 8. Section 235A.14, subsection 6, Code 1997, is amended to read as follows:

6. The central registry shall include ~~but not be limited to~~ report data~~, investigation data~~ and disposition data which is subject to placement in the central registry under section 232.71D. The central registry shall not include assessment data.

Sec. 9. Section 235A.15, Code 1997, is amended to read as follows:

235A.15 AUTHORIZED ACCESS — PROCEDURES INVOLVING OTHER STATES.

1. Notwithstanding chapter 22, the confidentiality of all child abuse information shall be maintained, except as specifically provided by subsection 2, 3, or 4.

2. Access to ~~child abuse information other than unfounded child abuse information is~~ report data and disposition data subject to placement in the central registry pursuant to section 232.71D are authorized only to the following persons or entities:

a. Subjects of a report as follows:

(1) To a child named in a report as a victim of abuse or to the child's attorney or guardian ad litem.

(2) To a parent or to the attorney for the parent of a child named in a report as a victim of abuse.

(3) To a guardian or legal custodian, or that person's attorney, of a child named in a report as a victim of abuse.

(4) To a person or the attorney for the person named in a report as having abused a child.

b. Persons involved in an investigation or assessment of child abuse as follows:

(1) To a health practitioner or mental health professional who is examining, attending, or treating a child 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 a child believed to have been the victim of abuse is requested by the department.

(2) To an employee or agent of the department of human services responsible for the investigation or assessment of a child abuse report.

(3) To a law enforcement officer responsible for assisting in an investigation of a child abuse allegation or for the temporary emergency removal of a child from the child's home.

(4) To 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 child abuse case.

(5) In an individual case, to the mandatory reporter who reported the child abuse.

(6) To the county attorney.

(7) To the juvenile court.

(8) To a licensing authority for a facility providing care to a child named in a report, if the licensing authority is notified of a relationship between facility policy and the alleged child abuse under section 232.71, subsection 4.

(9) To a person or agency responsible for the care or supervision of a child named in a report as a victim of abuse or a person named in a report as having abused a child, if the juvenile court or department deems access to report data and disposition data by the person or agency to be necessary.

c. Individuals, agencies, or facilities providing care to a child, but only with respect to disposition data and, if authorized in law to the extent necessary for purposes of an employment evaluation, report data, for cases of founded child abuse placed in the central registry in accordance with section 232.71D as follows:

~~(1) To a licensing authority for a facility providing care to a child named in a report, if the licensing authority is notified of a relationship between facility policy and the child abuse under section 232.71, subsection 4.~~

~~(2) To an authorized person or agency responsible for the care or supervision of a child named in a report as a victim of abuse or a person named in a report as having abused a child, if the juvenile court or registry deems access to child abuse information by such person or agency to be necessary.~~

~~(3) To an employee or agent of the department of human services responsible for registering or licensing or approving the registration or licensing of an agency or facility, or to an individual providing care to a child and regulated by the department.~~

~~(4) To an employee of the department of human services responsible for an adoptive placement, a certified adoption investigator, or licensed child placing agency responsible for an adoptive placement.~~

~~(5)~~ (1) To an administrator of a psychiatric medical institution for children licensed under chapter 135H.

~~(6)~~ (2) To an administrator of a child foster care facility licensed under chapter 237 if the ~~information~~ data concerns a person employed or being considered for employment by the facility.

~~(7)~~ (3) To an administrator of a child day care facility registered or licensed under chapter 237A if the ~~information~~ data concerns a person employed or being considered for employment by or living in the facility.

~~(8)~~ (4) To the superintendent of the Iowa braille and sight saving school if the ~~information~~ data concerns a person employed or being considered for employment or living in the school.

~~(9)~~ (5) To the superintendent of the school for the deaf if the ~~information~~ data concerns a person employed or being considered for employment or living in the school.

~~(10)~~ (6) To an administrator of a community mental health center accredited under chapter 230A if the ~~information~~ data concerns a person employed or being considered for employment by the center.

~~(11)~~ (7) 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~~ data concerns a person employed by or being considered for employment by the facility or program.

~~(12)~~ (8) 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~~ data concerns a person employed by or being considered by the agency for employment.

~~(13)~~ (9) To the administrator of an agency providing mental health, mental retardation,

or developmental disability services under a county management plan developed pursuant to section 331.439, if the ~~information~~ data concerns a person employed by or being considered by the agency for employment.

(10) To an administrator of a child day care resource and referral agency which has entered into an agreement authorized by the department to provide child day care resource and referral services. Access is authorized if the data concerns a person providing child day care services or a person employed by a provider of such services and the agency includes the provider as a referral or the provider has requested to be included as a referral.

d. ~~Relating~~ Report data and disposition data, and investigation or assessment data to the extent necessary for resolution of the proceeding, relating to judicial and administrative proceedings as follows:

(1) To a juvenile court involved in an adjudication or disposition of a child named in a report.

(2) To a district court upon a finding that ~~information~~ data is necessary for the resolution of an issue arising in any phase of a case involving child abuse.

(3) To a court or administrative agency hearing an appeal for correction of ~~child abuse information~~ report data and disposition data as provided in section 235A.19.

(4) To an expert witness at any stage of an appeal necessary for correction of ~~child abuse information~~ report data and disposition data as provided in section 235A.19.

(5) To a probation or parole officer, juvenile court officer, or adult correctional officer having custody or supervision of, or conducting an investigation for a court or the board of parole regarding, a person named in a report as a victim of child abuse or as having abused a child.

e. Others as follows, but only with respect to report data and disposition data for cases of founded child abuse subject to placement in the registry pursuant to section 232.71D:

(1) To a person conducting bona fide research on child abuse, but without ~~information~~ data identifying individuals named in a child abuse report, unless having that ~~information~~ data open to review is essential to the research or evaluation and the authorized registry officials give prior written approval and the child, the child's guardian or guardian ad litem and the person named in a report as having abused a child give permission to release the ~~information~~ data.

(2) To registry or department personnel when necessary to the performance of their official duties or to a person or agency under contract with the department to carry out official duties and functions of the ~~registry~~ department.

(3) To the department of justice for the sole purpose of the filing of a claim for restitution or compensation pursuant to section 910A.5 and section 912.4, subsections 3 through 5. Data provided pursuant to this subparagraph is subject to the provisions of section 912.10.

(4) To a legally constituted child protection agency of another state which is investigating or assessing or treating a child named in a report as having been abused or which is investigating or assessing or treating a person named as having abused a child.

(5) To a public or licensed child-placing agency of another state responsible for an adoptive or foster care preplacement or placement evaluation.

(6) To the attorney for the department of human services who is responsible for representing the department.

(7) To the state and local citizen foster care review boards created pursuant to sections 237.16 and 237.19.

(8) To an employee or agent of the department of human services regarding a person who is providing child day care if the person is not registered or licensed to operate a child day care facility.

(9) To the board of educational examiners created under chapter 272 for purposes of determining whether a practitioner's license should be denied or revoked.

(10) 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.

(11) To the legally authorized protection and advocacy agency recognized in section 135C.2, if a person identified in the information as a victim or a perpetrator of abuse resides in or receives services from a facility or agency because the person is diagnosed as having a developmental disability or a mental illness.

(12) To the department of human services for a record check relating to employment or residence pursuant to section 218.13.

~~(13) To an administrator of a child day care resource and referral agency which has entered into an agreement authorized by the department to provide child day care resource and referral services. Access is authorized if the information concerns a person providing child day care services or a person employed by a provider of such services and the agency includes the provider as a referral or the provider has requested to be included as a referral.~~

~~(14)~~ (13) To the Iowa board for the treatment of sexual abusers for purposes of certifying sex offender treatment providers.

(14) To an employee or agent of the department responsible for registering or licensing or approving the registration or licensing of an agency or facility, or to an individual providing care to a child and regulated by the department.

(15) To an employee of the department responsible for an adoptive placement, a certified adoption investigator, or licensed child placing agency responsible for an adoptive placement.

f. The following, but only with respect to disposition data for cases of founded child abuse subject to placement in the central registry pursuant to section 232.71D:

~~(15)~~ To a person who submits written authorization from an individual allowing the person access to ~~information~~ data pursuant to this subsection on behalf of the individual in order to verify whether the individual is named in a founded child abuse report as having abused a child.

~~3. Access to unfounded child abuse information is authorized only to those persons identified in subsection 2, paragraph "a", paragraph "b", subparagraphs (2) and (5), and paragraph "e", subparagraph (2), and to the department of justice for purposes of the crime victim compensation program in accordance with section 912.10.~~

3. Access to report data and disposition data for a case of child abuse determined to meet the definition of child abuse, which data is not subject to placement in the central registry pursuant to section 232.71D, is authorized only to the following persons:

a. Subjects of a report identified in subsection 2, paragraph "a".

b. Persons involved in an investigation or assessment of child abuse identified in subsection 2, paragraph "b", subparagraphs (2), (3), (4), (6), (7), and (9).

c. Others identified in subsection 2, paragraph "e", subparagraphs (2), (3), and (6).

4. Access to report data for a case of child abuse determined to not meet the definition of child abuse, which data is not subject to placement in the central registry pursuant to section 232.71D, is authorized only to the following:

a. Subjects of a report identified in subsection 2, paragraph "a".

b. Persons involved in an investigation or assessment of child abuse identified in subsection 2, paragraph "b", subparagraphs (2), (6), and (7).

c. Others identified in subsection 2, paragraph "e", subparagraph (2).

~~4~~ 5. Access to ~~founded child abuse information~~ disposition data subject to placement in the central registry pursuant to section 232.71D 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~~ Disposition data introduced into a grievance or arbitration proceeding shall not be considered a part of the public record of a case.

6. a. If a child who is a legal resident of another state is present in this state and a report of child abuse is made concerning the child, the department shall act to ensure the safety of the child. The department shall contact the child's state of legal residency to coordinate the investigation or assessment of the report. If the child's state of residency refuses to conduct

an investigation or assessment, the department shall commence an appropriate investigation or assessment.

b. If a report of child abuse is made concerning an alleged perpetrator who resides in this state and a child who resides in another state, the department shall assist the child's state of residency in conducting an investigation or assessment of the report. The assistance shall include but is not limited to an offer to interview the alleged perpetrator and any other relevant source. If the child's state of residency refuses to conduct an investigation or assessment of the report, the department shall commence an appropriate investigation or assessment. The department shall seek to develop protocols with states contiguous to this state for coordination in the investigation or assessment of a report of child abuse when a person involved with the report is a resident of another state.

Sec. 10. Section 235A.17, subsection 2, Code 1997, is amended to read as follows:

2. The department of human services may notify orally the mandatory reporter in an individual child abuse case of the results of the case investigation and of the confidentiality provisions of sections 235A.15 and 235A.21. The department shall subsequently transmit a written notice to the mandatory reporter of the results and confidentiality provisions. ~~A~~ If the report data and disposition data have been placed in the registry as founded child abuse pursuant to section 232.71D, a copy of the written notice shall be transmitted to the registry and shall be maintained by the registry as provided in section 235A.18. Otherwise, a copy of the written notice shall be retained by the department with the case file.

Sec. 11. Section 235A.18, Code 1997, is amended to read as follows:

235A.18 SEALING AND EXPUNGEMENT OF FOUNDED CHILD ABUSE INFORMATION.

1. Report data and disposition data relating to a particular case of alleged abuse which has been determined to be founded child abuse and placed in the central registry in accordance with section 232.71D shall be maintained in the registry as follows:

a. ~~Child abuse information~~ Report and disposition data relating to a particular case of ~~suspected~~ alleged child abuse shall be sealed ten years after the ~~receipt~~ initial placement of the ~~initial report of such abuse by~~ data in the registry unless good cause be shown why the ~~information~~ data should remain open to authorized access. If a subsequent report of ~~a suspected~~ an alleged case of child abuse involving the child named in the initial ~~report~~ data placed in the registry as the victim of abuse or a person named in ~~such report~~ the data as having abused a child is received by the ~~registry~~ department within this ten-year period, the ~~information~~ data shall be sealed ten years after receipt of the subsequent report unless good cause be shown why the ~~information~~ data should remain open to authorized access.

b. ~~The information~~ Data sealed in accordance with this section shall be expunged eight years after the date the ~~information~~ data was sealed.

2. ~~Child abuse information which cannot be determined by a preponderance of the evidence to be founded or unfounded shall be sealed one year after the receipt of the initial report of abuse and expunged five years after the date it was sealed. Child abuse information which is determined by a preponderance of the evidence to be unfounded shall be expunged when it is determined to be unfounded. A report shall be determined to be unfounded as a result of any of the following:~~

~~a. The investigation of a report of suspected child abuse by the department.~~

~~b. A successful appeal as provided in section 235A.19.~~

~~c. A court finding by a juvenile or district court.~~

The juvenile or district court and county attorney shall expunge child abuse information upon notice from the registry. The supreme court shall prescribe rules establishing the period of time child abuse information is retained by the juvenile and district court. A county attorney shall not retain child abuse information in excess of the time period the information would be retained under the rules prescribed by the supreme court.

~~3. However, if a correction of child abuse information is requested under section 235A.19~~

~~and the issue is not resolved at the end of the one-year period, the information shall be retained until the issue is resolved and if the child abuse information is not determined to be founded, the information shall be expunged at the appropriate time under subsection 2.~~

~~4.~~ 3. ~~The registry, at least once a year, shall review and determine the current status of child abuse reports which are transmitted or made to the registry after July 1, 1974, which are at least one year old and in connection with which no investigatory report has been filed by the department of human services pursuant to section 232.71. If no such investigatory report has been filed, the registry shall request the department of human services to file a report. In the event a report is not filed within ninety days subsequent to such a request, the report and information relating thereto shall be sealed and remain sealed unless good cause be shown why the information should remain open to authorized access.~~ If required by this subsection, for child abuse information in the central registry as of July 1, 1997, the central registry shall perform a review of the information utilizing the requirements for referral of child abuse information to the central registry as founded child abuse under section 232.71D. If the review indicates the information would not be placed in the registry as founded child abuse under section 232.71D, the information shall be expunged from the central registry. Child abuse information which is expunged from the central registry under this subsection shall not be retained by the department any longer than the time period in rule for retaining information which is not placed in the central registry, allowing credit for the amount of time the information was held in the central registry. If the review indicates the child abuse information would be placed in the central registry under section 232.71D, the information shall be subject to the provisions of subsection 1, as to the time period the information is to be retained in the registry. A review shall be performed under any of the following conditions:

a. The department is considering the information while performing a record check evaluation under law or administrative rule.

b. A review is indicated under a procedure for performing reviews adopted by the department.

4. The department of human services shall adopt rules establishing the period of time child abuse information which is not maintained in the central registry is retained by the department.

Sec. 12. Section 235A.19, Code 1997, is amended to read as follows:

235A.19 EXAMINATION, REQUESTS FOR CORRECTION OR EXPUNGEMENT AND APPEAL.

1. A subject of a child abuse report, as identified in section 235A.15, subsection 2, paragraph "a", shall have the right to examine ~~child abuse information in the registry~~ report data and disposition data which refers to the subject. The ~~registry~~ department may prescribe reasonable hours and places of examination.

2. a. A subject of a child abuse report may file with the department within six months of the date of the notice of the results of an investigation required by section 232.71, subsection 7, or an assessment performed in accordance with section 232.71A, a written statement to the effect that ~~child abuse information~~ report data and disposition data referring to the subject is in whole or in part erroneous, and may request a correction of that ~~information~~ data or of the findings of the investigation or assessment report. The department shall provide the subject with an opportunity for an evidentiary hearing pursuant to chapter 17A to correct the ~~information~~ data or the findings, unless the department corrects the ~~information~~ data or findings as requested. ~~The department shall delay the expungement of information which is not determined to be founded until the conclusion of a proceeding to correct the information or findings.~~ The department may defer the hearing until the conclusion of a pending juvenile or district court case relating to the ~~information~~ data or findings.

b. The department shall not disclose any ~~child abuse information~~ report data or disposition data until the conclusion of the proceeding to correct the ~~information~~ data or findings, except as follows:

(1) As necessary for the proceeding itself.
(2) To the parties and attorneys involved in a judicial proceeding.
(3) For the regulation of child care or child placement.
(4) Pursuant to court order.
(5) To the subject of an investigation or assessment or a report.
(6) For the care or treatment of a child named in a report as a victim of abuse.
(7) To persons involved in an investigation or assessment of child abuse.

3. The subject of a child abuse report may appeal the decision resulting from a hearing held pursuant to subsection 2 to the district court of Polk county or to the district court of the district in which the subject of the child abuse report resides. Immediately upon appeal the court shall order the department to file with the court a certified copy of the ~~child abuse information~~ report data or disposition data. Appeal shall be taken in accordance with chapter 17A.

4. Upon the request of the appellant, the record and evidence in such cases shall be closed to all but the court and its officers, and access ~~thereto~~ to the record and evidence shall be prohibited unless otherwise ordered by the court. The clerk shall maintain a separate docket for such actions. ~~No~~ A person other than the appellant shall not permit a copy of any of the testimony or pleadings or the substance ~~thereof~~ of the testimony or pleadings to be made available to any person other than a party to the action or the party's attorney. Violation of the provisions of this subsection shall be a public offense punishable under section 235A.21.

5. Whenever the ~~registry~~ department corrects or eliminates ~~information~~ data as requested or as ordered by the court, the ~~registry~~ department shall advise all persons who have received the incorrect ~~information~~ data of such fact. Upon application to the court and service of notice on the ~~registry~~ department, any subject of a child abuse report may request and obtain a list of all persons who have received ~~child abuse information~~ report data or disposition data referring to the subject.

6. In the course of any proceeding provided for by this section, the identity of the person who reported the disputed ~~information~~ data and the identity of any person who has been reported as having abused a child may be withheld upon a determination by the ~~registry~~ department that disclosure of their identities would be detrimental to their interests.

Sec. 13. Section 235A.20, Code 1997, is amended to read as follows:

235A.20 CIVIL REMEDY.

Any aggrieved person may institute a civil action for damages under chapter 669 or 670 or to restrain the dissemination of child abuse information in violation of this chapter, and any person, agency or other recipient proven to have disseminated or to have requested and received child abuse information in violation of this chapter, or any employee of the department who knowingly destroys investigation or assessment data except in accordance with rule as established by the department for retention of child abuse information under section 235A.18 shall be liable for actual damages and exemplary damages for each violation and shall be liable for court costs, expenses, and reasonable attorney's fees incurred by the party bringing the action. In no case shall the award for damages be less than one hundred dollars.

Sec. 14. Section 235A.21, subsection 1, Code 1997, is amended to read as follows:

1. Any person who willfully requests, obtains, or seeks to obtain child abuse information under false pretenses, or who willfully communicates or seeks to communicate child abuse information to any agency or person except in accordance with sections 235A.15 and 235A.17, or any person connected with any research authorized pursuant to section 235A.15 who willfully falsifies child abuse information or any records relating ~~thereto~~ to child abuse information, or any employee of the department who knowingly destroys investigation or assessment data except in accordance with rule as established by the department for retention of child abuse information under section 235A.18 is guilty of a serious misdemeanor. Any person who knowingly, but without criminal purposes, communicates or seeks to com-

municate child abuse information except in accordance with sections 235A.15 and 235A.17 shall be guilty of a simple misdemeanor.

Sec. 15. Section 235A.22, Code 1997, is amended to read as follows:

235A.22 EDUCATION PROGRAM.

The department of human services shall require an educational program for employees of the ~~registry~~ department with access to child abuse information on the proper use and control of child abuse information.

Sec. 16. Section 235A.23, Code 1997, is amended to read as follows:

235A.23 ~~REGISTRY~~ REPORTS.

1. The ~~registry~~ department of human services may compile statistics, conduct research, and issue reports on child abuse, provided identifying details of the subject of child abuse reports are deleted from any report issued.

2. The ~~registry~~ department shall issue an annual report on its administrative operation, including information as to the number of requests for child abuse data, the proportion of requests attributable to each type of authorized access, the frequency and nature of irregularities, and other pertinent matters.

Sec. 17. 1997 Iowa Acts, Senate File 176, section 2, if enacted,* is amended by striking the section and inserting in lieu thereof the following:

SEC. 2. Section 232.70, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 7. If a report would be determined to constitute an allegation of child abuse as defined under section 232.68, subsection 2, paragraph "c" or "e", except that the suspected abuse resulted from the acts or omissions of a person other than a person responsible for the care of the child, the department shall refer the report to the appropriate law enforcement agency having jurisdiction to investigate the allegation. The department shall refer the report orally as soon as practicable and in writing within seventy-two hours of receiving the report.

Sec. 18. 1997 Iowa Acts, Senate File 230, sections 14, 15, and 16 amending section 235A.15, if enacted,** are repealed.

Sec. 19. 1997 Iowa Acts, Senate File 230, sections 18 and 19, amending section 235A.18, Code 1997, if enacted,** are repealed.

Sec. 20. 1997 Iowa Acts, Senate File 230, section 20, amending section 235A.19, subsection 2, paragraph a, if enacted,** is repealed.

Sec. 21. RETROACTIVE REGISTRY REVIEWS. A person who is a subject of a child abuse report which, as of July 1, 1997, is included as information in the central registry under chapter 235A may submit a written request for review and expungement of the information from the central registry which refers to the person. Child abuse information placed in the central registry for a circumstance which is listed in section 232.71D, subsection 3, as enacted by this Act, is not eligible for review. The request must be submitted during the period beginning July 1, 1997, and ending December 31, 1997. The department shall perform the review in accordance with the provisions of section 235A.18, subsection 3, as enacted by this Act. The department shall submit a report to the general assembly on or before February 1, 1998, indicating the number of requests received and projecting a time frame to complete the reviews based upon the usage of specific staffing levels.

Sec. 22. MINOR INJURY CRITERIA. The department of human services shall convene a group of experienced parents from families of various sizes and with children of various ages and child abuse experts to develop uniform criteria for identifying what constitutes a minor physical injury and the circumstances in which a minor injury does not cause con-

* Chapter 85 herein

** Chapter 35 herein

cern about the safety or risk of harm to a child. The group shall include but is not limited to members of the child death review team. The group shall present recommended criteria and other recommendations to the governor and the general assembly on or before November 1, 1997.

Sec. 23. EVALUATION. It is the intent of the general assembly that the department of human services will seek funding for the fiscal year beginning July 1, 1998, and ending June 30, 1999, for an independent evaluation of the changes implemented in the state's child protection system pursuant to the enactments of the Seventy-seventh General Assembly, 1997 Session. The evaluation should be conducted during the fiscal year beginning July 1, 1998, for submission to the governor and general assembly during the 1999 legislative session. The evaluation should include but is not limited to a determination of whether the system changes have improved the safety of children and the support of families in the community, and should identify indicators of increased community involvement in child protection.

DIVISION II
ASSESSMENT-BASED AMENDMENTS — REPEALS

Sec. 24. Section 232.71B, subsection 11, if enacted by 1997 Iowa Acts, Senate File 230,* is amended by adding the following new paragraph:

NEW PARAGRAPH. g. The department shall notify the subjects of the child abuse report, as identified in section 235A.15, subsection 2, paragraph "a", of the results of the assessment, of the subject's right, pursuant to section 235A.19, to correct the report data or disposition data which refers to the subject, and of the procedures to correct the data.

Sec. 25. Section 232.71D, subsection 1, as enacted by this Act, is amended to read as follows:

1. The requirements of this section shall apply to child abuse information ~~in the report of an investigation performed in accordance with section 232.71 or in the report of~~ relating to a report of child abuse and to an assessment performed in accordance with section ~~232.71A~~ 232.71B.

Sec. 26. Section 232.71D, subsection 5, paragraph a, subparagraphs (1) and (2), Code 1997, as enacted by this Act, are amended to read as follows:

(1) ~~Investigation or assessment~~ Assessment data.

(2) Information pertaining to an allegation of child abuse for which there was no ~~investigation or~~ assessment performed.

Sec. 27. Section 235A.13, unnumbered paragraph 1, Code 1997, is amended to read as follows:

As used in chapter 232, division III, part 2, and sections 235A.13 to 235A.23, unless the context otherwise requires:

Sec. 28. Section 235A.13, subsection 1, paragraph b, Code 1997, as amended by this Act, is amended to read as follows:

b. ~~Investigation or assessment~~ Assessment data.

Sec. 29. Section 235A.13, subsection 5, Code 1997, is amended to read as follows:

5. "Individually identified" means any report, ~~investigation~~ assessment, or disposition data which names the person or persons responsible or believed responsible for the child abuse.

Sec. 30. Section 235A.13, subsection 6, unnumbered paragraph 1, Code 1997, as amended by this Act, is amended to read as follows:

"~~Investigation or assessment~~ Assessment data" means any of the following information pertaining to the department's evaluation of a family:

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* Chapter 35 herein

Sec. 31. Section 235A.13, subsection 8, unnumbered paragraph 1, Code 1997, as amended by this Act, is amended to read as follows:

"Report data" means any of the following information pertaining to an ~~investigation or~~ assessment of an allegation of child abuse in which the department has determined the alleged child abuse meets the definition of child abuse:

Sec. 32. Section 235A.15, subsection 2, paragraph b, unnumbered paragraph 1, Code 1997, as amended by this Act, is amended to read as follows:

b. Persons involved in an ~~investigation~~* assessment of child abuse as follows:

Sec. 33. Section 235A.15, subsection 2, paragraph b, subparagraphs (2), (3), (4), and (8), Code 1997, as amended by this Act, are amended to read as follows:

(2) To an employee or agent of the department of human services responsible for the ~~investigation~~* assessment of a child abuse report.

(3) To a law enforcement officer responsible for assisting in an ~~investigation~~ assessment of a child abuse allegation or for the temporary emergency removal of a child from the child's home.

(4) To 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 child abuse case.

(8) To a licensing authority for a facility providing care to a child named in a report, if the licensing authority is notified of a relationship between facility policy and the alleged child abuse under section ~~232.71, subsection 4~~ 232.71B.

Sec. 34. Section 235A.15, subsection 2, paragraph d, unnumbered paragraph 1, Code 1997, as amended by this Act, is amended to read as follows:

Report data and disposition data, and ~~investigation or~~ assessment data to the extent necessary for resolution of the proceeding, relating to judicial and administrative proceedings as follows:

Sec. 35. Section 235A.15, subsection 3, paragraph b, Code 1997, as amended by this Act, is amended to read as follows:

b. Persons involved in an ~~investigation or~~ assessment of child abuse identified in subsection 2, paragraph "b", subparagraphs (2), (3), (4), (6), (7), and (9).

Sec. 36. Section 235A.15, subsection 4, paragraph b, Code 1997, as amended by this Act, is amended to read as follows:

b. Persons involved in an ~~investigation or~~ assessment of child abuse identified in subsection 2, paragraph "b", subparagraphs (2), (6), and (7).

Sec. 37. Section 235A.15, subsection 6, Code 1997, as amended by this Act, is amended to read as follows:

6. a. If a child who is a legal resident of another state is present in this state and a report of child abuse is made concerning the child, the department shall act to ensure the safety of the child. The department shall contact the child's state of legal residency to coordinate the ~~investigation~~* assessment of the report. If the child's state of residency refuses to conduct an investigation**, the department shall commence an appropriate ~~investigation~~* assessment.

b. If a report of child abuse is made concerning an alleged perpetrator who resides in this state and a child who resides in another state, the department shall assist the child's state of residency in conducting an ~~investigation~~* assessment of the report. The assistance shall include but is not limited to an offer to interview the alleged perpetrator and any other relevant source. If the child's state of residency refuses to conduct an investigation** of the report, the department shall commence an appropriate ~~investigation~~* assessment. The department shall seek to develop protocols with states contiguous to this state for coordina-

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* The stricken word "~~or~~" also probably intended

** See reference to assessment in §9 herein

tion in the investigation or assessment of a report of child abuse when a person involved with the report is a resident of another state.

Sec. 38. Section 235A.17, subsection 2, Code 1997, as amended by this Act, is amended to read as follows:

2. The department of human services may notify orally the mandatory reporter in an individual child abuse case of the results of the case ~~investigation~~ assessment and of the confidentiality provisions of sections 235A.15 and 235A.21. The department shall subsequently transmit a written notice to the mandatory reporter of the results and confidentiality provisions. If the report data and disposition data have been placed in the registry as founded child abuse pursuant to section 232.71D, a copy of the written notice shall be transmitted to the registry and shall be maintained by the registry as provided in section 235A.18. Otherwise, a copy of the written notice shall be retained by the department with the case file.

Sec. 39. Section 235A.19, subsection 2, paragraph a, Code 1997, as amended by this Act, is amended to read as follows:

a. A subject of a child abuse report may file with the department within six months of the date of the notice of the results of ~~an investigation required by section 232.71, subsection 7, or~~ an assessment performed in accordance with section 232.71A, a written statement to the effect that report data and disposition data referring to the subject is in whole or in part erroneous, and may request a correction of that data or of the findings of the ~~investigation or~~ assessment report. The department shall provide the subject with an opportunity for an evidentiary hearing pursuant to chapter 17A to correct the data or the findings, unless the department corrects the data or findings as requested. The department may defer the hearing until the conclusion of a pending juvenile or district court case relating to the data or findings.

Sec. 40. Section 235A.19, subsection 2, paragraph b, subparagraphs (5) and (7), Code 1997, as amended by this Act, are amended to read as follows:

(5) To the subject of an ~~investigation or~~ assessment or a report.

(7) To persons involved in an ~~investigation or~~ assessment of child abuse.

Sec. 41. Section 235A.20, Code 1997, as amended by this Act, is amended to read as follows:

235A.20 CIVIL REMEDY.

Any aggrieved person may institute a civil action for damages under chapter 669 or 670 or to restrain the dissemination of child abuse information in violation of this chapter, and any person, agency or other recipient proven to have disseminated or to have requested and received child abuse information in violation of this chapter, or any employee of the department who knowingly destroys ~~investigation or~~ assessment data except in accordance with rule as established by the department for retention of child abuse information under section 235A.18 shall be liable for actual damages and exemplary damages for each violation and shall be liable for court costs, expenses, and reasonable attorney's fees incurred by the party bringing the action. In no case shall the award for damages be less than one hundred dollars.

Sec. 42. Section 235A.21, subsection 1, Code 1997, as amended by this Act, is amended to read as follows:

1. Any person who willfully requests, obtains, or seeks to obtain child abuse information under false pretenses, or who willfully communicates or seeks to communicate child abuse information to any agency or person except in accordance with sections 235A.15 and 235A.17, or any person connected with any research authorized pursuant to section 235A.15 who willfully falsifies child abuse information or any records relating to child abuse information, or any employee of the department who knowingly destroys ~~investigation or~~ assess-

ment data except in accordance with rule as established by the department for retention of child abuse information under section 235A.18 is guilty of a serious misdemeanor. Any person who knowingly, but without criminal purposes, communicates or seeks to communicate child abuse information except in accordance with sections 235A.15 and 235A.17 shall be guilty of a simple misdemeanor.

Sec. 43. EFFECTIVE DATE. Enactment of this division of this Act is contingent upon the enactment of 1997 Iowa Acts, Senate File 230.* If Senate File 230 is enacted, this division of this Act takes effect July 1, 1998.

Approved May 21, 1997

CHAPTER 177

OPERATING WHILE INTOXICATED AND RELATED PROVISIONS

H.F. 707

† **AN ACT** relating to substance abuse evaluation and education, use of ignition interlock devices, motor vehicle license revocations and payment of restitution by certain drivers; to civil liability, forfeiture, and criminal penalties arising from operation of a motor vehicle by a person whose license is suspended, denied, revoked, or barred; and providing certain bail restrictions and penalties.

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

Section 1. Section 321.12, Code 1997, is amended to read as follows:

321.12 OBSOLETE RECORDS DESTROYED.

1. The director may destroy any records of the department which have been maintained on file for three years which the director deems obsolete and of no further service in carrying out the powers and duties of the department, except as otherwise provided in this section.

2. ~~However, operating~~ Operating records relating to a person who has been issued a commercial driver's license shall be maintained on file in accordance with rules adopted by the department.

3. The following records may be destroyed according to the following requirements:

a. Records concerning suspensions authorized under section 321.210, subsection 1, paragraph "g", and section 321.210A may be destroyed six months after the suspension is terminated and the requirements of section 321.191 have been satisfied.

b. Records concerning suspensions and surrender of licenses or registrations required under section 321A.31 for failing to maintain proof of financial responsibility, as defined in section 321A.1, may be destroyed six months after the requirements of sections 321.191 and 321A.29 have been satisfied.

4. The director shall not 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.~~

~~The director shall destroy any~~ or operating records pertaining to revocations for violations of section 321J.2A ~~which are more than twelve years old. The twelve-year period shall~~

* Chapter 35 herein

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

~~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~~, except that a conviction or revocation under section 321J.2 shall be deleted from the operating records twelve years after the date of conviction or the effective date of revocation.

Sec. 2. Section 321.555, subsection 1, paragraph c, Code 1997, is amended to read as follows:

c. Driving a motor vehicle while the person's motor vehicle license is suspended, denied, revoked, or barred.

Sec. 3. NEW SECTION. 321J.1A PUBLICATION OF LAW.

1. The department of public safety, the governor's traffic safety bureau, the state department of transportation, the governor, and the attorney general shall cooperate in an ongoing public education campaign to inform the citizens of this state of the dangers and the specific legal consequences of driving drunk in this state. The entities shall use their best efforts to utilize all available opportunities for making public service announcements on television and radio broadcasts, and to obtain and utilize federal funds for highway safety and other grants in conducting the public education campaign.

2. The department shall publish pamphlets containing the criminal and administrative penalties for drunk driving, and related laws, rules, instructions, and explanatory matter. This information may be included in pamphlets containing information related to other motor vehicle laws, published pursuant to section 321.15. Copies of such pamphlets shall be given wide distribution, and a supply shall be made available to each county treasurer.

Sec. 4. Section 321J.2, subsections 2 through 5, Code 1997, are amended to read as follows:

2. A person who violates ~~this section~~ subsection 1 commits:

a. A serious misdemeanor for the first offense ~~and shall be imprisoned~~, punishable by all of the following:

(1) Imprisonment in the county jail for not less than forty-eight hours, to be served as ordered by the court, less credit for any time the person was confined in a jail or detention facility following arrest~~, and assessed~~. However, the court, in ordering service of the sentence and in its discretion, may accommodate the defendant's work schedule.

(2) Assessment of a fine of ~~not less than five hundred dollars nor more than~~ one thousand dollars. However, in the discretion of the court, if no personal or property injury has resulted from the defendant's actions, up to five hundred dollars of the fine may be waived. As an alternative to a portion or all of the fine, the court may order the person to perform ~~not more than two hundred hours of~~ unpaid community service. ~~The court may accommodate the sentence to the work schedule of the defendant.~~

(3) Revocation of the person's motor vehicle license pursuant to section 321J.4, subsection 1, section 321J.9, or section 321J.12, which includes a minimum revocation period of one hundred eighty days, including a minimum period of ineligibility for a temporary restricted license of thirty days, and may involve a revocation period of one year.

(4) Assignment to substance abuse evaluation and treatment, a course for drinking drivers, and, if available and appropriate, a reality education substance abuse prevention program pursuant to subsection 2A.

b. An aggravated misdemeanor for a second offense, and shall be imprisoned in the county jail or community-based correctional facility not less than seven days, ~~which minimum term cannot be suspended notwithstanding section 901.5, subsection 3 and section 907.3, subsection 3,~~ and assessed a fine of not less than ~~seven~~ one thousand five hundred ~~fifty~~ dollars nor more than five thousand dollars.

c. A class "D" felony for a third offense and each subsequent offense, and shall be imprisoned in the county jail for a determinate sentence of not more than one year but not less than thirty days, or committed to the custody of the director of the department of corrections, and

assessed a fine of not less than ~~seven~~ two thousand five hundred ~~fifty~~ dollars nor more than seven thousand five hundred dollars. ~~The minimum jail term of thirty days cannot be suspended notwithstanding section 901.5, subsection 3, and section 907.3, subsection 3, however, the person sentenced shall receive credit for any time the person was confined in a jail or detention facility following arrest. If a person is committed to the custody of the director of the department of corrections pursuant to this paragraph and the sentence is suspended, the sentencing court shall order that the offender serve the thirty-day minimum term in the county jail. If the sentence which commits the person to the custody of the director of the department of corrections is later imposed by the court, all time served in a county jail toward the thirty-day minimum term shall count as time served toward the sentence which committed the person to the custody of the director of the department of corrections. A person convicted of a second or subsequent offense shall be ordered to undergo a substance abuse evaluation prior to sentencing. If a~~ A person ~~is~~ convicted of a third or subsequent offense ~~or if the evaluation recommends treatment, the offender~~ may be committed to the custody of the director of the department of corrections, who~~, if the sentence is not suspended,~~ shall assign the person to a facility pursuant to section 904.513 or the offender may be committed to treatment in the community under the provisions of section 907.6.

2A. a. Notwithstanding the provisions of sections 901.5 and 907.3, the court shall not defer judgment or sentencing, or suspend execution of any part of the sentence applicable to the defendant under subsection 2 if any of the following apply:

(1) If the defendant's alcohol concentration established by the results of an analysis of a specimen of the defendant's blood, breath, or urine withdrawn in accordance with this chapter exceeds .15.

(2) If the defendant has previously been convicted of a violation of subsection 1 or a statute in another state substantially corresponding to subsection 1.

(3) If the defendant has previously received a deferred judgment or sentence for a violation of subsection 2 or for a violation of a statute in another state substantially corresponding to subsection 2.

(4) If the defendant refused to consent to testing requested in accordance with section 321J.6.

(5) If the offense under chapter 321J results in bodily injury to a person other than the defendant.

b. All persons convicted of an offense under subsection 2 shall be ordered, at the person's expense, to undergo, prior to sentencing, a substance abuse evaluation.

c. Where the program is available and is appropriate for the convicted person, a person convicted of an offense under subsection 2 shall be ordered to participate in a reality education substance abuse prevention program as provided in section 321J.24.

d. A minimum term of imprisonment in a county jail or community-based correctional facility imposed on a person convicted of a second or subsequent offense under ~~paragraph "b" or "c"~~ subsection 2 shall be served on consecutive days. However, if the sentencing court finds that service of the full minimum term on consecutive days would work an undue hardship on the person, or finds that sufficient jail space is not available and is not reasonably expected to become available within four months after sentencing to incarcerate the person serving the minimum sentence on consecutive days, the court may order the person to serve ~~not less than forty-eight consecutive hours of~~ the minimum term in segments of at least forty-eight hours and to perform a specified number of hours of unpaid community service as deemed appropriate by the sentencing court.

3. ~~No conviction for, deferred judgment for, or plea of guilty to, a violation of this section which occurred more than six years prior to the date of the violation charged shall be considered in determining that the violation charged is a second, third, or subsequent offense. For the purpose of~~ In determining if a violation charged is a second~~, third,~~ or subsequent offense~~, deferred~~ for purposes of criminal sentencing or license revocation under this chapter:

a. Any conviction or revocation deleted from motor vehicle operating records pursuant to section 321.12 shall not be considered as a previous offense.

b. Deferred judgments entered pursuant to section 907.3 for violations of this section ~~and convictions~~ shall be counted as previous offenses.

c. Convictions or the equivalent of deferred judgments for violations in any other states under statutes substantially corresponding to this section shall be counted as previous offenses. The courts shall judicially notice the statutes of other states which define offenses substantially equivalent to the one defined in this section and can therefore be considered corresponding statutes. Each previous violation on which conviction or deferral of judgment was entered prior to the date of the violation charged shall be considered and counted as a separate previous offense.

4. A person shall not be convicted and sentenced for more than one violation of this section for actions arising out of the same event or occurrence, even if the ~~violation is shown to have been committed by either or both of the means described~~ event or occurrence involves more than one of the conditions specified in subsection 1 ~~in the same occurrence~~.

5. The clerk of the district court shall immediately certify to the department a true copy of each order entered with respect to deferral of judgment, deferral of sentence, or pronouncement of judgment and sentence for a defendant under this section.

Sec. 5. Section 321J.2, subsection 8, Code 1997, is amended to read as follows:

8. a. ~~The~~ In addition to any fine or penalty imposed under this chapter, the court shall order a defendant convicted of or receiving a deferred judgment for a violation of this section to make restitution~~, in an amount not to exceed two thousand dollars,~~ for damages resulting directly from the violation, to the victim, pursuant to chapter 910. An amount paid pursuant to this restitution order shall be credited toward any adverse judgment in a subsequent civil proceeding arising from the same occurrence. However, other than establishing a credit, a restitution proceeding pursuant to this section shall not be given evidentiary or preclusive effect in a subsequent civil proceeding arising from the same occurrence.

b. The court may order restitution paid to any public agency for the costs of the emergency response resulting from the actions constituting a violation of this section, not exceeding five hundred dollars per public agency for each such response. For the purposes of this paragraph, "emergency response" means any incident requiring response by fire fighting, law enforcement, ambulance, medical, or other emergency services. A public agency seeking such restitution shall consult with the county attorney regarding the expenses incurred by the public agency, and the county attorney may include the expenses in the statement of pecuniary damages pursuant to section 910.3.

Sec. 6. Section 321J.3, Code 1997, is amended to read as follows:

321J.3 ~~COURT-ORDERED SUBSTANCE~~ SUBSTANCE ABUSE EVALUATION OR TREATMENT.

~~1. On a conviction for a violation of section 321J.2, the court may order the defendant to attend a course for drinking drivers under section 321J.22. If the defendant submitted to a chemical test on arrest for the violation of section 321J.2 and the test indicated an alcohol concentration of .20 or higher, or if the defendant is charged with a second or subsequent offense, the court shall order the defendant, on conviction, to undergo a substance abuse evaluation and the court shall order the defendant~~

1. a. In addition to orders issued pursuant to section 321J.2, subsection 2A, and section 321J.17, the court shall order any defendant convicted under section 321J.2 to follow the recommendations proposed in the substance abuse evaluation for appropriate substance abuse treatment for the defendant. Court-ordered substance abuse treatment is subject to the periodic reporting requirements of section 125.86.

b. If a defendant is committed by the court to a substance abuse treatment facility, the administrator of the facility shall report to the court when it is determined that the defendant has received the maximum benefit of treatment at the facility and the defendant shall be

released from the facility. The time for which the defendant is committed for treatment shall be credited against the defendant's sentence.

c. The court may prescribe the length of time for the evaluation and treatment or it may request that the community college conducting the course for drinking drivers which the person is ordered to attend or the treatment program to which the person is committed immediately report to the court when the person has received maximum benefit from the course for drinking drivers or treatment program or has recovered from the person's addiction, dependency, or tendency to chronically abuse alcohol or drugs.

d. Upon successfully completing ~~or attending~~ a course for drinking drivers or an ordered substance abuse treatment program, a court may place the person ~~may be placed~~ on probation for six months and as a condition of probation, the person shall attend a program providing posttreatment services relating to substance abuse as approved by the court.

e. A person committed under this section who does not possess sufficient income or estate to make payment of the costs of the treatment in whole or in part shall be considered a state patient and the costs of treatment shall be paid as provided in section 125.44.

f. A defendant who fails to carry out the order of the court ~~or who fails to successfully complete or attend a course for drinking drivers or an ordered substance abuse treatment program~~ shall be confined in the county jail for twenty days in addition to any other imprisonment ordered by the court or may be ordered to perform unpaid community service work, and shall be placed on probation for one year with a violation of this probation punishable as contempt of court.

g. In addition to any other condition of probation, the person shall attend a program providing substance abuse prevention services or posttreatment services related to substance abuse as ordered by the court. The person shall report to the person's probation officer as ordered concerning proof of attendance at the treatment program or posttreatment program ordered by the court. Failure to attend or complete the program shall be considered a violation of probation and is punishable as contempt of court.

2. a. ~~As a condition of a suspended sentence or portion of sentence for~~ Upon a second~~, third,~~ or subsequent offense in violation of section 321J.2, the court upon hearing may commit the defendant for inpatient treatment of alcoholism or drug addiction or dependency to any hospital, institution, or community correctional facility in Iowa providing such treatment. The time for which the defendant is committed for treatment shall be credited against the defendant's sentence.

b. The court may prescribe the length of time for the evaluation and treatment or it may request that the hospital to which the person is committed immediately report to the court when the person has received maximum benefit from the program of the hospital or institution or has recovered from the person's addiction, dependency, or tendency to chronically abuse alcohol or drugs.

c. A person committed under this section who does not possess sufficient income or estate to make payment of the costs of the treatment in whole or in part shall be considered a state patient and the costs of treatment shall be paid as provided in section 125.44.

Sec. 7. Section 321J.3, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The state department of transportation, in cooperation with the judicial department, shall adopt rules, pursuant to the procedure in section 125.33, regarding the assignment of persons ordered under section 321J.17 to submit to substance abuse evaluation and treatment. The rules shall be applicable only to persons other than those committed to the custody of the director of the department of corrections under section 321J.2. The rules shall be consistent with the practices and procedures of the judicial department in sentencing persons to substance abuse evaluation and treatment under section 321J.2. The rules shall include the requirement that the treatment programs utilized by a person pursuant to an order of the department meet the licensure standards of the division of substance abuse for the department of public health. The rules shall also include provisions for payment of costs by the offenders, including insurance reimbursement on behalf of

offenders, or other forms of funding, and shall also address reporting requirements of the facility, consistent with the provisions of sections 125.84 and 125.86. The department shall be entitled to treatment information contained in reports to the department, notwithstanding any provision of chapter 125 that would restrict department access to treatment information and records.

Sec. 8. Section 321J.4, subsection 1, Code 1997, is 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 or revocation under this chapter ~~within the previous six years and the~~. 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 the defendant is under the age of twenty-one, the defendant shall not be eligible for a temporary restricted license for at least sixty days after the effective date of revocation.

1A. 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~~ two years if the defendant has had ~~one or more~~ a previous ~~convictions~~ conviction or ~~revocations~~ revocation under 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~~ for one year after the effective date of revocation. The defendant shall be ordered to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned by the defendant if the defendant seeks a temporary restricted license at the end of the minimum period of ineligibility. A temporary restricted license shall not be granted by the department until the defendant installs the ignition interlock device.

Sec. 9. Section 321J.4, subsection 3, Code 1997, is amended to read as follows:

3. ~~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. The defendant shall be ordered to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned by the defendant if the defendant seeks a temporary restricted license at the end of the minimum period of ineligibility. A temporary restricted license shall not be granted by the department until the defendant installs the ignition interlock device.

~~b. After two years from the date of the order for revocation, the defendant may apply to the court for restoration of the defendant's eligibility for a motor vehicle license. The application may be granted only if all of the following are shown by the defendant by a preponderance of the evidence:~~

~~(1) The defendant has completed an evaluation and, if recommended by the evaluation, a program of treatment for chemical dependency and is recovering, or has substantially recovered, from that dependency on or tendency to abuse alcohol or drugs.~~

~~(2) The defendant has not been convicted, since the date of the revocation order, of any subsequent violations of section 321J.2 or 123.46, or any comparable city or county ordinance, and the defendant has not, since the date of the revocation order, submitted to a chemical test under this chapter that indicated an alcohol concentration as defined in section 321J.1 of .10 or more, or refused to submit to chemical testing under this chapter.~~

~~(3) The defendant has abstained from the excessive consumption of alcoholic beverages and the consumption of controlled substances, except at the direction of a licensed physician or pursuant to a valid prescription.~~

~~(4) The defendant's motor vehicle license is not currently subject to suspension or revocation for any other reason.~~

~~c. The court shall forward to the department a record of any application submitted under paragraph "b" and the results of the court's disposition of the application.~~

Sec. 10. Section 321J.4, subsection 5, Code 1997, is amended to read as follows:

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 this section or section 321J.9, 321J.12, or 321J.20~~ for at least two years after the revocation. 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.

Sec. 11. Section 321J.4, subsection 7, Code 1997, is amended to read as follows:

7. a. On a conviction for or as a condition of a deferred judgment for a violation of section 321J.2, the court may order the defendant to install ignition interlock devices of a type approved by the commissioner of public safety on all motor vehicles owned or operated by the defendant which, without tampering or the intervention of another person, would prevent the defendant from operating the motor vehicle with an alcohol concentration greater than a level set by rule of the commissioner of public safety.

b. The commissioner of public safety shall adopt rules to approve certain ignition interlock devices and the means of installation of the devices, and shall establish the level of alcohol concentration beyond which an ignition interlock device will not allow operation of the motor vehicle in which it is installed.

c. The order to install ignition interlock devices shall remain in effect for a period of time as determined by the court which shall not exceed the maximum term of imprisonment which the court could have imposed according to the nature of the violation. While the order is in effect, the defendant shall not operate a motor vehicle which does not have an approved ignition interlock device installed.

d. If the defendant's motor vehicle license or nonresident operating privilege has been revoked, the department shall not issue a temporary permit or a motor vehicle license to the person without certification that approved ignition interlock devices have been installed in all motor vehicles owned or operated by the defendant while the order is in effect.

e. A defendant who fails within a reasonable time to comply with an order to install an approved ignition interlock device may be declared in contempt of court and punished accordingly.

f. A person who tampers with or circumvents an ignition interlock device installed under a court order while an order is in effect commits a serious misdemeanor.

Sec. 12. Section 321J.4B, Code 1997, is amended to read as follows:

321J.4B MOTOR VEHICLE IMPOUNDMENT OR IMMOBILIZATION — PENALTY — LIABILITY OF VEHICLE OWNER.

1. For purposes of this section:

a. "Immobilized" means the installation of a device in a motor vehicle 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.

b. "Impoundment" means the process of seizure and confinement within an enclosed area of a motor vehicle, for the purpose of restricting access to the vehicle.

c. "Owner" means the registered titleholder of a motor vehicle; except in the case where a rental or leasing agency is the registered titleholder, in which case the lessee of the vehicle shall be treated as the owner of the vehicle for purposes of this section.

2. A motor vehicle is subject to impoundment in the following circumstances:

a. If a person ~~is convicted of a~~ operates a vehicle in violation of section 321J.2, and if convicted for that conduct, the conviction would be 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 vehicle used~~ under section 321J.2.

b. If a person operates a vehicle while that person's motor vehicle license or operating privilege has been suspended, denied, revoked, or barred due to a violation of section 321J.2.

The clerk of court shall send notice of a conviction of an offense for which the vehicle was impounded to the impounding authority upon conviction of the defendant for such offense.

Impoundment of the vehicle under this section may occur in addition to any criminal penalty imposed under chapter 321 or this chapter for the underlying criminal offense.

3. The motor vehicle operated by the person in the commission of ~~the~~ any offense included in subsection 2 may be immediately impounded or immobilized in accordance with this section. ~~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.~~

a. A person or agency taking possession of an impounded or immobilized motor vehicle shall do the following:

(1) Make an inventory of any property contained in the vehicle, according to the agency's inventory procedure. The agency responsible for the motor vehicle shall also deliver a copy of the inventory to the county attorney.

(2) Contact all rental or leasing agencies registered as owners of the vehicle, as well as any parties registered as holders of a secured interest in the vehicle, in accordance with subsection 12.

b. The county attorney shall file a copy of the inventory with the district court as part of each file related to criminal charges filed under this section.

4. An owner of a motor vehicle impounded or immobilized under this section, who knows of, should have known of, or gives consent to the operation of, the motor vehicle in violation of subsection 2, paragraph "b", shall be:

a. Guilty of a simple misdemeanor, and

b. Jointly and severally liable for any damages caused by the person who operated the motor vehicle, subject to the provisions of chapter 668.

5. a. The following persons shall be entitled to immediate return of the motor vehicle without payment of costs associated with the impoundment or immobilization of the vehicle:

(1) The owner of the motor vehicle, if the person who operated the motor vehicle is not a co-owner of the motor vehicle.

(2) A motor vehicle rental or leasing agency that owns the vehicle.

(3) A person who owns the motor vehicle and who is charged but is not convicted of the violation of section 321.218, 321.561, 321A.32, 321J.2, or 321J.21, which resulted in the impoundment or immobilization of the motor vehicle under this section.

~~2.~~ b. ~~The~~ Upon conviction of the defendant for a violation of subsection 2, paragraph "a", the court may order continued impoundment, or the immobilization, of the motor vehicle used in the commission of the offense, if the convicted person is the owner of the motor vehicle, and shall specify all of the following in the order:

~~a.~~ (1) The motor ~~vehicles~~ vehicle that ~~are~~ is subject to the order.

~~b.~~ (2) The period of impoundment or immobilization.

~~c.~~ (3) The person or agency responsible for carrying out the order requiring continued impoundment, or the immobilization, of the motor vehicle.

c. If ~~a~~ the vehicle ~~which is to be impounded or immobilized~~ subject to the order 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.~~ d. 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~~ first impounded or immobilized.

~~4.~~ e. 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, and any holders of any security interests in the vehicle.

~~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.~~ f. If the vehicle ~~to be impounded or immobilized~~ subject to the court order 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~~ court order 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.~~ g. Upon receipt of ~~the~~ a 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~~ for continued impoundment or immobilization of the motor vehicle, 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~~ 12, paragraph "a" or "b", applies.

6. Upon conviction of the defendant for a second or subsequent violation of subsection 2, paragraph "b", the court shall order, if the convicted person is the owner of the motor vehicle used in the commission of the offense, that that motor vehicle be seized and forfeited to the state pursuant to chapters 809 and 809A.

~~9.~~ 7. a. Upon receipt of a notice of conviction of the defendant for a violation of subsection

2, the impounding authority shall seize the motor vehicle's license plates and registration, and shall send or deliver them to the department.

b. 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.~~ 8. a. ~~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~~ Upon conviction for a violation of subsection 2, the court shall assess the defendant, in addition to any other penalty, 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.

b. The person or agency responsible for ~~carrying out the order~~ impoundment or immobilization under this section 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.~~ c. 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.~~ 9. 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 in violation of the order shall be seized and forfeited to the state under chapters 809 and 809A.

~~13.~~ 10. 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~~ all fees and charges imposed under this section. If the owner or the owner's designee has not claimed the vehicle and paid ~~the~~ all 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~~ all fees and charges imposed within the thirty-day period, the motor vehicle shall be forfeited to the state under chapters 809 and 809A.

~~14.~~ 11. a. (1) During the period of impoundment or immobilization, ~~a person convicted of the offense of operating while intoxicated which resulted in the impoundment or immobilization~~ the owner of an impounded or immobilized vehicle shall not sell or transfer the title of the motor vehicle which is subject to the order of impoundment or immobilization. ~~The~~

(2) A person convicted of ~~the offense of operating while intoxicated~~ an offense under subsection 2, shall ~~also~~ not purchase ~~another motor vehicle~~ or register any motor vehicle during the period of impoundment, ~~or~~ immobilization, or license revocation.

PARAGRAPH DIVIDED. Violation of ~~this~~ paragraph "a" 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.~~ 12. Notwithstanding ~~the~~ other 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.~~:

a. Upon learning the address or phone number of a rental or leasing company which owns a motor vehicle impounded or immobilized under this section, 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.~~ b. ~~Notwithstanding the requirements of this section, the~~ 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 chapters 809 and 809A 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.~~ c. ~~Notwithstanding the requirements of this section, any~~ 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, or barred, 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.~~ (1) 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.~~ (2) 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.~~ 13. 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. 13. Section 321J.7, Code 1997, is amended to read as follows:

321J.7 DEAD OR UNCONSCIOUS PERSONS.

A person who is dead, unconscious, or otherwise in a condition rendering the person incapable of consent or refusal is deemed not to have withdrawn the consent provided by section 321J.6, and the test may be given if a licensed physician certifies in advance of the test that the person is dead, unconscious, or otherwise in a condition rendering that person

incapable of consent or refusal. If the certification is oral, written certification shall be completed by the physician within a reasonable time of the test.

Sec. 14. Section 321J.9, subsections 1 and 2, Code 1997, are amended to read as follows:

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 the following periods of time:

a. ~~Two hundred forty days~~ One year if the person has no previous revocation ~~within the previous six years~~ under this chapter; and

b. ~~Five hundred forty days~~ Two years if the person has ~~one or more~~ had a previous ~~revocations within the previous six years~~ revocation under this chapter.

2. a. 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.

b. The defendant shall be ordered to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned or operated by the defendant if the defendant seeks a temporary restricted license at the end of the minimum period of ineligibility. A temporary restricted license shall not be granted by the department until the defendant installs the ignition interlock device.

Sec. 15. Section 321J.12, subsection 1, paragraphs a and b, Code 1997, are amended to read as follows:

a. One hundred eighty days if the person has had no revocation ~~within the previous six years~~ under this chapter.

b. One year if the person has had ~~one or more~~ a previous ~~revocations within the previous six years~~ revocation under this chapter.

Sec. 16. Section 321J.12, subsection 5, Code 1997, 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 sixty days if the person has had no ~~revocations within the previous six years~~ previous revocation under ~~section 321J.2A~~ this chapter, and for a period of ninety days if the person has had ~~one or more~~ a previous ~~revocations within the previous six years~~ revocation under ~~section 321J.2A~~ this chapter.

Sec. 17. Section 321J.17, Code 1997, is amended to read as follows:

321J.17 CIVIL PENALTY — DISPOSITION — LICENSE REINSTATEMENT.

1. ~~When~~ If 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 motor vehicle license or nonresident operating privilege shall not be reinstated until the civil penalty has been paid.

2. If the department or a court orders the revocation of a person's motor vehicle license or nonresident operating privilege under this chapter, the department or court shall also order the person, at the person's own expense, to do the following:

a. Enroll, attend, and satisfactorily complete a course for drinking drivers, as provided in section 321J.22.

b. Submit to evaluation and treatment or rehabilitation services.

The court or department may request that the community college conducting the course for drinking drivers which the person is ordered to attend immediately report to the court or department that the person has successfully completed the course for drinking drivers. The court or department may request that the treatment program which the person attends periodically report on the defendant's attendance and participation in the program, as well as the status of treatment or rehabilitation.

A motor vehicle license or nonresident operating privilege shall not be reinstated until proof of completion of the requirements of this subsection is presented to the department.

Sec. 18. Section 321J.20, subsection 1, unnumbered paragraph 1, Code 1997, is amended to read as follows:

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 previously under section 321J.4, 321J.9, or 321J.12 ~~within the previous six years~~ and if any of the following apply:

Sec. 19. Section 321J.20, subsection 1, paragraph a, Code 1997, is amended to read as follows:

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. This subsection shall not apply to a revocation ordered under section 321J.4 resulting from a plea or verdict of guilty of a violation of section 321J.2 that involved a death.

Sec. 20. Section 321J.20, subsection 6, Code 1997, is amended to read as follows:

6. Following ~~the~~ certain minimum ~~period~~ periods 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. 21. Section 321J.21, Code 1997, is amended to read as follows:

321J.21 DRIVING WHILE LICENSE SUSPENDED, DENIED, ~~OR~~ REVOKED, OR BARRED.

1. A person whose motor vehicle license or nonresident operating privilege has been suspended, denied, ~~or~~ revoked ~~as provided in~~, or barred due to a violation of this chapter and who drives a motor vehicle ~~upon the highways of this state~~ while the license or privilege is suspended, denied, ~~or~~ revoked, or barred commits a serious misdemeanor, punishable with a mandatory fine of one thousand dollars. ~~The~~

2. In addition to the fine, the department, upon receiving the record of the conviction of a person under this section upon a charge of driving a motor vehicle while the license of the person was ~~revoked or~~ suspended, denied, revoked, or barred shall extend the period of ~~revocation or~~ suspension, denial, revocation, or bar for an additional like period, and the department shall not issue a new license during the additional period.

Sec. 22. Section 321J.22, Code 1997, is amended to read as follows:

321J.22 ~~COURT-ORDERED DRINKING~~ DRINKING DRIVERS COURSE.

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

a. "Course for drinking drivers" means an approved course designed to inform the offender about drinking and driving and encourage the offender to assess the offender's own drinking and driving behavior in order to select practical alternatives.

b. "Satisfactory completion of a course" means receiving at the completion of a course a grade from the course instructor of "C" or "2.0," or better.

~~2. After a conviction for, or a plea of guilty of, a violation of section 321J.2, the court in addition to its power to commit the defendant for treatment of alcoholism under section 321J.3, may order the defendant, at the defendant's own expense, to enroll in, attend, and successfully complete a course for drinking drivers. The court may alternatively or additionally require the defendant to seek evaluation, treatment or rehabilitation services under section 125.33 at the defendant's expense and to furnish evidence of successful completion. A copy of the order shall be forwarded to the department.~~

~~3.~~ 2. The course provided ~~in~~ according to this section shall be offered on a regular basis at each community college as defined in section 260C.2. Enrollment in the courses is not limited to persons ordered to enroll, attend, and successfully complete the course required under sections 321J.2 and 321J.17, subsection 2, ~~and any person convicted of a violation of section 321J.2 who was not ordered to enroll in a course may enroll in and attend a course for drinking drivers~~. The course required by this section shall be taught by the community colleges under the department of education and approved by the department. The department of education shall establish reasonable fees to defray the expense of obtaining classroom space, instructor salaries, and class materials. A person shall not be denied enrollment in a course by reason of the person's indigency.

~~4.~~ 3. An employer shall not discharge a person from employment solely for the reason of work absence to attend a course required by this section. Any employer who violates this section is liable for damages which include but are not limited to actual damages, court costs, and reasonable attorney fees. The person may also petition the court for imposition of a cease and desist order against the person's employer and for reinstatement to the person's previous position of employment.

~~5.~~ 4. The department of education shall prepare a list of the locations of the courses taught under this section, the dates and times taught, the procedure for enrollment, and the schedule of course fees. The list shall be kept current and a copy of the list shall be sent to each court having jurisdiction over offenses provided in this chapter.

~~6.~~ 5. The department of education shall maintain enrollment, attendance, successful and nonsuccessful completion data on the persons ordered to enroll, attend, and successfully complete a course for drinking drivers. This data shall be forwarded to the court.

Sec. 23. Section 321J.24, subsection 1, paragraph b, Code 1997, is amended to read as follows:

b. "Participant" means a person ~~who is sixteen years of age or older but under the age of twenty-one, and~~ who is ordered by the court to participate in the reality education substance abuse prevention program.

Sec. 24. Section 321J.24, subsection 2, Code 1997, is amended to read as follows:

2. A reality education substance abuse prevention program is established in those judicial districts where the chief judge of the judicial district authorizes participation in the

program. Upon a conviction or adjudication for a violation of section 321J.2, or the entry of a deferred judgment concerning a violation of section 321J.2, the court or juvenile court, ~~with the consent of the defendant or delinquent child,~~ may order ~~a defendant who is sixteen years of age or older but under the age of twenty-one or delinquent child who is sixteen years of age or older to participate~~ participation in the reality education substance abuse prevention program as a term and condition of probation or disposition in addition to any other term or condition of probation or disposition required or authorized by law. The court or juvenile court shall require the defendant or delinquent child to abstain from consuming any controlled substance, alcoholic liquor, wine, or beer ~~before reaching age twenty-one~~ while participating in the program.

Sec. 25. Section 321J.25, subsection 4, Code 1997, is amended to read as follows:

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 the person has had no previous revocations under either section 321J.2 or section 321J.2A, 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 of programs which exist in the area in which the person resides. The state department of transportation shall consult with the Iowa department of public 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, 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.~~

Sec. 26. Section 707.6A, subsection 1, Code 1997, is amended to read as follows:

1. A person commits a class ~~"C"~~ "B" felony when the person unintentionally causes the death of another by ~~any of the following means:~~

~~a.~~ ~~Operating~~ operating a motor vehicle while ~~under the influence of alcohol or other drug or a combination of such substances or while having an alcohol concentration~~ intoxicated, as ~~defined in~~ prohibited by section ~~321J.1, subsection 1, of .10 or more~~ 321J.2. Upon a plea or verdict of guilty of a violation of this ~~paragraph~~ subsection, the court shall ~~order~~ do the following:

a. Order the state department of transportation to revoke the defendant's motor vehicle license or nonresident operating privileges for a period of six years. The defendant shall surrender to the court any Iowa license or permit and the court shall forward ~~it~~ the license or permit to the department with a copy of the revocation order. The defendant shall not be eligible for a temporary restricted license for at least two years after the revocation.

b. Order the defendant, at the defendant's expense, to do the following:

(1) Enroll, attend, and satisfactorily complete a course for drinking drivers, as provided in section 321J.22.

(2) Submit to evaluation and treatment or rehabilitation services.

c. A motor vehicle license or nonresident operating privilege shall not be reinstated until proof of completion of the requirements of paragraph "b" is presented to the department.

d. Where the program is available and appropriate for the defendant, the court shall also order the defendant to participate in a reality education substance abuse prevention program as provided in section 321J.24.

1A. A person commits a class "C" felony when the person unintentionally causes the death of another by any of the following means:

~~b.~~ a. Driving a motor vehicle in a reckless manner with willful or wanton disregard for the safety of persons or property, in violation of section 321.277.

~~c.~~ b. Eluding or attempting to elude a pursuing law enforcement vehicle, in violation of section 321.279, if the death of the other person directly or indirectly results from the violation.

Sec. 27. Section 707.6A, subsection 3, Code 1997, is amended to read as follows:

3. A person commits ~~an aggravated misdemeanor~~ a class "D" felony when the person unintentionally causes a serious injury, as defined in section 321J.1, subsection 8, by any of the means described in subsection 1 ~~of this section~~ or 1A.

Sec. 28. Section 707.6A, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Notwithstanding the provisions of sections 901.5 and 907.3, the court shall not defer judgment or sentencing, or suspend execution of any part of the sentence applicable to the defendant for a violation of subsection 1, or for a violation of subsection 3 involving the operation of a motor vehicle while intoxicated.

Sec. 29. Section 809A.3, subsections 4 and 5, Code 1997, are amended to read as follows:

~~4. A violation of section 321J.4B, subsection 12.~~

~~5.~~ 4. Notwithstanding subsections 1 through 4 3, violations of chapter 321 or 321J~~, except section 321J.4B, subsection 12,~~ shall not be considered conduct giving rise to forfeiture, except for violations of the following:

a. A second or subsequent violation of section 321J.4B, subsection 2, paragraph "b".

b. Section 321J.4B, subsection 9.

Sec. 30. Section 811.1, subsections 1 and 2, Code 1997, 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, any class "B" felony included in section 707.6A, 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, any class "B" felony included in section 707.6A, 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".

Sec. 31. Section 907.3, subsection 1, paragraph g, Code 1997, is amended to read as follows:

g. The offense is a violation of section 321J.2 and~~, within the previous six years,~~ the person has been convicted of a violation of that section or the person's driver's license has been revoked ~~pursuant to section 321J.4, 321J.9, or 321J.12~~ under chapter 321J, and any of the following apply:

(1) If the defendant's alcohol concentration established by the results of an analysis of a specimen of the defendant's blood, breath, or urine withdrawn in accordance with chapter 321J exceeds .15.

(2) If the defendant has previously been convicted of a violation of section 321J.2, subsection 1, or a violation of a statute in another state substantially corresponding to section 321J.2, subsection 1.

(3) If the defendant has previously received a deferred judgment or sentence for a violation of section 321J.2, subsection 1, or for a violation of a statute in another state substantially corresponding to section 321J.2, subsection 1.

(4) If the defendant refused to consent to testing requested in accordance with section 321J.6.

(5) If the offense under chapter 321J results in bodily injury to a person other than the defendant.

Sec. 32. Section 907.3, subsection 1, Code 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. j. The offense is a violation of section 707.6A, subsection 1; or a

violation of section 707.6A, subsection 3, involving operation of a motor vehicle while intoxicated.

Sec. 33. Section 907.3, subsections 2 and 3, Code 1997, are amended to read as follows:

2. At the time of or after pronouncing judgment and with the consent of the defendant, the court may defer the sentence and assign the defendant to the judicial district department of correctional services. The court may assign the defendant to supervision or services under section 901B.1 at the level of sanctions which the district department determines to be appropriate, if an intermediate criminal sanctions plan and program has been adopted in the judicial district under section 901B.1. However, the court shall not defer the sentence for a violation of ~~section~~ any of the following:

a. 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~~

b. Section 236.8 or for contempt pursuant to section 236.8 or 236.14.

c. Section 321J.2, subsection 1, if any of the following apply:

(1) If the defendant's alcohol concentration established by the results of an analysis of a specimen of the defendant's blood, breath, or urine withdrawn in accordance with chapter 321J exceeds .15.

(2) If the defendant has previously been convicted of a violation of section 321J.2, subsection 1, or a violation of a statute in another state substantially corresponding to section 321J.2, subsection 1.

(3) If the defendant has previously received a deferred judgment or sentence for a violation of section 321J.2, subsection 1, or for a violation of a statute in another state substantially corresponding to section 321J.2, subsection 1.

(4) If the defendant refused to consent to testing requested in accordance with section 321J.6.

(5) If the offense under chapter 321J results in bodily injury to a person other than the defendant.

d. Section 707.6A, subsection 1; or section 707.6A, subsection 3, involving operation of a motor vehicle while intoxicated.

Upon a showing that the defendant is not fulfilling the conditions of probation, the court may revoke probation and impose any sentence authorized by law. Before taking such action, the court shall give the defendant an opportunity to be heard on any matter relevant to the proposed action. Upon violation of the conditions of probation, the court may proceed as provided in chapter 908.

3. By record entry at the time of or after sentencing, the court may suspend the sentence and place the defendant on probation upon such terms and conditions as it may require including commitment to an alternate jail facility or a community correctional residential treatment facility for a specific number of days to be followed by a term of probation as specified in section 907.7, or commitment of the defendant to the judicial district department of correctional services for supervision or services under section 901B.1 at the level of sanctions which the district department determines to be appropriate. A person so committed who has probation revoked shall be given credit for such time served. However, the court shall not suspend ~~the~~ any of the following sentences:

a. The minimum term of two days imposed pursuant to section 708.2A, subsection 6, paragraph "a", or a sentence imposed under section 708.2A, subsection 6, paragraph "b"; ~~and the court shall not suspend a~~

b. A sentence imposed pursuant to section 236.8 or 236.14 for contempt.

c. A sentence imposed pursuant to a violation of section 321J.2, subsection 1, if any of the following apply:

(1) If the defendant's alcohol concentration established by the results of an analysis of a specimen of the defendant's blood, breath, or urine withdrawn in accordance with chapter 321J exceeds .15.

(2) If the defendant has previously been convicted of a violation of section 321J.2, subsection 1, or a violation of a statute in another state substantially corresponding to section 321J.2, subsection 1.

(3) If the defendant has previously received a deferred judgment or sentence for a violation of section 321J.2, subsection 1, or for a violation of a statute in another state substantially corresponding to section 321J.2, subsection 1.

(4) If the defendant refused to consent to testing requested in accordance with section 321J.6.

(5) If the offense under chapter 321J results in bodily injury to a person other than the defendant.

d. A sentence imposed pursuant to section 707.6A, subsection 1; or section 707.6A, subsection 3, involving operation of a motor vehicle while intoxicated.

Sec. 34. Section 910.1, subsection 4, Code 1997, is amended to read as follows:

4. "Restitution" means payment of pecuniary damages to a victim in an amount and in the manner provided by the offender's plan of restitution. "Restitution" also includes fines, penalties, and surcharges, the contribution of funds to a local anticrime organization which provided assistance to law enforcement in an offender's case, the payment of crime victim compensation program reimbursements, payment of restitution to public agencies pursuant to section 321J.2, subsection 8, paragraph "b", court costs, court-appointed attorney's fees, or the expense of a public defender, and the performance of a public service by an offender in an amount set by the court when the offender cannot reasonably pay all or part of the court costs, court-appointed attorney's fees, or the expense of a public defender.

Sec. 35. Section 910.2, Code 1997, is amended to read as follows:

910.2 RESTITUTION OR COMMUNITY SERVICE TO BE ORDERED BY SENTENCING COURT.

In all criminal cases 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, restitution to public agencies pursuant to section 321J.2, subsection 8, paragraph "b", court costs, court-appointed attorney's fees, or the expense of a public defender when applicable, or contribution to a local anticrime organization. However, victims shall be paid in full before fines, penalties, and surcharges, crime victim compensation program reimbursement, public agencies, court costs, court-appointed attorney's fees, the expenses of a public defender, or contribution to a local anticrime organization 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, public agencies, court costs, court-appointed attorney's fees, or the expense of a public defender, and contribution to a local anticrime organization.

When the offender is not reasonably able to pay all or a part of the crime victim compensation program reimbursement, public agency restitution, court costs, court-appointed attorney's fees, the expense of a public defender, or contribution to a local anticrime organization, the court may require the offender in lieu of that portion of the crime victim compensation program reimbursement, public agency restitution, court costs, court-appointed attorney's fees, expense of a public defender, or contribution to a local anticrime organization 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 which, for payment of court-appointed attorney's fees or expenses of a public defender, shall be approximately equivalent in value to those costs. The judicial district department of correctional services shall provide for the assignment of the offender to a public agency or private nonprofit agency to perform the required service.

Sec. 36. Section 910.3, Code 1997, is amended to read as follows:

910.3 DETERMINATION OF AMOUNT OF RESTITUTION.

The county attorney shall prepare a statement of pecuniary damages to victims of the defendant and, if applicable, any award by the crime victim compensation program and expenses incurred by public agencies pursuant to section 321J.2, subsection 8, paragraph "b", and shall provide the statement to the presentence investigator or submit the statement to the court at the time of sentencing. The clerk of court shall prepare a statement of court-appointed attorney's fees, the expense of a public defender, and court costs, which shall be provided to the presentence investigator or submitted to the court at the time of sentencing. If these statements are provided to the presentence investigator, they shall become a part of the presentence report. If pecuniary damage amounts are not available at the time of sentencing, the county attorney shall provide a statement of pecuniary damages incurred up to that time to the clerk of court. The statement shall be provided no later than thirty days after sentencing. If a defendant believes no person suffered pecuniary damages, the defendant shall so state. If the defendant has any mental or physical impairment which would limit or prohibit the performance of a public service, the defendant shall so state. The court may order a mental or physical examination, or both, of the defendant to determine a proper course of action. At the time of sentencing or at a later date to be determined by the court, the court shall set out the amount of restitution including the amount of public service to be performed as restitution and the persons to whom restitution must be paid. If the full amount of restitution cannot be determined at the time of sentencing, the court shall issue a temporary order determining a reasonable amount for restitution identified up to that time. At a later date as determined by the court, the court shall issue a permanent, supplemental order, setting the full amount of restitution. The court shall enter further supplemental orders, if necessary. These court orders shall be known as the plan of restitution.

Sec. 37. Section 910.9, unnumbered paragraph 3, Code 1997, is amended to read as follows:

Fines, penalties, and surcharges, crime victim compensation program reimbursement, public agency restitution, court costs, court-appointed attorney's fees, and expenses for public defenders, shall not be withheld by the clerk of court until all victims have been paid in full. Payments to victims shall be made by the clerk of court at least quarterly. Payments by a clerk of court shall be made no later than the last business day of the quarter, but may be made more often at the discretion of the clerk of court. The clerk of court receiving final payment from an offender, shall notify all victims that full restitution has been made, and a copy of the notice shall be sent to the sentencing court. Each office or individual charged with supervising an offender who is required to perform community service as full or partial restitution shall keep records to assure compliance with the portions of the plan of restitution and restitution plan of payment relating to community service and, when the offender has complied fully with the community service requirement, notify the sentencing court.

Sec. 38. IMPLEMENTATION OF ACT. Section 25B.2, subsection 3, shall not apply to this Act.

Approved May 21, 1997

CHAPTER 178

PROBATE CODE — GUARDIANSHIPS AND CONSERVATORSHIPS — TRANSFER ON DEATH SECURITY REGISTRATION

S.F. 241

AN ACT relating to the probate code including guardianships and conservatorships and adopting the uniform transfer on death security registration Act.

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

Section 1. Section 633.3, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 18A. FUNCTIONAL LIMITATIONS — means the behavior or condition of a person which impairs the person's ability to care for the person's personal safety or to attend to or provide for necessities for the person.

Sec. 2. Section 633.3, subsection 22, Code 1997, is amended to read as follows:

22. INCOMPETENT — ~~includes~~ means the condition of any person who has been adjudicated by a court ~~to be incapable of managing the person's property, or caring for the person's own self, or both~~ to meet at least one of the following conditions:

a. To have a decision-making capacity which is so impaired that the person is unable to care for the person's personal safety or to attend to or provide for necessities for the person such as food, shelter, clothing, or medical care, without which physical injury or illness may occur.

b. To have a decision-making capacity which is so impaired that the person is unable to make, communicate, or carry out important decisions concerning the person's financial affairs.

c. To have a decision-making capacity which is so impaired that both paragraphs "a" and "b" are applicable to the person.

Sec. 3. Section 633.10, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 5. ACTIONS FOR ACCOUNTING. An action for an accounting against a beneficiary of a transfer on death security registration, pursuant to this chapter.

Sec. 4. NEW SECTION. 633.551A GUARDIANSHIPS AND CONSERVATORSHIPS — GENERAL PROVISIONS.

1. The determination of incompetency of the proposed ward or ward and the determination of the need for the appointment of a guardian or conservator or of the modification or termination of a guardianship or conservatorship shall be supported by clear and convincing evidence.

2. The burden of persuasion is on the petitioner in an initial proceeding to appoint a guardian or conservator. In a proceeding to modify or terminate a guardianship or conservatorship, if the guardian or conservator is the petitioner, the burden of persuasion remains with the guardian or conservator. In a proceeding to terminate a guardianship or conservatorship, if the ward is the petitioner, the ward shall make a prima facie showing of some decision-making capacity. Once a prima facie showing is made, the burden of persuasion is on the guardian or conservator to show by clear and convincing evidence that the ward is incompetent.

3. In determining whether a guardianship or conservatorship is to be established, modified, or terminated, the district court shall consider if a limited guardianship or conservatorship pursuant to section 633.635 or 633.637 is appropriate. In making the determination, the court shall make findings of fact to support the powers conferred on the guardian or conservator.

4. In proceedings to establish, modify, or terminate a guardianship or conservatorship, in determining if the proposed ward or ward is incompetent as defined in section 633.3, the

court shall consider credible evidence from any source to the effect of third-party assistance in meeting the needs of the proposed ward or ward. However, neither party to the action shall have the burden to produce such evidence relating to third-party assistance.

Sec. 5. Section 633.552, subsection 2, paragraph a, Code 1997, is amended to read as follows:

~~a. By reason of mental, physical or other incapacity is unable to make or carry out important decisions concerning the proposed ward's person or affairs, other than financial affairs.~~

a. Is a person whose decision-making capacity is so impaired that the person is unable to care for the person's personal safety or to attend to or provide for necessities for the person such as food, shelter, clothing, or medical care, without which physical injury or illness might occur.

Sec. 6. Section 633.556, Code 1997, is amended to read as follows:

633.556 APPOINTMENT OF GUARDIAN.

1. If the allegations of the petition as to the status of the proposed ward and the necessity for the appointment of a guardian are proved by clear and convincing evidence, the court may appoint a guardian.

2. In all proceedings to appoint a guardian, the court shall consider the functional limitations of the proposed ward and whether a limited guardianship, as authorized in section 633.635, is appropriate.

3. Section 633.551A applies to the appointment of a conservator.*

Sec. 7. Section 633.557, Code 1997, is amended to read as follows:

633.557 APPOINTMENT OF GUARDIAN ON VOLUNTARY PETITION.

1. A guardian may also be appointed by the court upon the verified petition of the proposed ward, without further notice, if the proposed ward is other than a minor under the age of fourteen years, provided the court determines that such an appointment will inure to the best interest of the applicant. However, if an involuntary petition is pending, the court shall be governed by section 633.634. The petition shall provide the proposed ward notice of a guardian's powers as provided in section 633.562.

2. In all proceedings to appoint a guardian, the court shall consider whether a limited guardianship, as authorized in section 633.635, is appropriate.

Sec. 8. Section 633.560, Code 1997, is amended to read as follows:

633.560 APPOINTMENT OF GUARDIAN ON A STANDBY BASIS.

A petition for the appointment of a guardian on a standby basis may be filed by any person under the same procedure and requirements as provided in sections 633.591 to 633.597, for appointment of standby conservator, insofar as applicable. In all proceedings to appoint a guardian, the court shall consider whether a limited guardianship, as authorized in section 633.635, is appropriate.

Sec. 9. Section 633.566, subsection 2, paragraph a, Code 1997, is amended to read as follows:

~~a. By reason of mental, physical or other incapacity is unable to make or carry out important decisions concerning the proposed ward's financial affairs.~~

a. Is a person whose decision-making capacity is so impaired that the person is unable to make, communicate, or carry out important decisions concerning the person's financial affairs.

Sec. 10. Section 633.570, Code 1997, is amended to read as follows:

633.570 APPOINTMENT OF CONSERVATOR.

1. If the allegations of the petition as to the status of the proposed ward and the necessity for the appointment of a conservator are proved by clear and convincing evidence, the court may appoint a conservator.

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* The word "guardian" probably intended

2. In all proceedings to appoint a conservator, the court shall consider the functional limitations of the person and whether a limited conservatorship, as authorized in section 633.637, is appropriate.

3. Section 633.551A applies to the appointment of a conservator.

Sec. 11. Section 633.572, Code 1997, is amended to read as follows:

633.572 APPOINTMENT OF CONSERVATOR ON VOLUNTARY PETITION.

1. A conservator may also be appointed by the court upon the verified petition of the proposed ward, without further notice, if the proposed ward is other than a minor under the age of fourteen years, provided the court determines that such an appointment will inure to the best interest of the applicant. However, if an involuntary petition is pending, the court shall be governed by section 633.634. The petition shall provide the proposed ward notice of a conservator's powers as provided in section 633.576.

2. In all proceedings to appoint a conservator, the court shall consider whether a limited conservatorship, as authorized in section 633.637, is appropriate.

Sec. 12. Section 633.596, Code 1997, is amended to read as follows:

633.596 ~~TIME OF~~ CONSIDERATIONS — APPOINTMENT OF CONSERVATOR.

At the time ~~such~~ a standby petition is filed under this part, the court~~, without any notice, may appoint the conservator nominated in such petition or may set the petition for hearing on such notice as the court may prescribe~~ shall consider whether a limited conservatorship, as authorized in section 633.637, is appropriate.

Sec. 13. Section 633.635, subsection 1, unnumbered paragraph 1, Code 1997, is amended to read as follows:

~~A~~ Based upon the evidence produced at the hearing, the court may grant a guardian ~~may be granted~~ the following powers and duties which may be exercised without prior court approval:

Sec. 14. Section 633.635, subsections 3 and 4, Code 1997, are amended to read as follows:

3. The court may take into account all available information concerning the capabilities of the ward and any additional evaluation deemed necessary, including the availability of third-party assistance to meet the needs of the ward or proposed ward, and may direct that the guardian have only a specially limited responsibility for the ward. In that event, the court shall state those areas of responsibility which shall be supervised by the guardian and all others shall be retained by the ward. The court may make a finding that the ward lacks the capacity to contract a valid marriage.

4. From time to time, upon a proper showing, the court may ~~alter~~ modify the respective responsibilities of the guardian and the ward, after notice to the ward and an opportunity to be heard. Any modification that would be more restrictive or burdensome for the ward shall be based on clear and convincing evidence that the ward continues to fall within the categories of section 633.552, subsection 2, paragraph "a" or "b", and that the facts justify a modification of the guardianship. Section 633.551A applies to the modification proceedings. Any modification that would be less restrictive for the ward shall be based upon proof in accordance with the requirements of section 633.675.

Sec. 15. Section 633.637, Code 1997, is amended to read as follows:

633.637 POWERS OF WARD.

A ward for whom a conservator has been appointed shall not have the power to convey, encumber, or dispose of property in any manner, other than by will if the ward possesses the requisite testamentary capacity, unless the court determines that the ward has a limited ability to handle the ward's own funds. If the court makes such a finding, it shall specify to what extent the ward may possess and use the ward's own funds.

Any modification of the powers of the ward that would be more restrictive of the ward's control over the ward's financial affairs shall be based upon clear and convincing evidence

and the burden of persuasion is on the conservator. Any modification that would be less restrictive of the ward's control over the ward's financial affairs shall be based upon proof in accordance with the requirements of section 633.675.

Sec. 16. Section 633.675, subsection 3, Code 1997, is amended to read as follows:

3. A determination by the court that the ward is ~~competent and capable of managing the ward's property and affairs, and that the continuance of the guardianship or conservatorship would not be in the ward's best interests~~ no longer a person whose decision-making capacity is so impaired as to bring the ward within the categories of section 633.552, subsection 2, paragraph "a", or section 633.566, subsection 2, paragraph "a". In a proceeding to terminate a guardianship or a conservatorship, the ward shall make a prima facie showing that the ward has some decision-making capacity. Once the ward has made that showing, the guardian or conservator has the burden to prove by clear and convincing evidence that the ward's decision-making capacity is so impaired, as provided in section 633.552, subsection 2, paragraph "a", or section 633.566, subsection 2, paragraph "a", that the guardianship or conservatorship should not be terminated.

Sec. 17. NEW SECTION. 633.800 SHORT TITLE — RULES OF CONSTRUCTION.

1. This division shall be known and may be cited as the uniform transfer on death security registration Act.

2. The provisions of this division shall be liberally construed and applied to promote its underlying purposes and policy and to make uniform the laws with respect to the subject of its provisions among states enacting this uniform Act.

3. Unless displaced by the particular provisions of this division, the principles of law and equity supplement the provisions of this division.

Sec. 18. NEW SECTION. 633.801 DEFINITIONS.

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

1. "Beneficiary form" means a registration of a security which indicates the present owner of the security and the intention of the owner regarding the person who will become the owner of the security upon the death of the owner.

2. "Devisee" means any person designated in a will to receive a disposition of real or personal property.

3. "Heir" means a person, including the surviving spouse, who is entitled under the statutes of intestate succession to the property of a decedent.

4. "Register" means to issue a certificate showing the ownership of a certificated security or, in the case of an uncertificated security, to initiate or transfer an account showing ownership of the security.

5. "Registering entity" means a person who originates or transfers a security title by registration, including a broker maintaining security accounts for customers and a transfer agent or other person acting for or as an issuer of securities.

6. "Security" means a security as defined in section 502.102.

7. "Security account" means either of the following:

a. Any of the following:

(1) A reinvestment account associated with a security.

(2) A securities account with a broker.

(3) A cash balance in a brokerage account.

(4) Cash, interest, earnings, or dividends earned or declared on a security in an account, a reinvestment account, or a brokerage account, whether or not credited to the account before the owner's death.

b. A cash balance or other property held for or due to the owner of a security as a replacement for or product of an account security, whether or not credited to the account before the owner's death.

8. "State" includes any state of the United States, the District of Columbia, the Common-

wealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States.

Sec. 19. NEW SECTION. 633.802 REGISTRATION IN BENEFICIARY FORM — SOLE OR JOINT TENANCY OWNERSHIP.

Only an individual whose registration of a security shows sole ownership by one individual or multiple ownership by two or more individuals with a right of survivorship, rather than as tenants in common, may obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form shall hold as joint tenants with rights of survivorship, tenants by the entireties, or owners of community property held in survivorship form and not as tenants in common.

Sec. 20. NEW SECTION. 633.803 REGISTRATION IN BENEFICIARY FORM — APPLICABLE LAW.

1. A security may be registered in beneficiary form if the form is authorized by this division or a similar statute of the state of any of the following:

a. The state of organization of the issuer or registering entity.

b. The state of location of the registering entity's principal office.

c. The state of location of the office of the entity's transfer agent or the office of the entity making the registration.

d. The state of the address listed as the owner's at the time of registration.

2. A registration governed by the law of a jurisdiction in which this division or a similar statute is not in force or was not in force when a registration in beneficiary form was made is presumed to be valid and authorized as a matter of contract law.

Sec. 21. NEW SECTION. 633.804 ORIGINATION OF REGISTRATION IN BENEFICIARY FORM.

A security, whether evidenced by a certificate or account, is registered in beneficiary form when the registration includes a designation of a beneficiary to take the ownership at the death of the owner or the deaths of all multiple owners.

Sec. 22. NEW SECTION. 633.805 FORM OF REGISTRATION IN BENEFICIARY FORM.

Registration in beneficiary form may be shown by any of the following, appearing after the name of the registered owner and before the name of a beneficiary:

1. The words "transfer on death" or the abbreviation "TOD".

2. The words "pay on death" or the abbreviation "POD".

Sec. 23. NEW SECTION. 633.806 EFFECT OF REGISTRATION IN BENEFICIARY FORM.

The designation of a transfer on death or pay on death beneficiary on a registration in beneficiary form has no effect on ownership until the owner's death. A registration of a security in beneficiary form may be canceled or changed at any time by the sole owner or all surviving owners without the consent of the beneficiary.

Sec. 24. NEW SECTION. 633.807 CLAIMS AGAINST A BENEFICIARY OF A TRANSFER ON DEATH SECURITY REGISTRATION.

1. If other assets of the estate of a deceased owner are insufficient to pay debts, taxes, and expenses of administration, including statutory allowances to the surviving spouse and children, a transfer at death of a security registered in beneficiary form is not effective against the estate of the deceased sole owner, or if multiple owners, against the estate of the last owner to die, to the extent needed to pay debts, taxes, and expenses of administration, including statutory allowances to the surviving spouse and children.

2. A beneficiary of a transfer on death security registration under this division is liable to account to the personal representative of the deceased owner for the value of the security as of the time of the deceased owner's death to the extent necessary to discharge debts, taxes,

and expenses of administration, including statutory allowances to the surviving spouse and children. A proceeding against a beneficiary to assert liability shall not be commenced unless the personal representative has received a written demand by the surviving spouse, a creditor, a child, or a person acting for a minor child of the deceased owner.

3. An action for an accounting under this section must be commenced within two years after the death of the owner.

4. A beneficiary against whom a proceeding is brought may elect to transfer to the personal representative the security registered in the name of the beneficiary if the beneficiary still owns the security, or the net proceeds received by the beneficiary upon disposition of the security by the beneficiary. Such transfer fully discharges the beneficiary from all liability under this section.

5. A beneficiary against whom a proceeding for an accounting is brought may join as a party to the proceeding a beneficiary of any other security registered in beneficiary form by the deceased owner.

6. Amounts recovered by the personal representative with respect to a security shall be administered as part of the deceased owner's estate.

7. A district court in this state shall have subject matter jurisdiction over a claim against a designated beneficiary brought by the decedent's personal representative or by a claimant to an interest in a security registered under this division. Any provision in a security registration form restricting jurisdiction over a claim, or restricting a choice of forum, to a forum outside this state is void.

8. In an action for an accounting brought under this section, where the deceased owner was domiciled in this state, the laws of this state shall apply.

Sec. 25. NEW SECTION. 633.808 DEATH OF THE OWNER.

On the death of a sole owner or on the death of the sole surviving owner of multiple owners, the ownership of securities registered in beneficiary form passes to the beneficiary or beneficiaries who survive all owners. On proof of death of all owners and compliance with any applicable requirements of the registering entity, a security registered in beneficiary form may be reregistered in the name of the beneficiary or beneficiaries who survived the death of all owners. A registering entity shall provide notice to the department of revenue and finance of all reregistrations made pursuant to this division. The notice shall include the name, address, and social security number of the decedent and all transferees. Until the division of the security after the death of all owners, multiple beneficiaries surviving the death of all owners hold their interests as tenants in common. If no beneficiary survives the death of all owners, the security belongs to the estate of the deceased sole owner or the estate of the last to die of multiple owners.

Sec. 26. NEW SECTION. 633.809 PROTECTION OF REGISTERING ENTITY.

1. A registering entity is not required to offer or to accept a request for security registration in beneficiary form. If a registration in beneficiary form is offered by a registering entity, the owner requesting registration in beneficiary form assents to the protections provided to the registering entity by this division.

2. By accepting a request for registration of a security in beneficiary form, the registering entity agrees that the registration in beneficiary form shall be implemented on the death of the deceased owners as provided in this division.

3. A registering entity is discharged from all claims to a security by the estate, creditors, heirs, or devisees of a deceased owner if the registering entity registers a transfer of the security in accordance with section 633.808 and does so in good faith reliance on all of the following:

a. The registration.

b. The provisions of this division.

c. Information provided by affidavit of the personal representative of the deceased owner, the surviving beneficiary, or the surviving beneficiary's representative, or other information available to the registering entity.

The protections of this division do not extend to a reregistration or payment made after a registering entity has received written notice from any claimant to any interest in the security objecting to implementation of a registration in beneficiary form. No other notice or other information available to the registering entity affects its right to protection under this division.

4. The protection provided by this division to the registering entity of a security does not affect the rights of beneficiaries in disputes between themselves and other claimants to ownership of the transferred security, its value, or its proceeds.

Sec. 27. NEW SECTION. 633.810 NONTESTAMENTARY TRANSFER ON DEATH.

1. A transfer on death resulting from a registration in beneficiary form shall be effective by reason of the contract regarding the registration between the owner and the registering entity under the provisions of this division, and is not testamentary.

2. The provisions of this division do not limit the rights of creditors or security owners against beneficiaries and other transferees under other laws of this state.

Sec. 28. NEW SECTION. 633.811 TERMS, CONDITIONS, AND FORMS FOR REGISTRATION.

1. A registering entity offering to accept registrations in beneficiary form may establish the terms and conditions under which the registering entity receives requests for either of the following:

a. Registration in beneficiary form.

b. Implementation of registrations in beneficiary form, including requests for cancellation of previously registered transfer on death or pay on death beneficiary designations and requests for reregistration to effect a change of beneficiary.

2. a. The terms and conditions established by the registering entity may provide for proving death, avoiding or resolving problems concerning fractional shares, designating primary and contingent beneficiaries, and substituting a named beneficiary's descendants to take in place of the named beneficiary in the event of the beneficiary's death. Substitution may be indicated by appending to the name of the beneficiary the letters "LDPS" standing for "lineal descendants per stirpes". This designation shall substitute a deceased beneficiary's descendants who survive the owner for a beneficiary who fails to survive, with the descendants to be identified and to share in accordance with the law of the beneficiary's domicile at the owner's death governing inheritance by descendants of an intestate. Other forms of identifying beneficiaries who are to take on one or more contingencies, and rules for providing proofs and assurances needed to satisfy reasonable concerns by registering entities regarding conditions and identities relevant to accurate implementation of registrations in beneficiary form, may be contained in a registering entity's terms and conditions.

b. The following are illustrations of registrations in beneficiary form which a registering entity may authorize:

(1) Sole owner-sole beneficiary: OWNER'S NAME transfer on death (TOD) or pay on death (POD) to BENEFICIARY'S NAME.

(2) Multiple owners-sole beneficiary: OWNERS' NAMES, as joint tenants or tenants in the entirety, transfer on death (TOD) or pay on death (POD) to BENEFICIARY'S NAME.

(3) Multiple owners-primary and secondary (substituted) beneficiaries: OWNERS' NAMES as joint tenants or tenants in the entirety, transfer on death (TOD) or pay on death (POD) to BENEFICIARY'S NAME, or lineal descendants per stirpes.

Sec. 29. APPLICATION. The provisions of this division apply to registrations of securities in beneficiary form made before, on, or after the effective date of this Act, by decedents dying on or after the effective date of this Act.

Approved May 26, 1997

CHAPTER 179

PROVIDING WORK-RELATED EMPLOYEE INFORMATION

S.F. 280

AN ACT providing immunity from civil liability for an employer or employer's representative who acts reasonably in providing work-related information about a current or former employee of the employer.

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

Section 1. NEW SECTION. 91B.2 INFORMATION PROVIDED BY EMPLOYERS ABOUT CURRENT OR FORMER EMPLOYEES — IMMUNITY.

1. An employer or an employer's representative who, upon request by or authorization of a current or former employee or upon request made by a person who in good faith is believed to be a representative of a prospective employer of a current or former employee, provides work-related information about a current or former employee, is immune from civil liability unless the employer or the employer's representative acted unreasonably in providing the work-related information.

2. For purposes of this section, an employer acts unreasonably if any of the following are present:

a. The work-related information violates a civil right of the current or former employee.

b. The work-related information knowingly is provided to a person who has no legitimate and common interest in receiving the work-related information.

c. The work-related information is not relevant to the inquiry being made, is provided with malice, or is provided with no good faith belief that it is true.

3. For purposes of this section, "employer" and "employee" are defined as provided in section 91A.2.

Approved May 26, 1997

CHAPTER 180

WILD ANIMAL DEPREDATION PERMITS AND RELATED MATTERS

S.F. 362

AN ACT establishing a wild animal depredation unit within the department of natural resources, allowing the discharge of firearms in state parks for certain purposes, providing for the issuance of additional free deer hunting licenses, subjecting violators to an existing penalty, and providing an effective date.

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

Section 1. Section 461A.42, subsection 1, Code 1997, is amended by striking the subsection and inserting in lieu thereof the following:

1. The use of firearms, explosives, and weapons of all kinds by a person is prohibited in all state parks and preserves except under the following conditions:

a. A firearm or other weapon authorized for hunting may be used in preserves or parts of preserves designated by the state advisory board on preserves at the request of the commission.

b. A person may use a bow and arrow with an attached bow fishing reel and ninety-pound minimum line attached to the arrow to take rough fish as provided by rule of the commission.

c. The commission may establish, by rule, the state parks or parts of state parks where firearms may be discharged during special events, festivals and education programs, or a special hunt to control animal populations. The rules governing special hunts to control animal populations shall be applied separately to each designated state park.

Sec. 2. NEW SECTION. 481C.1 WILD ANIMAL DEPREDATION UNIT.

A wild animal depredation unit is established within the fish and wildlife division of the department of natural resources. The unit shall be comprised of two wild animal depredation biologists. The biologists shall serve under the director of the department of natural resources.

Sec. 3. NEW SECTION. 481C.2 DUTIES.

The director of the department of natural resources shall enter into a memorandum of agreement with the United States department of agriculture, animal damage control division. The unit shall serve and act as the liaison to the department for the producers in the state who suffer crop and nursery damage due to wild animals. The department shall issue depredation permits as necessary to reduce crop and nursery damage due to wild animals. The criteria for issuing depredation permits shall be established in administrative rules in consultation with the farmer advisory committee created in section 481A.10A.

Sec. 4. NEW SECTION. 481C.3 FUNDING.

Notwithstanding section 483A.30, the revenue from nonresident deer and wild turkey hunting licenses shall first be used to pay the salaries, support, and maintenance of the wild animal depredation unit established pursuant to section 481C.1. The remaining revenue from nonresident deer and wild turkey hunting licenses shall be used to meet the requirements of section 483A.30.

Sec. 5. REPORT TO GENERAL ASSEMBLY, 1998. The department of natural resources shall report, during January 1998, to the chairpersons and ranking members of the house committee on natural resources and the senate committee on natural resources and environment the number of applications received for depredation permits and the number of depredation permits issued during the preceding calendar year pursuant to section 481C.2.

Sec. 6. Section 483A.24, subsection 2, Code 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. If the commission establishes a deer hunting season to occur in the first quarter of a calendar year that is separate from a deer hunting season that continues from the last quarter of the preceding calendar year, each owner and each tenant of a farm unit located within a zone where a deer hunting season is established, upon application, shall be issued a free deer hunting license for each of the two calendar quarters. Each license is valid only for hunting on the farm unit of the owner and tenant.

Sec. 7. Section 483A.30, Code 1997, is repealed effective December 31, 1999.

Sec. 8. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 26, 1997

CHAPTER 181

HIGHER EDUCATION LOAN AUTHORITY

S.F. 410

AN ACT relating to the Iowa higher education loan authority by eliminating the limit on the amount of its obligations that may be outstanding for purposes of funding capital projects and allowing the authority to issue tuition anticipation notes and obligations to finance projects to be leased to an institution.

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

Section 1. Section 261A.34, subsection 3, Code 1997, is amended to read as follows:

3. "Project" means any property located within the state, constructed or acquired before or after July 1, 1985 that may be used or will be useful in connection with the instruction, feeding, or recreation of students, the conducting of research, administration, or other work of an institution, or any combination of the foregoing. "Project" includes, but is not limited to, any academic facility, administrative facility, assembly hall, athletic facility, instructional facility, laboratory, library, maintenance facility, student health facility, recreational facility, research facility, student union, or other facility suitable for the use of an institution. "Project" also means the refunding or refinancing of outstanding obligations, mortgages, or advances, including advances from an endowment or similar fund, originally issued, made, or given by the institution to finance the cost of a project. "Project" also includes a project that is to be leased by the authority to an institution.

Sec. 2. Section 261A.36, Code 1997, is amended to read as follows:

261A.36 ISSUANCE OF OBLIGATIONS.

The authority may issue obligations of the authority for any of its corporate purposes as provided for in this division including the issuing of obligations to finance projects to be leased by the authority to an institution, and fund or refund the obligations pursuant to this division.

Sec. 3. Section 261A.37, Code 1997, is amended to read as follows:

261A.37 LOANS AUTHORIZED.

The authority may make loans to an institution for the cost of a project or in anticipation of the receipt of tuition by the institution in accordance with an agreement between the authority and the institution, except that a loan for the cost of a project shall not exceed the total cost of the project, as determined by the institution and approved by the authority and except that loans in anticipation of the receipt of tuition shall not exceed the anticipated amount of tuition to be received by the institution in the one-year period following the date of the loan. The authority may lease projects to institutions under the terms of lease agreements determined by the institution and the authority, except that the term of the lease shall not exceed the estimated useful economic life of the project.

Sec. 4. Section 261A.38, Code 1997, is amended to read as follows:

261A.38 ISSUANCE OF OBLIGATIONS — CONDITIONS.

The authority may issue obligations and make loans to an institution or may issue obligations to finance projects to be leased by the authority to an institution and refund, refinance or reimburse outstanding obligations, indebtedness, mortgages, or advances, including advances from an endowment or any similar fund, issued, made, or given by the institution, whether before or after July 1, 1985, for the cost of a project, when the authority finds that the financing prescribed in this section is in the public interest, and either alleviates a financial hardship upon the institution, results in a lesser cost of education, or enables the institution to offer greater security for a loan or loans to finance a new project or projects or to effect savings in interest costs or more favorable amortization terms.

Sec. 5. Section 261A.42, unnumbered paragraph 1, Code 1997, is amended to read as follows:

The authority may provide by resolution for the issuance of obligations for the purpose of paying, refinancing, or reimbursing all or part of the cost of a project. ~~The authority shall not have outstanding at any one time obligations issued pursuant to this division in an aggregate principal amount exceeding one hundred fifty million dollars.~~ Except to the extent payable from payments to be made on federally guaranteed securities as provided in section 261A.45, the principal of and the interest on the obligations shall be payable solely out of the revenue of the authority derived from the project to which they relate and from other facilities pledged or made available for this purpose by the institution for whose benefit the obligations were issued. The obligations of each issue shall be dated, shall bear interest at rate or rates, without regard to any limit contained in any other statute or law of the state, and shall mature at times not exceeding forty years from the date of issuance, all as determined by the authority; and may be made redeemable before maturity at the prices and under terms fixed by the authority in the authorizing resolution.

Approved May 26, 1997

CHAPTER 182

SCHOOL DISTRICT FINANCING — PHYSICAL PLANT AND EQUIPMENT LEVY

S.F. 531

AN ACT relating to the increase in the physical plant and equipment levy.

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

Section 1. Section 298.2, subsection 1, Code 1997, is amended to read as follows:

1. A physical plant and equipment levy of not exceeding one dollar and sixty-seven cents per thousand dollars of assessed valuation in the district is established except as otherwise provided in this subsection. The physical plant and equipment levy consists of the regular physical plant and equipment levy of not exceeding thirty-three cents per thousand dollars of assessed valuation in the district and a voter-approved physical plant and equipment levy of not exceeding ~~sixty-seven~~ one dollar and thirty-four cents per thousand dollars of assessed valuation in the district. However, the voter-approved physical plant and equipment levy may consist of a combination of a physical plant and equipment property tax levy and a physical plant and equipment income surtax as provided in subsection 3 with the maximum amount levied and imposed limited to an amount that could be raised by a ~~sixty-seven~~ one dollar and thirty-four cent property tax levy. The levy limitations of this subsection are subject to subsection 5.

Sec. 2. Section 298.2, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. If the electors of a school district have authorized a voter-approved physical plant and equipment levy not exceeding sixty-seven cents per thousand dollars of assessed valuation in the district prior to July 1, 1997, the levy shall continue for the period authorized under the voter-approved levy, and the maximum levy that can be authorized by the electors under the voter-approved levy on or after July 1, 1997, under this section, is an additional sixty-seven cents for a period to coincide with the period for which the initial physical plant and equipment levy in the district was approved.

Sec. 3. Section 298.3, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Revenue from the regular and voter-approved physical plant and equipment levies shall not be expended for school district employee salaries or travel expenses, supplies, printing costs or media services, or for any other purpose not expressly authorized in this section.

Approved May 26, 1997

CHAPTER 183

PSEUDORABIES CONTROL

S.F. 555

AN ACT relating to the control of pseudorabies, making corresponding changes, making penalties applicable, and providing for an effective date.

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

Section 1. Section 163.30, subsection 2, paragraph c, Code 1997, is amended to read as follows:

c. ~~"Swine moved"~~ "Move" or "movement" means ~~any physical~~ to ship, transport, or deliver swine by land, water, or air, except that "move" or "movement" does not mean a relocation ~~of~~.

d. "Relocate" or "relocation" means to ship, transport, or deliver swine by land, water, or air, to different premises, if the ownership of the swine ~~to different~~ does not change, the prior and new premises~~, except that it does not include movement of swine when their ownership does not change, and both their prior and new locations, and the movement between such locations,~~ are located within the state ~~of Iowa~~, and the shipment, transportation, or delivery between the prior and new premises occurs within the state.

Sec. 2. Section 166D.2, subsection 7, unnumbered paragraph 1, Code 1997, is amended to read as follows:

"Certificate of inspection" means a document approved by the United States department of agriculture or the department of agriculture and land stewardship, and issued by a licensed veterinarian prior to the interstate or intrastate movement of swine or to the relocation of swine. The certificate of inspection must state all of the following:

Sec. 3. Section 166D.2, subsection 7, unnumbered paragraph 2, Code 1997, is amended by striking the unnumbered paragraph.

Sec. 4. Section 166D.2, subsection 31, Code 1997, is amended to read as follows:

31. "Move" or "movement" means ~~to ship, transport, or deliver by land, water, or air~~ the same as defined in section 163.30.

Sec. 5. Section 166D.2, Code 1997, is amended by adding the following new subsections:

NEW SUBSECTION. 39A. "Relocate" or "relocation" means the same as defined in section 163.30.

NEW SUBSECTION. 39B. "Relocation record" means a record as maintained by the owner of swine in a form and containing information as required by the rules adopted by the department, which indicates a relocation of swine as provided in section 166D.10.

Sec. 6. Section 166D.2, subsection 45, Code 1997, is amended to read as follows:

45. "Transportation certificate" means ~~the same~~ a written document evidencing that the movement or relocation of swine complies with the requirements of this chapter, and which may be a transportation certificate as provided in chapter 172B, or another document approved by the department, including but not limited to one or more types of forms covering different circumstances, as prescribed by the department.

Sec. 7. NEW SECTION. 166D.3A DEPARTMENTAL DETERMINATION OF PSEUDORABIES PREVALENCE.

The department shall periodically determine the prevalence of pseudorabies in each county in a manner and according to procedures established by rules adopted by the department.

Sec. 8. Section 166D.9, subsection 4, unnumbered paragraph 1, Code 1997, is amended to read as follows:

While the state is classified in ~~either~~ stage I, ~~or~~ II, or III of the national pseudorabies program pursuant to federal regulations, the following requirements must be satisfied:

Sec. 9. Section 166D.10, subsection 1, unnumbered paragraph 1, Code 1997, is amended to read as follows:

A person shall not sell, lease, exhibit, ~~or~~ loan, move, or relocate swine within the state, ~~except to slaughter,~~ unless the swine are accompanied by a certificate of inspection ~~provided by the owner transferring possession~~ in the same manner as provided for an official health certificate or veterinarian certificate as provided in section 163.30. The department may combine the certificate of inspection with an official health certificate or a veterinarian inspection certificate. A certificate of inspection is not required if any of the following apply:

a. The swine are moved to slaughter.

b. The swine are relocated, if all of the following apply:

(1) A transportation certificate accompanies the relocated swine.

(2) The swine's owner maintains information regarding the relocation in relocation records. The department may adopt rules excusing a person from maintaining relocation records, if the department determines that the purposes of the chapter as provided in section 166D.1 are not furthered by the requirement.

(3) A certificate of inspection, or an official health certificate or a veterinarian inspection certificate as provided in section 163.30, has been issued for the swine within thirty days prior to the date of relocation. The department may adopt rules excusing a person from complying with this subparagraph if the department determines that the purposes of the chapter as provided in section 166D.1 are not furthered by the requirement.

The department shall adopt rules required to administer this paragraph. A transportation certificate accompanying relocated swine shall cite the relevant relocation record and certificate of inspection, or official health certificate or veterinarian inspection certificate. The department may provide for the examination of the relocation records on the owner's premises during normal business hours, or may require that reports containing relevant information contained in relocation records and certificates of inspection, or official health certificates or veterinarian inspection certificates, be periodically submitted to the department. For purposes of this section, swine production information contained in relocation records is a trade secret as provided in section 22.7, unless otherwise provided by rules adopted by the department. The department shall provide for the disclosure of confidential information only to the extent required for enforcement of this chapter, the detection and prosecution of public offenses, or to comply with a subpoena or court order.

c. A person transferring ownership of all or part of a herd, if the herd remains on the same premises. However, the herd must be tested by statistical sampling. If any part of the herd is subsequently moved or relocated, the swine that are moved or relocated must be accompanied by a certificate of inspection, or an official health certificate or veterinarian certificate as provided in section 163.30, unless the swine are moved to slaughter.

1A. Swine that are moved shall be individually identified as provided in section 163.30, which may include requirements for affixing ear tags to swine. However, ~~a~~ native Iowa feeder ~~pig~~ pigs moved from farm to farm within the state ~~is exempt from the certificate of inspection's~~ shall not be subject to the identification requirements of this subsection, if the owner transferring possession ~~and~~ of the feeder pigs executes a written agreement with the person taking possession ~~state on the certificate of inspection that~~ of the feeder ~~swine~~ pigs. The agreement shall provide that the feeder pigs will not be commingled with other swine for a period of thirty days. The owner transferring possession shall provide a copy of the agreement to the person taking possession of the feeder pigs.

As used in this subsection "farm to farm within the state" does not include the movement or relocation of native Iowa feeder pigs to the possession of a dealer licensed pursuant to section 163.30. Native Iowa feeder pigs that are moved shall be accompanied by a certificate of inspection, or an official health certificate or veterinarian certificate as provided in section 163.30, unless swine are otherwise exempted from this requirement by this section.

Sec. 10. Section 166D.10, subsection 1, unnumbered paragraph 2, Code 1997, is amended to read as follows:

1B. Swine moved into or within Iowa for breeding purposes must originate from a herd not under quarantine which is one of the following:

Sec. 11. Section 166D.10, subsection 4, Code 1997, is amended to read as follows:

4. In addition to other applicable requirements of this section, feeder swine ~~shall not be~~ moved ~~into~~ from a location outside of this state ~~from another state except to slaughter, unless the feeder swine are vaccinated by a differentiable vaccine within forty-five days of arrival in this state~~ to a location within this state shall be vaccinated, if the feeder swine are moved into a county where the department determines that more than three percent of all herds in the county are infected herds. The feeder swine shall be vaccinated with a differentiable vaccine according to procedures established by rules adopted by the department. However, this subsection shall not require vaccination if the feeder swine originate from a qualified negative herd or a qualified differentiable negative herd.

Sec. 12. ADOPTION OF RULES.

1. Except as provided in subsection 2, the department of agriculture and land stewardship shall adopt all rules required to carry out this Act not later than October 1, 1997.

2. The department of agriculture and land stewardship shall adopt all rules required to carry out the amendments to section 166D.10, subsection 4, Code 1997, as enacted in this Act, not later than January 1, 1998.

Sec. 13. EFFECTIVE DATES.

1. Except as provided in subsections 2 and 3, this Act takes effect on October 1, 1997.

2. The amendments to section 166D.10, subsection 4, Code 1997, as enacted in this Act take effect on January 1, 1998.

3. Section 12 of this Act takes effect upon enactment.

Approved May 26, 1997

CHAPTER 184

SALE OR LEASE OF SCHOOL PROPERTY

H.F. 405

AN ACT relating to the sale, lease, or other disposition of property belonging to a school district or area education agency and providing an immediate effective date.

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

Section 1. Section 7.20, Code 1997, is amended to read as follows:

7.20 EXECUTIVE ORDER — USE OF VACANT SCHOOL PROPERTY.

The governor shall issue an executive order requiring all state agencies to consider the leasing of a vacant facility or building which is appropriately located and which is owned by a public school corporation before a state agency leases, purchases, or constructs a facility or building. The state agency may lease a facility or building owned by a public school corporation with an option to purchase the facility or building in compliance with ~~sections~~ section 297.22 ~~to 297.24~~. The lease shall provide that the public school corporation may terminate the lease if the corporation needs to use the facility or building for school purposes. The public school corporation shall notify the state agency at least thirty days before the termination of the lease.

Sec. 2. Section 273.3, subsection 21, Code 1997, is amended to read as follows:

21. Be authorized to sell, lease, or dispose of, in whole or in part, property belonging to the area education agency. Before the area education agency may sell property belonging to the agency, the board of directors shall comply with the requirements set forth in ~~sections 297.23 and 297.24~~ section 297.22. Before the board of directors of an area education agency may lease property belonging to the agency, the board shall obtain the approval of the director of the department of education.

Sec. 3. Section 297.22, Code 1997, is amended to read as follows:

297.22 POWER TO SELL, LEASE, OR DISPOSE OF PROPERTY — TAX.

1. The board of directors of a school district may sell, lease, or dispose of, in whole or in part, a schoolhouse, site, or other property belonging to the district. ~~However, if the appraised value exceeds twenty-five thousand dollars, the board shall hold a public hearing before the board takes final action on the property.~~ If the real property contains less than two acres, is located outside of a city, is not adjacent to a city, and was previously used as a schoolhouse site, the procedure contained in sections 297.15 through 297.20 shall be followed in lieu of this section.

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

~~Before the board of directors may sell, lease or dispose of any property belonging to the school district it shall comply with the requirements set forth in sections 297.15 to 297.20 and sections 297.23 and 297.24. Any real estate proposed to be sold shall be appraised by three disinterested freeholders residing in the school district and appointed by the chief judge of the judicial district of the county in which said real estate is located from the list of compensation commissioners.~~

Before the board of directors may sell, lease for a period in excess of one year, or dispose of any property belonging to the school, the board shall hold a public hearing on the proposal. The board shall set forth its proposal in a resolution and shall publish notice of the time and the place of the public hearing on the resolution. The notice shall also describe the property. A locally known address for real property may be substituted for a legal description of real property contained in the resolution. Notice of the time and place of the public hearing shall

be published at least once not less than ten days but not more than twenty days prior to the date of the hearing in a newspaper of general circulation in the district. After the public hearing, the board may make a final determination on the proposal contained in the resolution.

However, property having a value of not more than five thousand dollars, other than real property, may be disposed of by any procedure which is adopted by the board and each sale shall be published by at least one insertion each week for two consecutive weeks in a newspaper having general circulation in the district.

2. The board of directors of a school district may sell, lease, exchange, give, or grant, and accept any interest in real property to, with, or from a county, municipal corporation, school district, township, or area education agency if the real property is within the jurisdiction of both the grantor and grantee. ~~In this case sections 297.15 to 297.20, sections 297.23 and 297.24, and appraisal requirements of this section do not apply to the transaction.~~

The board of directors of a school district may lease a portion of an existing school building in which the remaining portion of the building will be used for school purposes for a period of not to exceed five years. The lease may be renewed at the option of the board. ~~Sections 297.15 to 297.20, sections 297.23 and 297.24, and the appraisal requirements~~ The notice and public hearing requirements of subsection 1 of this section do not apply to the lease of a portion of an existing school building. A school district shall pay out of the revenue from a lease to the state of Iowa, and to the city, school district and any other political subdivision authorized to levy taxes, an amount as determined by this section. The amount shall be determined by applying the annual tax rate of the taxing district to the assessed value of the portion of the building leased, prorated for the term of the lease during the appropriate taxing period. The provisions of this section relating to the payment of property tax because of leases shall only apply to leases to private, for-profit entities which lease a portion of a school building for a period of thirty or more consecutive days.

~~2.~~ 3. The provisions in subsection 1, relating to the sale, lease, or disposition of school district property do not apply to student-constructed buildings and the property on which student-constructed buildings are located. The board of directors of a school district may sell, lease, or dispose of a student-constructed building and the property on which the student-constructed building is located, and may purchase sites for the erection of additional structures, by any procedure which is adopted by the board.

Sec. 4. Section 297.25, Code 1997, is amended to read as follows:

297.25 RULE OF CONSTRUCTION.

Sec~~tions~~ Section 297.22 ~~to 297.24~~ shall be construed as independent of the power vested in the electors by section 278.1, and as additional ~~thereto~~ to such power.

Sec. 5. Section 331.361, subsection 7, Code 1997, is amended to read as follows:

7. The board shall not lease, purchase, or construct a facility or building before considering the leasing of a vacant facility or building which is located in the county and owned by a public school corporation. The board may lease a facility or building owned by the public school corporation with an option to purchase the facility or building in compliance with ~~sections~~ section 297.22 ~~to 297.24~~. The lease shall provide that the public school corporation may terminate the lease if the corporation needs to use the facility or building for school purposes. The public school corporation shall notify the board at least thirty days before the termination of the lease.

Sec. 6. Section 364.21, Code 1997, is amended to read as follows:

364.21 USE OF VACANT SCHOOL PROPERTY.

A city shall not lease, purchase, or construct a building before considering the leasing of a vacant facility or building owned by a local public school corporation. The city may lease a facility or building owned by a local public school corporation with an option to purchase the facility or building in compliance with ~~sections~~ section 297.22 ~~to 297.24~~. The lease shall

provide that the public school corporation may terminate the lease if the corporation needs to use the facility or building for school purposes. The public school corporation shall notify the city at least thirty days before the termination of the lease.

Sec. 7. Sections 297.21, 297.23, and 297.24, Code 1997, are repealed.

Sec. 8. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 26, 1997

CHAPTER 185

DEFERRED COMPENSATION AND PHASED RETIREMENT — INVESTMENTS AND OTHER PROVISIONS

H.F. 540

AN ACT relating to personnel procedures and investment policy requirements for state government employees.

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

Section 1. Section 12B.10, subsection 6, Code 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. Investments under the deferred compensation plan established by the executive council pursuant to section 509A.12.

Sec. 2. Section 12B.10A, subsection 6, Code 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. The deferred compensation plan established by the executive council pursuant to section 509A.12.

Sec. 3. Section 12B.10B, subsection 3, Code 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. The deferred compensation plan established by the executive council pursuant to section 509A.12.

Sec. 4. Section 12B.10C, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 7. The deferred compensation plan established by the executive council pursuant to section 509A.12.

Sec. 5. Section 12C.1, subsection 1, Code 1997, is amended to read as follows:

1. All funds held ~~in the hands of~~ by the following officers or institutions shall be deposited in one or more depositories first approved by the appropriate governing body as indicated: For the treasurer of state, by the executive council; for judicial officers and court employees, by the supreme court; for the county treasurer, recorder, auditor, and sheriff, by the board of supervisors; for the city treasurer or other designated financial officer of a city, by the city council; for the county public hospital or merged area hospital, by the board of hospital trustees; for a memorial hospital, by the memorial hospital commission; for a school corporation, by the board of school directors; for a city utility or combined utility system established under chapter 388, by the utility board; for a regional library established under chapter 256, by the regional board of library trustees; and for an electric power agency as defined

in section 28F.2, by the governing body of the electric power agency. However, the treasurer of state and the treasurer of each political subdivision or the designated financial officer of a city shall invest all funds not needed for current operating expenses in time certificates of deposit in approved depositories pursuant to this chapter or in investments permitted by section 12B.10. The list of public depositories and the amounts severally deposited in the depositories are matters of public record. This subsection does not limit the definition of "public funds" contained in subsection 2. Notwithstanding provisions of this section to the contrary, public funds of a state government deferred compensation plan established by the executive council may also be invested in the investment products authorized under section 509A.12.

Sec. 6. NEW SECTION. 19A.12B DEFERRED COMPENSATION PLAN.

The department shall make available to eligible state employees by September 1, 1997 the option of utilizing mutual funds as an investment alternative to the state's deferred compensation plan established under section 509A.12. Participating employees shall, to the extent permitted by law, be allowed to transfer moneys deferred under the plan to a mutual fund offered pursuant to section 509A.12.

Sec. 7. Section 70A.31, Code 1997, is amended to read as follows:

70A.31 ELIGIBILITY.

The phased retirement incentive program requires that participants agree to work a maximum of thirty-two hours per week and a minimum of twenty hours per week for the first ~~year~~ four years after entering the program. After the fourth year of participation in the program, participants shall agree to work a maximum of twenty hours per week. Participants shall agree to retire from state government employment effective on the last day of their fifth year of participation in the program.

Sec. 8. Section 70A.32, subsection 4, Code 1997, is amended to read as follows:

4. Continuation of membership in the state employees disability insurance program. During the five-year period, monthly earnings of the employee for purposes of the disability insurance program shall equal the monthly earnings as if the participant were a full-time employee.

Sec. 9. Section 70A.33, unnumbered paragraph 1, Code 1997, is amended to read as follows:

A state employee meeting the requirements of section 70A.31 may file a request to participate in the program with the head of the employee's state department, agency, or commission. The employee shall specify the number of hours per week the employee intends to work for each of the five years of participation, subject to the requirements of section 70A.31. Participation in the program is dependent upon the approval of the head of the department, agency, or commission. The cost to the state department, agency, or commission shall be paid from the funds appropriated to the department, agency, or commission for salaries, support, maintenance, and miscellaneous purposes.

Sec. 10. Section 509A.12, unnumbered paragraph 1, Code 1997, is amended to read as follows:

~~At the request of an employee, the governing body or the county board of supervisors shall by contractual agreement acquire an individual or group life insurance contract, annuity contract, interest in a mutual fund, security, or any other deferred payment contract for the purpose of funding a deferred compensation program.~~ A governing body, county board of supervisors or other public entity, to the extent allowed by law, may establish a deferred compensation program under this section. The contributions made on behalf of an employee who chooses to participate in the program shall be invested at the direction of the employee in a life insurance contract, annuity contract, mutual fund, security, or any other deferred payment contract offered as an investment option under the program. The contract

acquired for an employee shall be in accordance with the plan document and shall be acquired from ~~any~~ a company, or a salesperson for that company, 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~~. 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.

Approved May 26, 1997

CHAPTER 186

INSURANCE REGULATION — MISCELLANEOUS PROVISIONS

H.F. 557

AN ACT relating to the operation and regulation of certain insurance companies and mutual associations, and the regulatory authority of the insurance division of the department of commerce.

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

Section 1. Section 87.22, unnumbered paragraph 1, Code 1997, is amended to read as follows:

The president, vice president, secretary, and treasurer of a corporation other than a family farm corporation, but not to exceed four officers per corporation, may exclude themselves from workers' compensation coverage under chapters 85, 85A, and 85B by knowingly and voluntarily rejecting workers' compensation coverage by signing, and attaching to the workers' compensation or employers' liability policy~~, initially and upon renewal of the policy,~~ a written rejection, or if such a policy is not issued, by signing a written rejection which is witnessed by two disinterested individuals who are not, formally or informally, affiliated with the corporation and which is filed by the corporation with the industrial commissioner, in substantially the following form:

Sec. 2. Section 507.3, subsection 1, Code 1997, is amended to read as follows:

1. Upon determining that an examination should be conducted, the commissioner or the commissioner's designee may ~~issue an examination warrant appointing~~ appoint one or more examiners to perform the examination and ~~instructing~~ instruct them as to the scope of the examination. In conducting the examination, the examiner shall observe those guidelines and procedures set forth in the examiners' handbook adopted by the national association of insurance commissioners. The commissioner may also employ other guidelines as the commissioner deems appropriate.

Sec. 3. Section 507C.34, subsection 2, paragraph a, subparagraph (3), Code 1997, is amended to read as follows:

(3) Claims falling within the priorities established in section 507C.42, ~~subsections~~ subsection 1 ~~and 2~~.

Sec. 4. Section 507C.42, Code 1997, is amended to read as follows:

507C.42 PRIORITY OF DISTRIBUTION.

The priority of distribution of claims from the insurer'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:

1. Class 1. The costs and expenses of administration, including but not limited to the following:

a. The actual and necessary costs of preserving or recovering the assets of the insurer.

b. Compensation for all authorized services rendered in the liquidation.

c. Necessary filing fees.

d. The fees and mileage payable to witnesses.

e. Authorized reasonable attorney's fees and other professional services rendered in the liquidation.

f. The reasonable expenses of a guaranty association or foreign guaranty association in handling claims.

~~2. Class 2. 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 or, if the rehabilitation preceded liquidation, within one year before the filing of the petition for rehabilitation. Officers and directors are not entitled to the benefit of this priority. The priority is in lieu of other similar priority which may be authorized by law as to wages or compensation of employees.~~

~~3~~ 2. Class ~~3~~ 2. Claims under policies, including claims of the federal or any state or local government, for losses incurred, including third-party claims, claims against the insurer for liability for bodily injury or for injury to or destruction of tangible property which are not under policies, claims of a guaranty association or foreign guaranty association, and claims for unearned premium. Claims under life insurance and annuity policies, whether for death proceeds, annuity proceeds, or investment values, shall be treated as loss claims. That portion of a loss, indemnification for which is provided by other benefits or advantages recovered by the claimant, shall not be included in this class, other than benefits or advantages recovered or recoverable in discharge of familial obligations of support or by way of succession at death or as proceeds of life insurance, or as gratuities. A payment by an employer to an employee is not a gratuity.

3. Class 3. Claims of the federal government except those under class 2.

4. Class 4. 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 or, if the rehabilitation preceded liquidation, within one year before the filing of the petition for rehabilitation. Officers and directors are not entitled to the benefit of this priority. The priority is in lieu of other similar priority which may be authorized by law as to wages or compensation of employees.

~~4~~ 5. Class ~~4~~ 5. Claims of general creditors, including claims of ceding and assuming reinsurers in their capacity as such, and subrogation claims.

~~5~~ 6. Class ~~5~~ 6. Claims of ~~the federal or~~ any state or local government except those under class ~~3~~ 2. Claims, including those of a governmental body for a penalty or forfeiture, are allowed in this class only to the extent of the pecuniary loss sustained from the act, transaction, or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs incurred. The remainder of such claims shall be postponed to the class of claims under subsection ~~8~~ 9.

~~6~~ 7. Class ~~6~~ 7. Claims filed late or any other claims other than claims under subsections ~~7~~ 8 and ~~8~~ 9.

~~7~~ 8. Class ~~7~~ 8. Surplus or contribution notes, or similar obligations, and premium refunds on assessable policies. Payments to members of domestic mutual insurance companies are limited in accordance with law.

~~8~~ 9. Class ~~8~~ 9. The claims of shareholders or other owners.

Sec. 5. Section 507C.59, Code 1997, is amended to read as follows:

507C.59 SUBORDINATION OF CLAIMS FOR NONCOOPERATION.

If an ancillary receiver in another state or foreign country, whether called by that name or not, fails to transfer to the domiciliary liquidator in this state assets within the ancillary receiver's control other than special deposits, diminished only by the expenses of the ancillary receivership, the claims filed in the ancillary receivership, other than special deposit claims or secured claims, shall be placed in the class of claims under section 507C.42, subsection ~~7~~ 8.

Sec. 6. Section 508.10, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A foreign company authorized to do business in this state shall not assumptively reinsure a block of business which includes policyholders residing in this state to a company not authorized to do business in this state without the prior written approval of the commissioner.

Sec. 7. Section 508.14, Code 1997, is amended to read as follows:

508.14 VIOLATION BY DOMESTIC COMPANY — DISSOLUTION OR ADMINISTRATIVE PENALTY.

1. Upon a failure of a company organized under the laws of this state to make the deposit provided in section 511.8, subsection 16, or file the statement in the time herein stated, or to file in a timely manner any financial statement required by rule of the commissioner of insurance, the commissioner of insurance shall notify the attorney general of the default, who shall at once apply to the district court of the county where the home office of the company is located for an order requiring the company to show cause, upon reasonable notice to be fixed by the court, why its business shall not be discontinued. If, upon the hearing, ~~no~~ sufficient cause is not shown, the court shall decree its dissolution.

2. In lieu of a district court action authorized by this section, the commissioner may impose an administrative penalty of ~~three~~ five hundred dollars upon the company. The right of the company to transact further new business in this state shall immediately cease until the requirements of this chapter have been fully complied with.

3. The commissioner may give notice to a company, which has failed to file evidence of deposit and all delinquent statements within the time fixed, that the company is in violation of this section. If the company fails to file evidence of deposit and all delinquent statements within ten days of the date of the notice, the company is subject to an additional administrative penalty of one hundred dollars for each day the failure continues.

4. Amounts received by the commissioner pursuant to subsections 2 and 3 shall be paid to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

Sec. 8. Section 511.36, subsection 2, Code 1997, is amended to read as follows:

2. The rate of interest charged on a policy loan made under subsection 1, paragraph "b", shall not exceed the greater of the following:

a. The published monthly average for the calendar month ending two months before the date on which the rate is determined. For purposes of this subsection, "published monthly average" means one of the following:

(1) Moody's corporate bond yield average-monthly average corporates as published in Moody's investors service, inc., or any successor to the investors service.

(2) If Moody's corporate bond yield average-monthly average corporates is no longer published, a substantially similar average established by rule issued by the commissioner of insurance.

~~On or before the first day of each month, the commissioner of insurance shall determine the published monthly average for the calendar month ending one month before the date on which the monthly average is determined, and publish the rate, as a notice in the Iowa administrative bulletin or as a legal notice in a newspaper of general circulation published~~

~~in Polk county prior to the first day of the following calendar month. This published monthly average is effective on the first day of the following calendar month. The determination of this published monthly average by the commissioner of insurance is exempt from chapter 17A.~~

b. The rate used to compute the cash surrender values under the policy during the applicable period plus one percent per annum.

Sec. 9. NEW SECTION. 514B.33 ESTABLISHMENT OF LIMITED SERVICE ORGANIZATIONS.

1. A person may apply to the commissioner for and obtain a certificate of authority to establish and operate a limited service organization in compliance with this chapter. A person shall not establish or operate a limited service organization in this state, or sell, offer to sell, or solicit offers to purchase or receive advance or periodic consideration in conjunction with a limited service organization without obtaining a certificate of authority under this chapter.

2. The commissioner shall adopt rules pursuant to chapter 17A establishing a certification process for limited service organizations.

3. a. For purposes of this section, "limited service organization" means an organization providing dental care services, vision care services, mental health services, substance abuse services, pharmaceutical services, podiatric care services, or such other services as may be determined by the commissioner.

b. "Limited service organization" does not include an organization providing hospital, medical, surgical, or emergency services, except as such services are provided incident to those services identified in paragraph "a".

Sec. 10. Section 515.35, subsection 3, paragraph a, subparagraph (2), subparagraph subdivision (a), Code 1997, is amended to read as follows:

(a) That the loan will be fully collateralized by cash, cash equivalents, 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.

Sec. 11. Section 515.51, Code 1997, is amended to read as follows:

515.51 POLICIES — EXECUTION — REQUIREMENTS.

All policies or contracts of insurance made or entered into by the company may be made either with or without the seal of the company, but shall be subscribed by the president, or such other officer as may be designated by the directors for that purpose, and be attested to by the secretary or the secretary's designee of the company. ~~A policy or contract authorized by this chapter shall not be delivered in this state unless it is an individual policy or contract form~~ A group motor vehicle or group homeowners policy shall not be written or delivered within this state unless such policy is an individual policy or contract form.

Sec. 12. NEW SECTION. 515.68A FOREIGN COMPANIES — REINSURANCE.

A foreign company authorized to do business in this state shall not assumptively reinsure a block of business which includes policyholders residing in this state to a company not authorized to do business in this state without the prior written approval of the commissioner.

Sec. 13. Section 515B.1, Code 1997, is amended by striking the section and inserting in lieu thereof the following:

515B.1 SCOPE.

This chapter shall apply to all kinds of direct insurance authorized to be written by an insurer licensed to operate in this state under chapter 515 or chapter 520, but shall not be applicable to the following:

1. Life, annuity, health, or disability insurance.
2. Mortgage guaranty, financial guaranty or other forms of insurance offering protection against investment risks.
3. Fidelity or surety bonds, or any other bonding obligations.
4. Credit insurance, vendors' single interest insurance, or collateral protection insurance or any similar insurance protecting the interests of a creditor arising out of a creditor-debtor transaction.
5. Insurance warranties or service contracts, including insurance that provides for the repair, replacement, or service of goods or property, or indemnification for repair, replacement, or service, for the operational or structural failure of the goods or property due to a defect in materials, workmanship, or normal wear and tear, or provides reimbursement for the liability incurred by the issuer of agreements or service contracts that provide such benefits.
6. Title insurance.
7. Ocean marine insurance.
8. A transaction or combination of transactions between a person, including affiliates of such person, and an insurer, including affiliates of such insurer, which involves the transfer of investment or credit risk unaccompanied by transfer of insurance risk.
9. Insurance provided by or guaranteed by government.

Sec. 14. Section 515B.2, Code 1997, is amended by adding the following new subsection:
NEW SUBSECTION. 1A. "Claimant" means an insured making a first party claim or any person instituting a liability claim against an insolvent insurer. "Claimant" does not include a person who is an affiliate of an insolvent insurer.

Sec. 15. Section 515B.5, subsection 1, paragraph a, Code 1997, is amended by striking the paragraph and inserting in lieu thereof the following:
a. Be obligated to pay covered claims existing prior to the final order of liquidation and arising within thirty days after the final order of liquidation, or before the policy expiration date if less than thirty days after the final order of liquidation, or before the insured replaces the policy or causes its cancellation, if the insured does so within thirty days of the final order of liquidation. Such obligation shall be satisfied by paying to the claimant an amount as follows:
(1) The full amount of a covered claim for benefits under a workers' compensation insurance coverage.
(2) An amount in excess of one hundred dollars but not exceeding ten thousand dollars per policy for a covered claim for the return of unearned premium.
(3) An amount not exceeding the lesser of the policy limits or three hundred thousand dollars per claim for all covered claims for all damages arising out of any one or series of accidents, occurrences, or incidents, regardless of the number of persons making claims or the number of applicable policies.

Sec. 16. Section 515B.5, subsection 1, paragraph c, Code 1997, is amended by adding the following new unnumbered paragraph:
NEW UNNUMBERED PARAGRAPH. The association shall also have the right to pursue and retain for its own account salvage and subrogation recoverable on paid covered claim obligations. An obligation of the association to defend an insured shall cease upon the association's payment of an amount equal to the lesser of the association's covered claim obligation or the applicable policy limits.

Sec. 17. Section 515B.8, subsection 2, Code 1997, is amended to read as follows:
2. The association and any similar entity in another state shall be recognized as claimants in the liquidation of an insolvent insurer for any amounts paid by them on covered claim obligations as determined under this chapter or under similar law in another state,

and shall receive dividends and any other distributions at the priority set forth under the applicable liquidation law. The receiver, liquidator, or statutory successor of an insolvent insurer shall be bound by determinations of covered claim eligibility under this chapter and by settlements of covered claims made by the association or a similar organization in another state. The court having jurisdiction shall grant such claims priority~~, including the deductible portion thereof,~~ equal to that which the claimant would have been entitled in the absence of this chapter against the assets of the insolvent insurer ~~over all other claims not having statutory or secured priority~~. The expenses of the association or similar organization in handling claims shall be accorded the same priority as the liquidator's expenses.

Sec. 18. Section 515B.15, unnumbered paragraph 1, Code 1997, is amended to read as follows:

All proceedings to which the insolvent insurer is a party or in which it is obligated to defend a party shall be stayed from the date of the insolvency to and including the date set as the deadline for the filing of claims against the insolvent insurer or its receiver. However, upon application, the court having jurisdiction of the receivership, may lengthen or shorten the period, either as to all claims or as to any particular claim. The association may, at the option of the association, waive such stay as to specific cases involving covered claims.

Sec. 19. Section 515B.16, Code 1997, is amended to read as follows:

515B.16 ACTIONS AGAINST THE ASSOCIATION.

Actions against the association shall be brought against it in ~~its~~ the association's own name and only in the Polk county district court. Service of original notice in actions against the association may be made on any officer thereof or upon the commissioner of insurance on its behalf. The commissioner shall promptly transmit any notice so served upon the commissioner to the association.

Sec. 20. Section 515D.4, subsection 2, unnumbered paragraph 1, Code 1997, is amended to read as follows:

~~Coverage under a policy~~ A person shall not be ~~canceled except by notice to the insured as provided in this chapter. Notice of cancellation of coverage under a policy is not effective~~ excluded from the policy unless ~~it~~ the exclusion is based on one or more of the following reasons:

Sec. 21. Section 515D.5, Code 1997, is amended to read as follows:

515D.5 DELIVERY OF NOTICE.

1. Notwithstanding the provisions of sections 515.80 through 515.81A, a notice of cancellation of a policy shall not be effective unless mailed or delivered by the insurer to the named insured at least twenty days prior to the effective date of cancellation, or, where the cancellation is for nonpayment of premium notwithstanding the provisions of sections 515.80 and 515.81A at least ten days prior to the date of cancellation. A post office department certificate of mailing to the named insured at the address shown in the policy shall be proof of receipt of such mailing. Unless the reason accompanies the notice of cancellation, the notice shall state that, upon written request of the named insured, mailed or delivered to the insurer not less than fifteen days prior to the date of cancellation, the insurer will state the reason for cancellation, together with notification of the right to a hearing before the commissioner within fifteen days as provided in this chapter.

When the reason does not accompany the notice of cancellation, the insurer shall, upon receipt of a timely request by the named insured, state in writing the reason for cancellation. A statement of reason shall be mailed or delivered to the named insured within five days after receipt of a request.

2. A notice of exclusion of a person under a policy pursuant to section 515D.4, is not effective unless written notice is mailed or delivered to the named insured at least twenty days prior to the effective date of the exclusion. The written notice shall state the reason for

the exclusion, together with notification of the right to a hearing before the commissioner pursuant to section 515D.10 within fifteen days of receipt or delivery of a statement of reason as provided in this section.

Sec. 22. Section 518.7, Code 1997, is amended to read as follows:

518.7 OFFICERS AND DIRECTORS — ELECTION.

Officers or directors shall be elected in the manner and for the length of time prescribed in the articles of incorporation. The same person shall not simultaneously hold the offices of president and secretary.

Sec. 23. Section 518A.6, Code 1997, is amended to read as follows:

518A.6 OFFICERS — ELECTION.

Officers or directors shall be elected in the manner and for the length of time prescribed in the articles of incorporation or bylaws. The same person shall not simultaneously hold the offices of president and secretary.

Sec. 24. Section 521.13, Code 1997, is amended to read as follows:

521.13 CONSOLIDATION PROHIBITED — EXCEPTION.

~~No~~ A company or companies as described in section 521.1 shall not consolidate or reinsure except insofar as provided by section 515.49 with any other company or companies ~~not authorized to transact business in this state~~ or any insurance company or companies organized under the laws of another state without the commission's approval.

Sec. 25. Section 521A.1, subsection 6, unnumbered paragraph 1, Code 1997, is amended to read as follows:

"Insurer" means a company qualified and licensed by the insurance division to transact the business of insurance in this state by certificate issued pursuant to chapters 508, 514B, 515, ~~518A,~~ 515E, and 520, except that it shall not include:

Sec. 26. Section 521A.3, subsection 4, paragraph a, Code 1997, is amended to read as follows:

a. The commissioner shall approve any merger or other acquisition of control referred to in subsection 1 ~~of this section unless~~ if, after a public hearing ~~thereon~~ on such merger or acquisition, the applicant has demonstrated to the commissioner ~~finds any~~ all of the following:

(1) After the change of control the domestic insurer referred to in subsection 1 ~~of this section would not~~ will be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed.

(2) The effect of the merger or other acquisition of control ~~would be~~ will not substantially ~~to~~ lessen competition in insurance in this state ~~or tend to create a monopoly therein~~.

(3) The financial condition of any acquiring party ~~is such as might~~ will not jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders.

(4) The plans or proposals which the acquiring party has to liquidate the insurer, sell its assets or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are not unfair ~~and~~ or unreasonable to policyholders of the insurer and are not ~~in~~ contrary to the public interest.

(5) The competence, experience, and integrity of those persons who would control the operation of the insurer are ~~such that it would not be in the interest~~ sufficient to indicate that the interests of policyholders of the insurer and of the public ~~to permit~~ will not be jeopardized by the merger or other acquisition of control.

Sec. 27. Section 515B.25, Code 1997, is repealed.

Approved May 26, 1997

CHAPTER 187

CONSUMER CREDIT

H.F. 611

AN ACT relating to permissible charges which may be contracted for and received with respect to open-end credit.

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

Section 1. Section 537.1301, subsection 42, Code 1997, is amended to read as follows:

42. "Supervised financial organization" means a person, other than an insurance company or other organization primarily engaged in an insurance business, which is organized, chartered, or holding an authorization certificate pursuant to chapter 524, 533, or 534, or pursuant to the laws of any other state or of the United States which authorizes the person to make loans and to receive deposits, including a savings, share, certificate or deposit account, and which is subject to supervision by an official or agency of this state, such other state, or of the United States.

Sec. 2. Section 537.2202, subsection 1, Code 1997, is amended to read as follows:

1. With respect to a consumer credit sale made pursuant to open end credit, a creditor may contract for and receive a finance charge ~~not exceeding that~~ without limitation as to amount or rate as permitted in this section.

Sec. 3. Section 537.2202, subsection 3, Code 1997, is amended by striking the subsection.

Sec. 4. Section 537.2402, subsection 1, Code 1997, is amended to read as follows:

1. If authorized to make supervised loans, a creditor may contract for and receive a finance charge without limitation as to amount or rate with respect to a loan pursuant to open-end credit ~~not exceeding that~~ as permitted in this section.

Sec. 5. Section 537.2402, subsections 3, 5, and 6, Code 1997, are amended by striking the subsections.

Sec. 6. Section 537.2502, subsection 4, Code 1997, is amended to read as follows:

4. 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 at least one hundred persons not related to the card issuer~~, the parties may contract for a delinquency charge on any payment not paid in full when due, as originally scheduled or as deferred, in an amount up to fifteen dollars.

Sec. 7. Section 537.2502, subsections 7 and 8, Code 1997, are amended by striking the subsections.

Approved May 26, 1997

CHAPTER 188

LIMITED PARTNERSHIPS AND LIMITED LIABILITY COMPANIES

H.F. 642

AN ACT relating to the organization and operation of certain legal entities, including limited partnerships and the rights and duties of limited partners, partnership agreements, duties of the secretary of state with respect to limited partnerships, and other related matters affecting foreign and domestic limited partnerships, and including limited liability companies and the conversion of other entities to limited liability companies, and the rights, duties, obligations, and interests of members and managers with respect to such companies, and establishing fees and penalties.

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

Section 1. Section 487.101, subsections 1 and 6, Code 1997, are amended to read as follows:

1. "Certificate of limited partnership" means the certificate referred to in section 487.201, and the certificate as amended or restated.

6. "Limited partner" means a person who has been admitted to a limited partnership as a limited partner in accordance with the partnership agreement ~~and named in the certificate of limited partnership as a limited partner~~.

Sec. 2. Section 487.101, Code 1997, is amended by adding the following new subsections:

NEW SUBSECTION. 11. "Person" means as defined in section 4.1.

NEW SUBSECTION. 12. "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

Sec. 3. Section 487.102, subsection 3, Code 1997, is amended by striking the subsection.

Sec. 4. Section 487.102, subsection 4, Code 1997, is amended to read as follows:

4. Shall be distinguishable upon the records of the secretary of state from the name of a registered limited liability partnership, corporation, limited liability company, or limited partnership organized under the law of this state or licensed or registered as a foreign registered limited liability partnership, foreign corporation, foreign limited liability company, or foreign limited partnership in this state or a name the exclusive right to which is, at the time, reserved in the manner provided in this chapter, without the written consent of the registered limited liability partnership, corporation, limited liability company, or limited partnership, which consent shall be filed with the secretary of state, and provided the name is not identical.

Sec. 5. Section 487.102, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 6. This chapter does not control the use of fictitious names. However, a limited partnership which uses a fictitious name in this state shall deliver to the secretary of state for filing a copy of the resolution of the limited partnership certified by its general partners, adopting the fictitious name.

Sec. 6. Section 487.103, subsection 2, Code 1997, is amended to read as follows:

2. The reservation shall be made by filing with the secretary of state an application to reserve a specified name. If the secretary of state finds that the name is available for use by a domestic or foreign limited partnership, the secretary shall reserve the name for the exclusive use of the applicant for a period of ~~ninety~~ one hundred twenty days. The right to the exclusive use of a reserved name may be transferred to any other person by filing in the office of the secretary of state a notice of the transfer, executed by the applicant for whom the name was reserved and specifying the name and address of the transferee.

Sec. 7. Section 487.104, subsection 3, Code 1997, is amended to read as follows:

3. An agent for service of process may resign as agent upon filing and recording in accordance with section ~~487.206~~ 487.108 a written notice of resignation, executed in duplicate, with the secretary of state. The secretary of state shall forthwith mail a copy of the resignation to the limited partnership at its principal place of business. The appointment of the agent terminates upon the expiration of thirty days after receipt of the notice by the secretary of state.

Sec. 8. Section 487.105, Code 1997, is amended to read as follows:

487.105 RECORDS TO BE KEPT.

A limited partnership shall keep at the office required under section 487.104, subsection 1, all of the following:

1. A current list of the full name and last known business address of each partner separately identifying the general partners and the limited partners, each list being in alphabetical order.

2. A copy of the certificate of limited partnership and all ~~amendments to the certificate~~ certificates of amendment to the certificate of limited partnership, together with ~~any~~ executed copies of any powers of attorney pursuant to which ~~a~~ any certificate ~~or amendment~~ has been executed.

3. Copies of the limited partnership's federal, state, and local income tax returns and reports, if any, for the three most recent years.

4. Copies of any currently effective written partnership agreements ~~in effect~~ and of any financial statements of the limited partnership for the three most recent years.

~~Any partner may inspect and copy the records required to be kept under subsections 1 to 4 provided that the partner's request to inspect and copy is reasonable and done at the partner's expense.~~

5. Unless contained in a written partnership agreement, a writing setting out all of the following:

a. The amount of cash and a description and statement of the agreed value of the other property or services contributed by each partner and which each partner has agreed to contribute.

b. The times at which or events on the happening of which any additional contributions agreed to be made by each partner are to be made.

c. Any right of a partner to receive, or of a general partner to make, distributions to a partner which include a return of all or any part of the partner's contribution.

d. Any events upon the happening of which the limited partnership is to be dissolved and its affairs wound up.

Records kept under this section are subject to inspection and copying at the reasonable request and at the expense of any partner during ordinary business hours.

Sec. 9. NEW SECTION. 487.108 FILING REQUIREMENTS.

1. A document shall satisfy the requirements of this section, and of any other section that adds to or varies these requirements, to be entitled to filing.

2. The document shall be filed in the office of the secretary of state.

3. The document shall contain the information required by this chapter. It may contain other information as well.

4. The document shall be typewritten or printed. The typewritten or printed portion shall be black. Manually signed photocopies, or other reproduced copies, including facsimiles or other electronically or computer-generated copies of typewritten or printed documents, may be filed.

5. The document shall be in the English language. A limited partnership name need not be in English if written in English letters or Arabic or Roman numerals.

6. Except as provided in section 487.205, the document shall be executed by one of the following methods:

a. If a domestic limited partnership, the documents shall be executed by all of its general partners.

b. If a foreign limited partnership, the document shall be subscribed and sworn to by a general partner.

c. If the general partner is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

7. The person executing the document shall sign it and state beneath or opposite the person's signature, the person's name and the capacity in which the person signs. The secretary of state may accept for filing a document containing a copy of a signature, however made.

8. If, pursuant to any provision of this chapter, the secretary of state has prescribed a mandatory form for the document, the document shall be in or on the prescribed form.

9. The document shall be delivered to the office of the secretary of state for filing and shall be accompanied by the correct filing fee.

10. The secretary of state may adopt rules for the electronic filing of documents and the certification of electronically filed documents.

Sec. 10. NEW SECTION. 487.109 FEES.

1. The secretary of state shall collect the following fees when the documents described in this subsection are delivered to the secretary's office for filing:

a. Certificate of limited partnership $100

b. Application for registration of foreign limited partnership and also issuance of a certificate of registration to transact business in this state $100

c. Amendment to certificate of limited partnership $100

d. Amendment to application for registration of foreign limited partnership $100

e. Cancellation of certificate of limited partnership ..... $ 20

f. Cancellation of registration of foreign limited partnership ..... $ 20

g. A consent required to be filed under this chapter ..... $ 20

h. Application to reserve a limited partnership name ..... $ 10

i. A notice of transfer of reservation of name ..... $ 10

j. Articles of correction ..... $ 5

k. Application for certificate of existence or registration ..... $ 5

l. Any other document required or permitted to be filed ..... $ 5

2. The secretary of state shall collect a fee of five dollars each time process is served on the secretary under this chapter. The party to a proceeding causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding.

3. The secretary of state shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign limited partnership:

a. One dollar per page for copying.

b. Five dollars for the certificate.

Sec. 11. NEW SECTION. 487.110 EFFECTIVE TIME AND DATE OF DOCUMENTS.

1. Except as provided in subsection 2 and section 487.112, subsection 3, a document accepted for filing is effective at the later of the following times:

a. At the time of filing on the date it is filed, as evidenced by the secretary of state's date and time endorsement on the original document.

b. At the time specified in the document as its effective time on the date it is filed.

2. A document may specify a delayed effective time and date, and if it does so the document becomes effective at the time and date specified. If a delayed effective date but no time is specified, the document is effective at the close of business on that date. A delayed effective

date for a document shall not be later than the ninetieth day after the date it is filed.

Sec. 12. NEW SECTION. 487.111 CORRECTING FILED DOCUMENTS.

1. A domestic or foreign limited partnership may correct a document filed by the secretary of state if the document satisfies one or both of the following requirements:

a. Contains an incorrect statement.

b. Was defectively executed, attested, sealed, verified, or acknowledged.

2. A document is corrected by preparing articles of correction that satisfy all of the following requirements:

a. Describe the document, including its filing date, or attach a copy of it to the articles.

b. Specify the incorrect statement and the reason it is incorrect or the manner in which the execution was defective.

c. Correct the incorrect statement or defective execution.

3. Articles of correction are effective on the effective date of the document they correct except as to persons relying on the uncorrected document and adversely affected by the correction. As to those persons, articles of correction are effective when filed.

Sec. 13. NEW SECTION. 487.112 FILING DUTY OF SECRETARY OF STATE.

1. If a document delivered to the office of the secretary of state for filing satisfies the requirements of section 487.108, the secretary of state shall file it.

2. The secretary of state files a document by stamping or otherwise endorsing "filed", together with the secretary's name and official title and the date and time of receipt, on both the document and the receipt for the filing fee. After filing a document, and except as provided in section 487.104A, subsection 3, and section 487.909, the secretary of state shall deliver the document, with the filing fee receipt, or acknowledgment of receipt if no fee is required, attached to the domestic or foreign limited partnership or its representative.

3. If the secretary of state refuses to file a document, the secretary of state shall return it to the domestic or foreign limited partnership or its representative within ten days after the document was received by the secretary of state, together with a brief, written explanation of the reason for the refusal.

4. The secretary of state's duty to file documents under this section is ministerial. Filing or refusing to file a document does not do any of the following:

a. Affect the validity or invalidity of the document in whole or part.

b. Relate to the correctness or incorrectness of information contained in the document.

c. Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect.

Sec. 14. NEW SECTION. 487.113 APPEAL FROM SECRETARY OF STATE'S REFUSAL TO FILE DOCUMENT.

1. If the secretary of state refuses to file a document delivered to the secretary's office for filing, the domestic or foreign limited partnership may appeal the refusal, within thirty days after the return of the document, to the district court for the county in which the limited partnership's principal office or, if none in this state, its registered office is or will be located. The appeal is commenced by petitioning the court to compel filing the document and by attaching to the petition the document and the secretary of state's explanation of the refusal to file.

2. The court may summarily order the secretary of state to file the document or take other action the court considers appropriate.

3. The court's final decision may be appealed as in other civil proceedings.

Sec. 15. NEW SECTION. 487.114 EVIDENTIARY EFFECT OF COPY OF FILED DOCUMENT.

A certificate attached to a copy of a document filed by the secretary of state, bearing the secretary of state's signature, which may be in facsimile, and the seal of the secretary of

state, is conclusive evidence that the original document is on file with the secretary of state.

Sec. 16. NEW SECTION. 487.115 CERTIFICATE OF EXISTENCE.

1. Anyone may apply to the secretary of state to furnish a certificate of existence for a domestic limited partnership or a certificate of registration for a foreign limited partnership.

2. A certificate of existence or a certificate of registration shall set forth all of the following:

a. The domestic limited partnership's name or the foreign limited partnership's name used in this state.

b. That one of the following apply:

(1) If it is a domestic limited partnership, that it is duly organized under the law of this state, the date of its organization, and the period of its duration.

(2) If it is a foreign limited partnership, that it is authorized to transact business in this state.

c. That all fees required by this chapter have been paid.

d. That a certificate of cancellation has not been filed.

e. Other facts of record in the office of the secretary of state that may be requested by the applicant.

3. Subject to any qualification stated in the certificate, a certificate of existence or certificate of registration issued by the secretary of state may be relied upon as conclusive evidence that the domestic or foreign limited partnership is in existence or is registered to transact business in this state.

Sec. 17. NEW SECTION. 487.116 PENALTY FOR SIGNING FALSE DOCUMENT.

1. A person commits an offense if that person signs a document the person knows is false in any material respect with intent that the document be delivered to the secretary of state for filing.

2. An offense under this section is a serious misdemeanor punishable by a fine of not to exceed one thousand dollars.

Sec. 18. NEW SECTION. 487.117 SECRETARY OF STATE — POWERS.

The secretary of state has the power reasonably necessary to perform the duties required of the secretary of state by this chapter.

Sec. 19. Section 487.201, subsection 1, Code 1997, is amended to read as follows:

1. In order to form a limited partnership, ~~two or more persons shall execute~~ a certificate of limited partnership~~. The certificate shall be~~ must be executed and filed in the office of the secretary of state ~~and set forth all of the following~~. The certificate shall set forth all of the following:

a. The name of the limited partnership.

~~b. The general character of its business.~~

~~c.~~ b. The address of the office and the name and address of the agent for service of process required to be maintained by section 487.104, subsection 1~~, and the address of its principal place of business~~.

~~d.~~ c. The name and the business address of each general partner~~, specifying separately the general partners and limited partners~~.

~~e. The amount of cash and a description and statement of the agreed value of the other property or services contributed by each partner and which each partner has agreed to contribute in the future.~~

~~f. The times at which or events on the happening of which any additional contributions agreed to be made by each partner are to be made.~~

~~g. A power of a limited partner to grant the right to become a limited partner to an assignee of any part of the partner's partnership interest, and the terms and conditions of the power.~~

~~h. If agreed upon, the time at which or the events on the happening of which a partner may withdraw from the limited partnership and the amount of, or the method of determining the amount of, the distribution to which the partner may be entitled respecting the partnership interest, and the terms and conditions of the termination and distribution.~~

~~i. A right of a partner to receive distributions of property, including cash from the limited partnership.~~

~~j. A right of a partner to receive, or of a general partner to make, distributions to a partner which include a return of all or any part of the partner's contribution.~~

~~k. A time at which, or an event upon the happening of which,~~

d. The latest date upon which the limited partnership is to ~~be dissolved and its affairs wound up~~ dissolve.

~~l. A right of the remaining general partners to continue the business on the happening of an event of withdrawal of a general partner.~~

~~m.~~ e. ~~Other~~ Any other matters the general partners determine to include in the certificate.

Sec. 20. Section 487.202, Code 1997, is amended to read as follows:

487.202 AMENDMENT TO CERTIFICATE.

1. A certificate of limited partnership is amended by filing a certificate of amendment to the certificate of limited partnership in the office of the secretary of state. The certificate of amendment shall set forth all of the following:

a. The name of the limited partnership.

b. The date of filing the certificate of limited partnership.

c. The amendment to the certificate ~~of limited partnership~~.

2. ~~Except as provided in subsection 5, within~~ Within thirty days after the happening of any of the following events, an amendment to a certificate of limited partnership reflecting the occurrence of the event shall be filed:

~~a. A change in the amount or character of the contribution of a partner, or in a partner's obligation to make a contribution.~~

~~b.~~ a. The admission of a new general partner.

b. The withdrawal of a general partner.

c. The continuation of the business under section 487.801 after an event of withdrawal of a general partner.

3. A general partner who becomes aware that ~~a~~ any statement in a certificate of limited partnership was false when made or that any arrangements or other facts described have changed, making the certificate inaccurate in any respect, shall promptly amend the certificate. ~~An amendment to show the admission of or a change of address of a limited partner shall be filed within twelve months of the admission or change of address.~~

4. A certificate of limited partnership may be amended at any time for any other proper purpose the general partners determine.

~~5. An amendment is not required to reflect distributions made pursuant to rights described in section 487.201, subsection 1, paragraph "j".~~

~~6.~~ 5. A ~~limited partner~~ person is not liable because an amendment to a certificate of limited partnership has not been filed to reflect the occurrence of ~~an~~ any event referred to in subsection 2 if the amendment is filed within the thirty-day period specified in subsection 2.

6. A restated certificate of limited partnership may be executed and filed in the same manner as a certificate of amendment. The restated certificate must contain the information required in section 487.201 and may set forth any other provision consistent with law.

Sec. 21. Section 487.204, subsection 1, Code 1997, is amended to read as follows:

1. Each certificate required by this chapter to be filed in the office of the secretary of state shall be executed in the following manner:

a. ~~An original~~ A certificate of limited partnership shall be signed by all general partners ~~named in the certificate~~.

b. A certificate of amendment shall be signed by at least one general partner and by each other general partner designated in the certificate as a new general partner ~~or whose contribution is described as having been increased~~.

c. A certificate of cancellation shall be signed by all general partners.

Sec. 22. Section 487.205, Code 1997, is amended to read as follows:

487.205 AMENDMENT OR CANCELLATION BY JUDICIAL ACT.

If a person required by section 487.204 to execute ~~a~~ any certificate ~~of amendment or cancellation~~ fails or refuses to do so, any other ~~partner, or any assignee of a partnership interest,~~ person who is adversely affected by the failure or refusal may petition the Iowa district court for the county in which the office described in section 487.104 is located to direct the ~~amendment or cancellation~~ execution of the certificate. If the court finds that ~~the amendment or cancellation is proper and that a~~ it is proper for the certificate to be executed and that any person so designated has failed or refused to execute the certificate, the court shall order the secretary of state to ~~record~~ accept for filing an appropriate certificate ~~of amendment or cancellation~~.

Sec. 23. Section 487.208, Code 1997, is amended to read as follows:

487.208 SCOPE OF NOTICE.

The fact that a certificate of limited partnership is on file in the office of the secretary of state is notice that the partnership ~~claims to be~~ is a limited partnership and the persons designated in such certificate as general partners are general partners, but it is not notice of any other fact.

Sec. 24. Section 487.301, Code 1997, is amended to read as follows:

487.301 ADMISSION OF ~~NEW~~ LIMITED PARTNERS.

1. A person becomes a limited partner at either of the following times:

a. At the time the limited partnership is formed.

b. At any later time specified in the records of the limited partnership for becoming a limited partner.

2. After the filing of a limited partnership's original certificate of limited partnership, a person may be admitted as a new limited partner under the following conditions:

a. In the case of a person acquiring a partnership interest directly from the limited partnership, upon compliance with the partnership agreement or, if the partnership agreement does not so provide, upon the written consent of all partners.

b. In the case of an assignee of a partnership interest of a partner who has the power, as provided in section 487.704 to grant the assignee the right to become a limited partner, upon the exercise of that power and compliance with any conditions limiting the grant or exercise of the power.

~~2. Under both paragraphs "a" and "b" of subsection 1, the person acquiring the partnership interest becomes a limited partner at the time specified in the certificate of limited partnership or, if a time is not specified, upon amendment of the certificate of limited partnership to show the partnership interest.~~

Sec. 25. Section 487.303, Code 1997, is amended to read as follows:

487.303 LIABILITY TO THIRD PARTIES.

1. Except as provided in subsection 4, a limited partner is not liable for the obligations of a limited partnership unless the limited partner is also a general partner or, in addition to the exercise of the limited partner's rights and powers as a limited partner, the limited partner ~~takes part~~ participates in the control of the business. However, if the limited ~~partner's participation~~ partner participates in the control of the business ~~is not substantially the same as the exercise of the powers of a general partner~~, the limited partner is liable only to persons who transact business with the limited partnership ~~with actual knowledge of the limited~~

~~partner's participation in control~~ reasonably believing, based upon the limited partner's conduct, that the limited partner is a general partner.

2. A limited partner does not participate in the control of the business within the meaning of subsection 1 solely by doing one or more of the following:

a. Being a contractor for or an agent or employee of the limited partnership.

b. Being a contractor for or an agent, employee, manager, member, director, officer, or shareholder of or a limited partner of a general partner, or a partner in a limited liability partnership that is a general partner.

c. Consulting with and advising a general partner with respect to the business of the limited partnership.

d. Acting as surety for the limited partnership or guaranteeing or assuming one or more specific obligations of the limited partnership.

e. ~~Approving or disapproving an amendment to the partnership agreement.~~ Taking any action required or permitted by law to bring or pursue a derivative action in the right of the limited partnership.

f. ~~Voting on~~ Requesting or attending a meeting of partners.

g. Proposing, approving, or disapproving, by voting or otherwise, one or more of the following matters:

(1) The dissolution and winding up of the limited partnership.

(2) The sale, exchange, lease, mortgage, pledge, or other transfer of all or substantially all the assets of the limited partnership ~~other than in the ordinary course of its business~~.

(3) The incurrence of indebtedness by the limited partnership other than in the ordinary course of its business.

(4) A change in the nature of the business.

(5) The admission or removal of a general partner.

(6) The admission or removal of a limited partner.

(7) A transaction involving an actual or potential conflict of interest between a general partner and the limited partnership or the limited partners.

(8) An amendment to the partnership agreement or certificate of limited partnership.

(9) Matters related to the business of the limited partnership not otherwise enumerated in this subsection, which the partnership agreement states in writing may be subject to the approval or disapproval of limited partners.

h. Winding up the limited partnership pursuant to section 487.803.

i. Exercising any right or power permitted to limited partners under this chapter and not specifically enumerated in this subsection.

3. The enumeration in subsection 2 does not mean that the possession or exercise of any other powers by a limited partner constitutes participation by the limited partner in the business of the limited partnership.

4. A limited partner who knowingly permits the limited partner's name to be used in the name of the limited partnership, except under circumstances permitted by section 487.102, subsection 2, ~~paragraph "a",~~ is liable to creditors who extend credit to the limited partnership without actual knowledge that the limited partner is not a general partner.

Sec. 26. Section 487.304, Code 1997, is amended to read as follows:

487.304 PERSON ERRONEOUSLY BELIEVING SELF TO BE A LIMITED PARTNER.

1. Except as provided in subsection 2, a person who makes a contribution to a business enterprise and erroneously but in good faith believes that the person has become a limited partner in the enterprise is not a general partner in the enterprise and is not bound by its obligations by reason of making the contribution, receiving distributions from the enterprise, or exercising any rights of a limited partner, if, on ascertaining the mistake, the person does either of the following:

a. Causes an appropriate certificate of limited partnership or a certificate of amendment to be executed and filed~~; or~~.

b. Withdraws from future equity participation in the enterprise by executing and filing in the office of the secretary of state a certificate declaring withdrawal under this section.

2. A person who makes a contribution of the kind described in subsection 1 is liable as a general partner to a third party who~~, believing the person to be a general partner,~~ transacts business with the enterprise ~~before an appropriate certificate is filed and~~ before either of the following:

a. The person withdraws and an appropriate certificate is filed to show the withdrawal.

b. An appropriate certificate is filed to show ~~the person's status as a limited partner and, in the case of an amendment, after expiration of the period for filing the amendment relating to the person as a limited partner under section 487.202~~ that the person is not a general partner.

However, in either case referred to in paragraph "a" or "b", the person is liable as a general partner only if the third party actually believed in good faith that the person was a general partner at the time of the transaction.

Sec. 27. Section 487.401, Code 1997, is amended to read as follows:

487.401 ADMISSION OF ADDITIONAL GENERAL PARTNERS.

After the filing of a limited partnership's original certificate of limited partnership, additional general partners ~~shall be admitted only with the specific written consent of each partner. However, if the certificate of limited partnership or~~ may be admitted as provided in writing in the partnership agreement ~~names a person to be admitted as a general partner upon the occurrence of a specified circumstance or at a specified time, the consent required is deemed to have been given~~ or, if the partnership agreement does not provide in writing for the admission of additional general partners, with the written consent of all partners.

Sec. 28. Section 487.402, Code 1997, is amended to read as follows:

487.402 EVENTS OF WITHDRAWAL.

Except as ~~otherwise agreed in writing by~~ approved by the specific written consent of all partners at the time ~~of the event~~, a person ceases to be a general partner of a limited partnership upon the happening of any of the following events:

1. The general partner withdraws from the limited partnership as provided in section 487.602.

2. The general partner ceases to be a member of the limited partnership as provided in section 487.702.

~~2.~~ 3. The general partner is removed as a general partner in accordance with the partnership agreement.

~~3.~~ 4. Unless otherwise provided in ~~the certificate of limited~~ writing in the partnership agreement, the general partner does any of the following:

a. Makes an assignment for the benefit of creditors.

b. Files a voluntary petition in bankruptcy.

c. Is adjudicated a bankrupt or insolvent.

d. Files a petition or answer seeking for the general partner reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation.

e. Files an answer or other pleading admitting or failing to contest material allegations of a petition filed against the general partner in a proceeding of a nature specified in paragraph "d".

f. Seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the general partner or of all or a substantial part of the general partner's properties.

~~4.~~ 5. Unless otherwise provided in ~~the certificate of limited~~ writing in the partnership agreement, upon the expiration of the following time periods:

a. One hundred twenty days after the commencement of a proceeding against the general partner seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief, under any statute, law, or regulation, if the proceeding has not been dismissed within that time.

b. Ninety days after the appointment without the general partner's consent or acquiescence of a trustee, receiver, or liquidator of the general partner or of all or a substantial part of the general partner's properties, if the appointment is not vacated or stayed within that time.

c. If an appointment of the nature specified in paragraph "b" is stayed and if the appointment is not then vacated, ninety days after the expiration of the stay.

~~5.~~ 6. If the general partner is a natural person when either of the following occur:

a. The general partner dies.

b. The district court finds the general partner incapable of managing the general partner's person or property.

~~6.~~ 7. If the general partner is acting as a general partner by virtue of being a trustee of a trust, when the trust terminates. Substitution of a new trustee is not termination of the trust.

~~7.~~ 8. If the general partner is a separate partnership, the dissolution and commencement of winding up of the separate partnership.

~~8.~~ 9. If the general partner is a corporation, the filing of a certificate of dissolution, or its equivalent, for the corporation or revocation of the corporation's charter.

10. If the general partner is a limited liability company, the filing of a certificate of dissolution, or its equivalent, for the limited liability company or revocation of the limited liability company's charter.

~~9.~~ 11. In the case of an estate, the distribution by the fiduciary of the estate's entire interest in the partnership.

Sec. 29. Section 487.403, Code 1997, is amended to read as follows:

487.403 GENERAL POWERS AND LIABILITIES.

1. Except as provided in this chapter or in the partnership agreement, a general partner of a limited partnership has the rights and powers and is subject to the restrictions ~~and liabilities~~ of a ~~general~~ partner in a partnership without limited partners.

2. Except as provided in this chapter, a general partner of a limited partnership has the liabilities of a partner in a partnership without limited partners to persons other than the partnership and the other partners. Except as provided in this chapter or in the partnership agreement, a general partner of a limited partnership has the liabilities of a partner in a partnership without limited partners to the partnership and to the other partners.

Sec. 30. Section 487.405, Code 1997, is amended to read as follows:

487.405 VOTING.

The partnership agreement may grant to all or certain identified general partners the right to vote on a per capita or any other basis, separately or with all or any class of the limited partners, on any matter.

Sec. 31. Section 487.502, Code 1997, is amended to read as follows:

487.502 LIABILITY FOR CONTRIBUTION.

1. A promise by a limited partner to contribute to the limited partnership is not enforceable unless set out in a writing signed by the limited partner.

2. Except as provided in the ~~certificate of limited~~ partnership agreement, a partner is obligated to the limited partnership to perform ~~a~~ any enforceable promise to contribute cash or property or to perform services even if the partner is unable to perform because of death, disability, or any other reason. If ~~the~~ a partner does not make the required contribution of property or services, the partner is obligated at the option of the limited partnership ~~may require the partner~~ to contribute cash equal to that portion of the value, as stated in the ~~certificate of limited partnership,~~ partnership records required to be kept pursuant to section 487.105, of the stated contribution ~~that~~ which has not been made.

3. Unless otherwise provided in the partnership agreement, the obligation of a partner to make a contribution or return money or other property paid or distributed in violation of this chapter may be compromised only by consent of all partners. Notwithstanding the compro-

mise, a creditor of a limited partnership who extends credit or otherwise acts in reliance on that obligation after the partner signs a writing which reflects the obligation and before the amendment or cancellation of such obligation to reflect the compromise may enforce the original obligation.

Sec. 32. Section 487.503, Code 1997, is amended to read as follows:

487.503 SHARING OF PROFITS AND LOSSES.

The profits and losses of a limited partnership shall be allocated among the partners, and among classes of partners, in the manner provided in writing in the partnership agreement. If the partnership agreement does not so provide in writing, profits and losses shall be allocated on the basis of the value, as stated in the ~~certificate of limited~~ partnership records required to be kept pursuant to section 487.105, of the contributions made by each partner to the extent the contributions have been received by the partnership and have not been returned.

Sec. 33. Section 487.504, Code 1997, is amended to read as follows:

487.504 SHARING OF DISTRIBUTIONS.

Distributions of cash or other assets of a limited partnership shall be allocated among the partners, and among classes of partners, in the manner provided in writing in the partnership agreement. If the partnership agreement does not so provide in writing, distributions shall be made on the basis of the value, as stated in the ~~certificate of limited~~ partnership records required to be kept pursuant to section 487.105, of the contributions made by each partner to the extent the contributions have been received by the partnership and have not been returned.

Sec. 34. Section 487.601, Code 1997, is amended to read as follows:

487.601 INTERIM DISTRIBUTIONS.

Except as provided in this article, a partner is entitled to receive distributions from a limited partnership before the partner's withdrawal from the limited partnership and before the dissolution and winding up of the partnership ~~subject to the following conditions:~~

~~1. To~~ to the extent and at the times or upon the happening of the events specified in the partnership agreement.

~~2. If a distribution is a return of part of the partner's contribution under section 487.608, subsection 2, to the extent and at the times or upon the happening of the events specified in the certificate of limited partnership.~~

Sec. 35. Section 487.603, Code 1997, is amended to read as follows:

487.603 WITHDRAWAL OF LIMITED PARTNER.

A limited partner may withdraw from a limited partnership only at the time or upon the happening of events specified in ~~the certificate of limited partnership and in accordance with~~ writing in the partnership agreement. ~~If the certificate does not specify the time or the events upon the happening of which a limited partner may withdraw or a time for the dissolution and winding up of the limited partnership, a limited partner may withdraw upon not less than six months prior written notice directed or delivered to the partnership or to each general partner at the partner's address on the books of the limited partnership at its office in this state.~~

Sec. 36. Section 487.605, Code 1997, is amended to read as follows:

487.605 DISTRIBUTION IN KIND.

Except as provided in ~~the certificate of limited~~ writing in the partnership agreement, a partner, regardless of the nature of the partner's contribution, has no right to demand and receive any distribution from a limited partnership in any form other than cash. Except as provided in writing in the partnership agreement, a partner shall not be compelled to accept a distribution of any asset in kind from a limited partnership to the extent that the percentage of the asset distributed to the partner exceeds a percentage of that asset which is equal to

the percentage in which the partner shares in distributions from the limited partnership.

Sec. 37. Section 487.607, Code 1997, is amended to read as follows:

487.607 LIMITATIONS ON DISTRIBUTION.

A partner shall not receive a distribution ~~if, after~~ from a limited partnership to the extent that, after giving effect to the distribution, all liabilities of the limited partnership, other than liabilities to partners on account of their partnership interests, ~~will~~ exceed the fair value of the partnership assets.

Sec. 38. Section 487.608, subsection 3, Code 1997, is amended to read as follows:

3. A partner receives a return of the partner's contribution ~~only~~ to the extent that a distribution to the partner reduces the partner's share of the fair value~~, as specified in the certificate~~ of the net assets of the limited partnership below the value, as set forth in the partnership records required to be kept pursuant to section 487.105, of the partner's contribution which has not been distributed to the partner.

Sec. 39. Section 487.702, Code 1997, is amended to read as follows:

487.702 ASSIGNMENT OF PARTNERSHIP INTEREST.

Except as provided in the partnership agreement, a partnership interest is assignable in whole or in part. An assignment of a partnership interest does not dissolve a limited partnership or entitle the assignee to become or to exercise any rights of a partner. An assignment entitles the assignee to receive, to the extent assigned, only the distribution to which the assignor would be entitled. Except as provided in the partnership agreement, a partner ceases to be a partner upon assignment of all the partner's partnership interest.

Sec. 40. Section 487.704, Code 1997, is amended to read as follows:

487.704 RIGHT OF ASSIGNEE TO BECOME LIMITED PARTNER.

1. An assignee of a partnership interest, including an assignee of a general partner, may become a limited partner ~~under any of the following conditions~~ if and to the extent that either of the following applies:

a. ~~When the certificate of limited partnership so provides, if the~~ The assignor gives the assignee ~~the right to become a limited partner in the manner specified in the agreement.~~ that right in accordance with authority described in

~~b. When~~ the partnership agreement ~~so provides, if persons required to consent to the assignee becoming a limited partner consent in the manner specified in the agreement~~.

~~c.~~ b. All other partners ~~other than the assignor of the interest~~ consent ~~to the assignee becoming a limited partner~~.

2. An assignee who has become a limited partner has, to the extent assigned, the rights and powers, and is subject to the restrictions and liabilities, of a limited partner under the partnership agreement and this chapter. An assignee who becomes a limited partner also is liable for the obligations of the assignor to make and return contributions as provided in ~~article~~ articles 5 and 6 of this chapter. However, the assignee is not obligated for liabilities unknown to the assignee at the time the assignee became a limited partner ~~and which could not be ascertained from the certificate of limited partnership~~.

3. The fact that an assignee of a partnership interest has become a limited partner does not release the assignor from the assignor's liability to the limited partnership under sections 487.207 and 487.502.

Sec. 41. Section 487.801, subsection 1, Code 1997, is amended to read as follows:

1. A limited partnership is dissolved and its affairs shall be wound up when any of the following occur:

a. When events specified in the certificate of limited partnership occur.

b. When events specified in the partnership agreement occur.

c. When all partners consent in writing to the dissolution.

~~c.~~ d. When a general partner withdraws unless at the time there is at least one other

general partner and the ~~certificate~~ provisions of ~~limited~~ the partnership ~~permits~~ agreement permit the business of the limited partnership to be carried on by the remaining general partner and the remaining partner does so.

~~d.~~ e. When a decree of judicial dissolution is entered under section 487.802.

Sec. 42. NEW SECTION. 487.810 GROUNDS FOR ADMINISTRATIVE DISSOLUTION.

The secretary of state may commence a proceeding under section 487.811 to administratively dissolve a limited partnership if any of the following apply:

1. The limited partnership is without a registered agent or registered office in this state for sixty days or more.

2. The limited partnership does not notify the secretary of state within sixty days that its registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued.

Sec. 43. NEW SECTION. 487.811 PROCEDURE FOR AND EFFECT OF ADMINISTRATIVE DISSOLUTION.

1. If the secretary of state determines that one or more grounds exist under section 487.810 for dissolving a limited partnership, the secretary of state shall serve the limited partnership with written notice of the secretary of state's determination under section 487.104.

2. If the limited partnership does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state to exist does not exist within sixty days after service of the notice is perfected under section 487.104, the secretary of state shall administratively dissolve the limited partnership by signing a certificate of dissolution that recites the ground or grounds for dissolution and its effective date. The secretary of state shall file the original of the certificate and serve a copy on the limited partnership under section 487.104.

3. A limited partnership administratively dissolved continues its existence but shall not carry on any business except that necessary to wind up and liquidate its business and affairs under section 487.803.

4. The administrative dissolution of a limited partnership does not terminate the authority of its registered agent.

5. The secretary of state's administrative dissolution of a limited partnership pursuant to this section appoints the secretary of state the limited partnership's agent for service of process in any proceeding based on a cause of action which arose during the time the limited partnership was authorized to transact business in this state. Service of process on the secretary of state under this subsection is service on the limited partnership. Upon receipt of process, the secretary of state shall serve a copy of the process on the limited partnership as provided in section 487.104. This subsection does not preclude service on the limited partnership's registered agent, if any.

Sec. 44. NEW SECTION. 487.812 REINSTATEMENT FOLLOWING ADMINISTRATIVE DISSOLUTION.

1. A limited partnership administratively dissolved under section 487.811 may apply to the secretary of state for reinstatement within two years after the effective date of dissolution. The application must meet all of the following requirements:

a. Recite the name of the limited partnership at its date of dissolution and the effective date of its administrative dissolution.

b. State that the ground or grounds for dissolution have been eliminated.

c. State a name that satisfies the requirements of section 487.102.

2. If the secretary of state determines that the application contains the information required by subsection 1, and that the information is correct, the secretary of state shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites the secretary of state's determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the limited partnership under section 487.104. If the limited

partnership's name in subsection 1, paragraph "c", is different than the limited partnership's name in subsection 1, paragraph "a", the certificate of reinstatement shall constitute an amendment to the articles of limited partnership insofar as it pertains to the limited partnership's name.

3. When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution as if the administrative dissolution had never occurred.

Sec. 45. NEW SECTION. 487.813 APPEAL FROM DENIAL OF REINSTATEMENT.

1. If the secretary of state denies a limited partnership's application for reinstatement following administrative dissolution, the secretary of state shall serve the limited partnership under section 487.104 with a written notice that explains the reason or reasons for denial.

2. The limited partnership may appeal the denial of reinstatement to the district court within thirty days after service of the notice of denial is perfected. The limited partnership appeals by petitioning the court to set aside the dissolution and attaching to the petition copies of the secretary of state's certificate of dissolution, the limited partnership's application for reinstatement, and the secretary of state's notice of denial.

3. The court may summarily order the secretary of state to reinstate the dissolved limited partnership or may take other action the court considers appropriate.

4. The court's final decision may be appealed as in other civil proceedings.

Sec. 46. Section 487.902, subsections 3 and 7, Code 1997, are amended by striking the subsections.

Sec. 47. Section 487.902, Code 1997, is amended by adding the following new subsections:

NEW SUBSECTION. 6A. The name and business address of each general partner.

NEW SUBSECTION. 6B. The address of the office at which is kept a list of the names and addresses of the limited partners and their capital contributions, together with an undertaking by the foreign limited partnership to keep those records until the foreign limited partnership's registration in this state is canceled or withdrawn.

Sec. 48. Section 487.905, Code 1997, is amended by striking the section and inserting in lieu thereof the following:

487.905 AMENDED REGISTRATION.

1. A foreign limited partnership registered to transact business in this state shall obtain an amended certificate of registration from the secretary of state if either of the following conditions exist:

a. A statement in the application for registration was false when made.

b. An arrangement or other fact described in the application for registration has changed making the application inaccurate in any respect.

2. The requirements of section 487.902 for obtaining an original certificate of registration apply to obtaining an amended certificate under this section.

Sec. 49. Section 487.1002, Code 1997, is amended to read as follows:

487.1002 PROPER PLAINTIFF.

In a derivative action, the plaintiff ~~shall~~ must be a partner at the time of bringing the action and either ~~shall~~ must have been a partner at the time ~~the cause of action arose or shall~~ of the transaction of which the partner complains or must have acquired the status of partner by operation of law or pursuant to the terms of the partnership agreement from a person who was a partner at the time ~~the cause of action arose~~ of the transaction of which the partner complains.

Sec. 50. Section 487.1104, Code 1997, is amended to read as follows:

487.1104 EFFECT ON EXISTING LIMITED PARTNERSHIPS.

~~This chapter~~ Except as specifically provided in this section, this chapter applies to all limited partnerships in existence on July 1, 1997, and does not invalidate provisions in limited partnership agreements or certificates executed prior to July 1, ~~1982~~ 1997. Unless otherwise agreed to by the partners, the applicable provisions of existing law, in effect prior to July 1, 1997, governing events of withdrawal of a general partner, withdrawal of a limited partner, and assignment of a partnership interest, govern limited partnerships formed before July 1, 1997.

Sec. 51. NEW SECTION. 487.1106 SAVINGS CLAUSE.

The repeal of any statutory provision effective July 1, 1997, does not impair or otherwise affect the organization or the continued existence of a limited partnership existing on July 1, 1997, nor does the repeal of any existing statutory provision effective July 1, 1997, impair any contract or any right accrued before July 1, 1997.

Sec. 52. Section 490.1109, subsection 3, paragraph e, as enacted in 1997 Iowa Acts, House File 628, if enacted,* is amended to read as follows:

e. "Interested shareholder" means any person, other than the corporation and any direct or indirect majority-owned subsidiary of the corporation, that is the owner of ~~fifteen~~ ten percent or more of the outstanding voting stock of the corporation, or is an affiliate or associate of the corporation and was the owner of ~~fifteen~~ ten percent or more of the outstanding voting stock of the corporation at any time within the three-year period immediately prior to the date on which it is sought to be determined whether such person is an interested shareholder, and the affiliates and associates of such person. "Interested shareholder" does not include ~~either of the following:~~

~~(1) A person who owns shares in excess of the fifteen percent limitation and who acquired such shares as follows:~~

~~(a) Pursuant to a tender offer commenced prior to January 1, 1998, or pursuant to an exchange offer announced prior to January 1, 1998, and commenced within ninety days after such date, if such person satisfies either of the following:~~

~~(i) Continues to own shares in excess of the fifteen percent limitation or would continue to own such shares but for action taken by the corporation.~~

~~(ii) Is an affiliate or associate of the corporation and continues, or would continue but for action taken by the corporation, to be the owner of fifteen percent or more of the outstanding voting stock of the corporation at any time within the three-year period immediately prior to the date on which it is sought to be determined whether such person is an interested shareholder.~~

~~(b) From a person subject to subparagraph subdivision (a) by gift, devise, or in a transaction in which no consideration for the shares was exchanged.~~

~~(2)~~ A a person whose ownership of shares in excess of the ~~fifteen~~ ten percent limitation is the result of action taken solely by the corporation, provided that such person is an interested shareholder if, after such action by the corporation, the person acquires additional shares of voting stock of the corporation, other than as a result of further corporate action not caused, directly or indirectly, by such person.

For purposes of determining whether a person is an interested shareholder, the outstanding voting stock of the corporation does not include any other unissued stock of the corporation which may be issuable pursuant to any agreement, arrangement, or understanding, or upon exercise of conversion rights, warrants, or options, or otherwise.

Sec. 53. Section 490A.102, subsections 13, 16, and 18, Code 1997, are amended to read as follows:

13. "Limited liability company" or "domestic limited liability company" means ~~an entity~~

* Chapter 117 herein

~~that is~~ an unincorporated association having ~~two~~ one or more members, and ~~that is~~ organized under or subject to this chapter.

16. "Member" means a person with a membership interest in a limited liability company under this chapter or, with respect to a foreign limited liability company, under the laws of the state, foreign country, or other foreign jurisdiction under which such company is organized.

18. "Operating agreement" means any agreement, written or oral, of the members as to the affairs of a limited liability company and the conduct of its business.

Sec. 54. Section 490A.202, subsection 17, Code 1997, is amended by striking the subsection and inserting in lieu thereof the following:

17. Indemnify and hold harmless a member, manager, or other person against a claim, liability, or other demand, as provided in an operating agreement.

Sec. 55. Section 490A.303, subsection 1, paragraph d, Code 1997, is amended to read as follows:

d. The period of its duration, which ~~shall not~~ may be perpetual.

Sec. 56. NEW SECTION. 490A.304 CONVERSION OF CERTAIN ENTITIES TO A LIMITED LIABILITY COMPANY.

1. As used in this section, the term "other entity" means a corporation, business trust or association, real estate investment trust, common-law trust, or any other unincorporated business, including any partnership, whether general or limited, or a foreign limited liability company.

2. Any other entity may convert to a domestic limited liability company by complying with subsection 8 and filing in the office of the secretary of state both of the following:

a. Articles of conversion to a limited liability company executed by one or more authorized persons.

b. Articles of organization executed by one or more authorized persons.

3. The articles of conversion to a limited liability company shall state all of the following:

a. The date on which, and jurisdiction where, the converting entity was first created, formed, incorporated, or otherwise came into being and, if it has changed, its jurisdiction immediately prior to its conversion to a domestic limited liability company.

b. The name of the converting entity immediately prior to the filing of the articles of conversion to a limited liability company.

c. The name of the limited liability company.

d. The future effective date or time certain of the conversion to a limited liability company if it is not to be effective upon the filing of the articles of conversion and the articles of organization.

4. Upon the filing in the office of the secretary of state of the articles of conversion and the articles of organization or upon the future effective date or time of the articles of conversion and the articles of organization, the converting entity shall be converted into a domestic limited liability company and the limited liability company, from that date or time, is subject to this chapter, except that the existence of the limited liability company is deemed to have commenced on the date the converting entity commenced its existence in the jurisdiction in which the converting entity was first created, formed, incorporated, or otherwise came into being.

5. The conversion of an entity into a domestic limited liability company does not affect any obligations or liabilities of the other entity incurred prior to its conversion to a domestic limited liability company, or the personal liability of any person incurred prior to such conversion.

6. When a conversion is effective, for all purposes of the laws of this state, all of the rights, privileges, and powers of the converting entity, and all property, real, personal, and mixed, and all debts due to the converting entity, as well as all other things and causes of action

belonging to such entity, are vested in the domestic limited liability company and are the property of the domestic limited liability company as they were of the converting entity. The title to any real property vested by deed or otherwise in the converting entity shall not revert or be in any way impaired by reason of this chapter, and all rights of creditors and all liens upon any property of such other entity are preserved unimpaired, and all debts, liabilities, and duties of the converting entity shall attach to the domestic limited liability company, and may be enforced against it to the same extent as if the debts, liabilities, and duties had been incurred or contracted by the domestic limited liability company.

7. Unless otherwise agreed, or as required under the laws of a jurisdiction other than this state, the converting entity is not required to wind up its affairs or pay its liabilities and distribute its assets, and the conversion does not constitute a dissolution of the converting entity.

8. Prior to filing the articles of conversion to a limited liability company with the office of the secretary of state, an operating agreement must be approved in the manner provided for by the documents, instrument, agreement, or other writing, as the case may be, governing the internal affairs of the converting entity and the conduct of its business or by applicable law, as appropriate.

9. This section shall not be construed to limit the ability to change the law governing, or the domicile of, a converting entity to this state by any other means provided for in an operating agreement or as otherwise permitted by law, including by the amendment of an operating agreement.

Sec. 57. NEW SECTION. 490A.305 SERIES OF MEMBERS, MANAGERS, OR MEMBERSHIP INTERESTS.

1. An operating agreement may establish or provide for the establishment of designated series of members, managers, or membership interests having separate rights, powers, or duties with respect to specified property or obligations of the limited liability company or profits and losses associated with specified property or obligations, and, to the extent provided in the operating agreement, any such series may have a separate business purpose or investment objective.

2. Notwithstanding contrary provisions of this chapter, the debts, liabilities, and obligations incurred, contracted for, or otherwise existing with respect to a particular series shall be enforceable against the assets of that series only, and not against the assets of the limited liability company generally, if all of the following apply:

a. The operating agreement creates one or more series.

b. Separate and distinct records are maintained for the series and the assets associated with the series are held and accounted for separately from the other assets of the limited liability company, or from any other series of the limited liability company.

c. The operating agreement provides for such limitation on liabilities.

d. Notice of the limitation on liabilities of a series is set forth in the articles of organization of the limited liability company. Filing of articles of organization containing a notice of the limitation on liabilities of a series in the office of the secretary of state constitutes notice of the limitation on liabilities of such series.

3. Notwithstanding section 490A.601, or a contrary provision in an operating agreement, a member or manager may agree to be obligated personally for any or all of the debts, obligations or liabilities of one or more series.

4. An operating agreement may provide for classes or groups of members or managers associated with a series having such relative rights, powers, and duties as the operating agreement may provide. The operating agreement may provide for the future creation of additional classes or groups of members or managers associated with the series having such relative rights, powers, and duties as may from time to time be established, including rights, powers, and duties senior to existing classes and groups of members or managers associated with the series. An operating agreement may provide for the taking of an action,

including the amendment of the operating agreement, without the vote or approval of any member or manager or class or group of members or managers, including all action to create under the provisions of the operating agreement a class or group of the series of membership interests that was not previously outstanding. An operating agreement may provide that any member or class or group of members associated with a series have no voting rights.

5. An operating agreement may grant to all or certain identified members or managers or a specified class or group of the members or managers associated with a series the right to vote on any matter separately or with all or any class or group of the members or managers associated with the series. Voting by members or managers associated with a series may be on a per capita, number, financial interest, class, group, or other basis.

6. Unless otherwise provided in an operating agreement, the management of a series shall be vested in the members associated with such series in proportion to the then-current percentage or other interest of members in the profits of the series owned by all of the members associated with such series. The decision of members owning more than fifty percent of the series or other interest in the profits shall control. However, if an operating agreement provides for the management of the series, in whole or in part, by a manager, the management of the series, to the extent so provided, is vested in the manager who shall be chosen as provided in the operating agreement. The manager of the series shall also hold the offices and have the responsibilities accorded to managers as set forth in the operating agreement. A series may have more than one manager. A manager shall cease to be a manager with respect to a series as provided in the operating agreement. Except as otherwise provided in the operating agreement, an event under this chapter or identified in an operating agreement that causes a manager to cease to be a manager with respect to a series, by itself, shall not cause the manager to cease to be a manager of the limited liability company or with respect to any other series of the limited liability company.

7. Notwithstanding any other provision of this chapter, except subsections 8 and 11 and unless otherwise provided in an operating agreement, at the time a member associated with a series that has been established pursuant to subsection 1 becomes entitled to receive a distribution with respect to such series, the member has the status of, and is entitled to, all remedies available to a creditor of the series with respect to the distribution. An operating agreement may provide for the establishment of a record date with respect to allocations and distributions with respect to a series.

8. Notwithstanding any other provision of this chapter, a limited liability company may make a distribution with respect to a series that has been established pursuant to subsection 1. However, a limited liability company shall not make a distribution with respect to a series that has been established pursuant to subsection 1 to the extent that at the time of the distribution, after giving effect to the distribution, all liabilities of such series, other than liabilities to members on account of their membership interests with respect to such series and liabilities for which the recourse of creditors is limited to specified property of such series, exceed the fair value of the assets associated with such series. However, the fair value of an asset of the series that is subject to a liability for which the recourse of creditors is limited shall be included in the assets associated with such series only to the extent that the fair value of that asset exceeds that liability. A member who receives a distribution in violation of this subsection, and who knew at the time of the distribution that the distribution violated this subsection, is liable for the amount of the distribution. Subject to section 490A.807, which applies to any distribution made with respect to a series under this subsection, this subsection shall not affect any obligation or liability of a member under an agreement or other applicable law for the amount of a distribution.

9. Unless otherwise provided in the operating agreement, a member shall cease to be associated with a series and to have the power to exercise any rights or powers of a member with respect to such series upon the assignment of all of the member's membership interest with respect to such series. Except as otherwise provided in an operating agreement, an event under this chapter or identified in an operating agreement that causes a member to

cease to be associated with a series, by itself, shall not cause such member to cease to be associated with any other series or terminate the continued membership of a member in the limited liability company.

10. Subject to section 490A.1301, except to the extent otherwise provided in the operating agreement, a series may be terminated and its affairs wound up without causing the dissolution of the limited liability company. The termination of a series established pursuant to subsection 1 shall not affect the limitation on liabilities of such series provided by subsection 2. A series is terminated and its affairs shall be wound up upon the dissolution of the limited liability company under section 490A.1301 or otherwise upon the first to occur of the following:

a. At the time specified in the operating agreement.

b. Upon the happening of events specified in the operating agreement.

c. Unless otherwise provided in the operating agreement, upon the written consent of all members associated with such series.

d. The termination of such series under subsection 10.

11. Notwithstanding section 490A.1303, unless otherwise provided in the operating agreement, any of the following persons may wind up the affairs of the series:

a. A manager associated with a series who has not wrongfully terminated the series.

b. If there is no manager of a series, the members associated with the series or a person approved by the members associated with the series.

c. If there is more than one class or group of members associated with the series, then by each class or group of members associated with the series, in either case, by members who own more than fifty percent of the then-current percentage or other interest in the profits of the series owned by all of the members associated with the series or by the members of each class or group associated with the series.

However, if the series has been established pursuant to subsection 1, the district court of the county in which the limited liability company has its principal place of business, upon cause shown, may wind up the affairs of the series upon application of any member associated with the series or the member's legal representative or assignee, and in connection with such winding up, may appoint a liquidating trustee. The persons winding up the affairs of a series, in the name of the limited liability company and for and on behalf of the limited liability company and such series, may take all actions with respect to the series as are permitted under section 490A.1303. The persons winding up the affairs of a series shall provide for the claims and obligations of the series as provided in section 490A.1304 and distribute the assets of the series as provided in section 490A.1304. Actions taken pursuant to this subsection shall not affect the liability of members and shall not impose liability on a liquidating trustee.

12. On application by or for a member or manager associated with a series established pursuant to subsection 1, the district court in the county in which the limited liability company has its principal place of business may enter an order for dissolution of such series if it is not reasonably practicable to carry on the business of the series in conformity with the operating agreement.

13. A foreign limited liability company that is registering to do business in this state under this chapter which is governed by an operating agreement that establishes or provides for the establishment of designated series of members, managers, or membership interests having separate rights, powers, or duties with respect to specified property or obligations of the foreign limited liability company, or profits and losses associated with the specified property or obligations, shall indicate that fact on the application for registration as a foreign limited liability company. In addition, the foreign limited liability company shall state on the application whether the debts, liabilities, and obligations incurred, contracted for, or otherwise existing with respect to a particular series, if any, are enforceable against the assets of such series only, and not against the assets of the foreign limited liability company generally.

Sec. 58. NEW SECTION. 490A.306 ADMISSION OF MEMBERS.

1. In connection with the formation of a limited liability company, a person is admitted as a member of the limited liability company upon the later to occur of the following:

a. The formation of the limited liability company.

b. The time provided in, and upon compliance with, the operating agreement or, if the operating agreement does not so provide, when the person's admission is reflected in the records of the limited liability company.

2. After the formation of a limited liability company, a person is admitted as a member of the limited liability company as follows:

a. In the case of a person who is not an assignee of a membership interest, including a person acquiring a membership interest directly from the limited liability company and a person to be admitted as a member of the limited liability company without acquiring a membership interest in the limited liability company, at the time provided in and upon compliance with the operating agreement or, if the operating agreement does not so provide, upon the consent of all members and the person's admission being reflected in the records of the limited liability company.

b. In the case of an assignee of a membership interest, as provided in section 490A.903 and at the time provided in and upon compliance with the operating agreement, or if the operating agreement does not so provide, when any such person's permitted admission is reflected in the records of the limited liability company.

c. Unless otherwise provided in an agreement of merger, in the case of a person acquiring a membership interest in a surviving or resulting limited liability company pursuant to a merger approved pursuant to section 490A.1203, at the time provided in and upon compliance with the operating agreement of the surviving or resulting limited liability company.

3. A person may be admitted to a limited liability company as a member of the limited liability company and may receive a membership interest in the limited liability company without making a contribution or being obligated to make a contribution to the limited liability company. Unless otherwise provided in an operating agreement, a person may be admitted to a limited liability company as a member of the limited liability company without acquiring a membership interest in the limited liability company.

Sec. 59. NEW SECTION. 490A.307 CLASSES AND VOTING.

1. An operating agreement may provide for classes or groups of members and the relative rights, powers, and duties of such members, and may provide for the future creation of additional classes or groups of members having such relative rights, powers, and duties as may from time to time be established, including rights, powers, and duties senior to existing classes and groups of members. An operating agreement may provide for taking action, including the amendment of the operating agreement, without the vote or approval of any member or class or group of members, including an action to create a class or group of membership interests that was not previously outstanding. An operating agreement may provide that any member or class or group of members has no voting rights.

2. An operating agreement may grant to all or certain identified members or a specified class or group of the members the right to vote separately or with all or any class or group of members or managers on any matter. Voting by members may be on a per capita, number, financial interest, class, group, or any other basis.

3. An operating agreement which grants a right to vote may set forth provisions relating to notice of the time, place, or purpose of any meeting at which any matter is to be voted on by any members, waiver of any notice, action by consent without meeting, the establishment of a record date, quorum requirements, voting in person or by proxy, or any other matter with respect to the exercise of any such right to vote.

Sec. 60. NEW SECTION. 490A.603 LIABILITY OF MEMBERS.

1. Except as otherwise provided in this chapter or by written agreement of a member, a member or manager of a limited liability company is not personally liable solely by reason

of being a member or manager of the limited liability company under any judgment, or in any other manner, for any debt, obligation, or liability of the limited liability company, whether that liability or obligation arises in contract, tort, or otherwise.

2. A member of a limited liability company is personally liable under a judgment or for any debt, obligation, or liability of the limited liability company, whether that liability or obligation arises in contract, tort, or otherwise, under the same or similar circumstances and to the same extent as a shareholder of a corporation may be personally liable for any debt, obligation, or liability of the corporation, except that the failure to hold meetings of members or managers or the failure to observe formalities pertaining to the calling or conduct of meetings shall not be considered a factor tending to establish that the members have personal liability for any debt, obligation, or liability of the limited liability company.

3. Nothing in this section shall be construed to affect the liability of a member of a limited liability company to third parties for the member's participation in tortious conduct.

Sec. 61. Section 490A.702, subsection 4, Code 1997, is amended by striking the subsection and inserting in lieu thereof the following:

4. Except as provided in subsection 4A, the validity of an act of a limited liability company is not challengeable on the ground that the limited liability company lacks or lacked the power or authority to act.

Sec. 62. Section 490A.702, Code 1997, is amended by adding the following new subsections:

NEW SUBSECTION. 4A. A limited liability company's power to act may be challenged in the following proceedings:

a. In an action by a member against the limited liability company to enjoin an unauthorized act.

b. In an action by the limited liability company against an incumbent or former manager, employee, or agent of the limited liability company, either directly, derivatively, or through a receiver, trustee, or other legal representative.

c. By the attorney general under section 490A.1409.

NEW SUBSECTION. 4B. In a member's proceeding under subsection 4A, paragraph "a", to enjoin an unauthorized act, the court may enjoin or set aside the act if equitable and if all affected persons are parties to the proceeding. The court may award damages, other than anticipated profits, for loss suffered by the limited liability company or another party as a result of the unauthorized act being enjoined.

Sec. 63. Section 490A.703, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. a. A written operating agreement or other writing may provide for a person to be admitted as a member of a limited liability company, or to become an assignee of a limited liability company membership interest or other rights or powers of a member, to the extent that either of the following occurs:

(1) If the person, or a representative authorized by the person orally, in writing, or by other action such as payment for a limited liability company interest, executes the operating agreement or any other writing evidencing the intent of such person to become a member or assignee.

(2) Without execution of the operating agreement or similar writing, if the person or such authorized representative of the person complies with the conditions for becoming a member or assignee as set forth in the operating agreement or any other writing and requests orally, in writing, or by other action such as payment for a limited liability company interest, that the records of the limited liability company reflect such admission or assignment.

b. A written operating agreement or another written agreement or writing is not unenforceable by reason of its not having been signed by a person being admitted as a member or becoming an assignee, or the member's or assignee's representative, as provided in paragraph "a".

Sec. 64. NEW SECTION. 490A.704A RESIGNATION OR WITHDRAWAL OF MEMBER.

1. a. This section applies to a limited liability company whose original articles of organization are filed with the secretary of state on or after July 1, 1997.

b. This section applies to a limited liability company whose original articles of organization are filed with the secretary of state and effective on or prior to June 30, 1997, if such company's operating agreement provides that it is subject to this section.

c. If no provision is made in the operating agreement, a limited liability company whose original articles of organization were filed with the secretary of state and effective on or prior to June 30, 1997, is subject to section 490A.704.

2. A member may resign or withdraw from a limited liability company only at the time or upon the happening of an event specified in an operating agreement and pursuant to the operating agreement.

3. Unless an operating agreement provides otherwise, a member may not resign or withdraw from a limited liability company prior to the dissolution and winding up of the limited liability company. However, if the articles of organization or an operating agreement do not specify the time or the events upon the happening of which a member may resign or withdraw, a member may resign or withdraw from the limited liability company in the event any amendment to the articles of organization or operating agreement that is adopted over the member's written dissent adversely affects the rights or preferences of the dissenting member's membership interest in any of the ways described in paragraphs "a" through "e". A resignation or withdrawal in the event of such dissent and adverse effect is deemed to have occurred as of the effective date of the amendment, if the member gives notice to the limited liability company not more than sixty days after the date of the amendment. In valuing the member's distribution pursuant to this subsection, any depreciation in anticipation of the amendment shall be excluded. An amendment that does any of the following is subject to this subsection:

a. Alters or abolishes a member's right to receive a distribution.

b. Alters or abolishes a member's right to voluntarily withdraw or resign.

c. Alters or abolishes a member's right to vote on any matter, except as the rights may be altered or abolished through the acceptance of contributions or the making of contribution agreements.

d. Alters or abolishes a member's preemptive right to make contributions.

e. Establishes or changes the conditions for or consequences of expulsion.

4. A member withdrawing under this section is not liable for damages for the breach of any agreement not to withdraw.

5. An operating agreement may provide that a membership interest may be assigned prior to the dissolution and winding up of the limited liability company.

Sec. 65. NEW SECTION. 490A.705A CLASSES OF MANAGERS AND VOTING.

1. An operating agreement may provide for classes or groups of managers having such relative rights, powers, and duties as the operating agreement may provide, and may make provision for the future creation of additional classes or groups of managers having such relative rights, powers, and duties as may from time to time be established, including rights, powers, and duties senior to existing classes and groups of managers. An operating agreement may provide for taking action, including the amendment of the operating agreement, without the vote or approval of any manager or class or group of managers, including an action to create a class or group of membership interests that was not previously outstanding.

2. An operating agreement may grant to all or certain identified managers or a specified class or group of managers the right to vote on any matter, separately or with all or any class or group of managers or members. Voting by managers may be on a per capita, number, financial interest, class, group, or any other basis.

3. An operating agreement which grants a right to vote may set forth provisions relating to notice of the time, place, or purpose of any meeting at which any matter is to be voted on by any manager or class or group of managers, waiver of any such notice, action by consent without a meeting, the establishment of a record date, quorum requirements, voting in person or by proxy, or any other matter with respect to the exercise of any such right to vote.

Sec. 66. Section 490A.709, subsection 2, unnumbered paragraph 1, Code 1997, is amended to read as follows:

Each member has the right for any purpose reasonably related to the member's interest as a member of the limited liability company, upon reasonable request and subject to reasonable standards as may be set forth in an operating agreement, to do any of the following:

Sec. 67. NEW SECTION. 490A.710 DELEGATION OF RIGHTS AND POWERS TO MANAGE.

Unless otherwise provided in the operating agreement, a member or manager of a limited liability company may delegate to one or more other persons the member's or manager's rights and powers to manage and control the business and affairs of the limited liability company, including to agents and employees of a member or manager of the limited liability company, and to delegate by a management agreement or another agreement with other persons. Unless otherwise provided in the operating agreement, such delegation by a member or manager of a limited liability company shall not cause the member or manager to cease to be a member or manager of the limited liability company.

Sec. 68. NEW SECTION. 490A.711 CONTRACTUAL APPRAISAL RIGHTS.

An operating agreement or an agreement of merger may provide that contractual appraisal rights with respect to a membership interest or another interest in a limited liability company are available for any class or group of members or membership interests in connection with an amendment of an operating agreement, a merger in which the limited liability company is a constituent party to the merger, or the sale of all or substantially all of the limited liability company's assets. The district court of the county in which the limited liability company has its principal place of business has jurisdiction to hear and determine any matter relating to such appraisal rights.

Sec. 69. NEW SECTION. 490A.712 CESSATION OF MEMBERSHIP.

A person ceases to be a member of a limited liability company upon the occurrence of any of the following events:

1. The person withdraws or resigns from the limited liability company.
2. The person is removed as a member pursuant to the operating agreement.
3. Unless otherwise provided in the operating agreement or with the consent of all other members, the person does any of the following:
   a. Makes an assignment for the benefit of creditors.
   b. Files a voluntary petition in bankruptcy.
   c. Is adjudged bankrupt or insolvent or has entered against the person an order for relief in any bankruptcy or insolvency proceeding.
   d. Files a petition or answer seeking for that person any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute or rule.
   e. Seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator for the member or for all or any substantial part of the member's properties.
   f. Files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the person in any proceeding described in this subsection.
4. Unless otherwise provided in the operating agreement, or with the consent of all other members, the continuation of any proceeding against the person seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under

any statute or rule for one hundred twenty days after the commencement of such proceeding, or the appointment of a trustee, receiver, or liquidator for the member or for all or any substantial part of the member's properties without the member's agreement or acquiescence, which appointment is not vacated or stayed for one hundred twenty days or, if the appointment is stayed, for one hundred twenty days after the expiration of the stay during which period the appointment is not vacated.

5. Unless otherwise provided in the operating agreement or with the consent of all other members, in the case of a member who is an individual, the individual's death or adjudication by a court of competent jurisdiction as incompetent to manage the individual's person or property.

6. Unless otherwise provided in the operating agreement or with the consent of all other members, in the case of a member who is acting as a member by virtue of being a trustee of a trust, the termination of the trust.

7. Unless otherwise provided in the operating agreement or with the consent of all other members, in the case of a member that is a partnership or another limited liability company, the dissolution and commencement of winding up of the partnership or limited liability company.

8. Unless otherwise provided in the operating agreement or with the consent of all other members, in the case of a member that is a corporation, the dissolution of the corporation or the revocation of its articles of incorporation.

9. Unless otherwise provided in the operating agreement or with the consent of all other members, in the case of a member that is an estate, the distribution by the fiduciary of the estate's entire interest in the limited liability company.

Sec. 70. Section 490A.801, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 4. An operating agreement may provide that the interest of any member who fails to make a contribution that the member is obligated to make is subject to specified penalties for, or specified consequences of, such failure. The penalty or consequence may take the form of reducing or eliminating the defaulting member's proportionate interest in a limited liability company, subordinating the member's membership interest to that of a nondefaulting member, a forced sale of the member's membership interest, forfeiture of the member's membership interest, the lending by other members of the amount necessary to meet the member's commitment, a fixing of the value of the member's membership interest by appraisal or by formula and redemption, or sale of the member's membership interest at such value or other penalty or consequence.

Sec. 71. NEW SECTION. 490A.809 RIGHT TO DISTRIBUTION.

Subject to sections 490A.807 and 490A.1304, and unless otherwise provided in an operating agreement, at the time a member becomes entitled to receive a distribution, the member has the status of, and is entitled to all remedies available to, a creditor of the limited liability company with respect to the distribution. An operating agreement may provide for the establishment of a record date with respect to allocations and distributions by a limited liability company.

Sec. 72. Section 490A.902, unnumbered paragraph 1, Code 1997, is amended to read as follows:

Unless otherwise provided in the articles of organization or an operating agreement, a membership interest in a limited liability company is assignable in whole or in part. An assignment of an interest in a limited liability company does not ~~of itself~~* dissolve the limited liability company. ~~An~~ Except as provided in the articles of organization or an operating agreement, an assignment does not entitle the assignee to participate in the management and affairs of the limited liability company or to become or to exercise any rights of a member. ~~Such~~ Except as provided in the articles of organization or an operating agree-

* Strike through also probably intended for the letter "f"

ment, an assignment entitles the assignee to receive, to the extent assigned, only the distribution to which the assignor would be entitled. Except as provided in the articles of organization or an operating agreement, a member ceases to be a member upon assignment of the member's entire membership interest.

Sec. 73. Section 490A.1301, subsection 3, Code 1997, is amended by striking the subsection.

Sec. 74. Sections 487.206, 487.903, and 487.1105, Code 1997, are repealed.

Approved May 26, 1997

CHAPTER 189

SENTENCING OF CERTAIN CRIMINAL OFFENDERS

H.F. 661

AN ACT relating to the adjudication and sentencing of certain criminal offenders, by providing for notice and hearings on reconsiderations of sentence, permitting the presentation of oral victim impact statements at reconsideration of sentence hearings, and eliminating certain sexual offenders from eligibility for suspended or deferred sentences or deferred judgments.

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

Section 1. Section 902.4, Code 1997, is amended to read as follows:

902.4 RECONSIDERATION OF FELON'S SENTENCE.

For a period of ninety days from the date when a person convicted of a felony, other than a class "A" felony or a felony for which a minimum sentence of confinement is imposed, begins to serve a sentence of confinement, the court, on its own motion or on the recommendation of the director of the Iowa department of corrections, may order the person to be returned to the court, at which time the court may review its previous action and reaffirm it or substitute for it any sentence permitted by law. Copies of the order to return the person to the court shall be provided to the attorney for the state, the defendant's attorney, and the defendant. Upon a request of the attorney for the state, the defendant's attorney, or the defendant if the defendant has no attorney, the court may, but is not required to, conduct a hearing on the issue of reconsideration of sentence. The court shall not disclose its decision to reconsider or not to reconsider the sentence of confinement until the date reconsideration is ordered or the date the ninety-day period expires, whichever occurs first. The district court retains jurisdiction for the limited purposes of conducting such review and entering an appropriate order notwithstanding the timely filing of a notice of appeal. The court's final order in the proceeding shall be delivered to the defendant personally or by certified mail. The court's decision to take the action or not to take the action is not subject to appeal. However, for the purposes of appeal, a judgment of conviction of a felony is a final judgment when pronounced.

Sec. 2. Section 907.3, unnumbered paragraph 1, Code 1997, is amended to read as follows:

Pursuant to section 901.5, the trial court may, upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction may be rendered, exercise any of the options contained in this section. However, this section does not apply to a forcible felony

or to a violation of chapter 709 committed by a person who is a mandatory reporter of child abuse under section 232.69 in which the victim is a person who is under the age of eighteen.

Sec. 3. Section 910A.5, subsection 1, paragraph b, Code 1997, is amended to read as follows:

b. A victim may orally present a victim impact statement at the sentencing hearing, in the presence of the defendant, and at any hearing regarding reconsideration of sentence.

Approved May 26, 1997

CHAPTER 190

FEES AND PENALTIES RELATING TO CORRECTIONS AND LICENSE REVOCATIONS

H.F. 734

AN ACT relating to the criminal and civil justice system by providing for the imposition of a civil penalty for certain motor vehicle license suspensions, revocations, or bars, for the deposit and distribution of penalties and fees collected, and for the imposition and payment of fees for probation and parole, and concerning inmate employment in private industry.

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

Section 1. NEW SECTION. 321.218A CIVIL PENALTY — DISPOSITION — REINSTATEMENT.

When the department suspends, revokes, or bars a person's motor vehicle license or nonresident operating privilege for a conviction under this chapter, the department shall assess the person a civil penalty of two hundred dollars. However, for persons age nineteen or under, the civil penalty assessed shall be fifty dollars. The money collected by the department under this section shall be transmitted to the treasurer of state who shall deposit the money in the general fund of the state. A temporary restricted license shall not be issued or a motor vehicle license or nonresident operating privilege reinstated until the civil penalty has been paid.

Sec. 2. NEW SECTION. 321A.32A CIVIL PENALTY — DISPOSITION — REINSTATEMENT.

When the department suspends, revokes, or bars 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. However, for persons age nineteen or under, the civil penalty assessed shall be fifty dollars. The money collected by the department under this section shall be transmitted to the treasurer of state who shall deposit the money in the general fund of the state. A temporary restricted license shall not be issued or a motor vehicle license or nonresident operating privilege reinstated until the civil penalty has been paid.

Sec. 3. Section 904.108, subsection 7, Code 1997, is amended to read as follows:

7. The director may charge an inmate a correctional fee for custodial expenses incurred or which may be incurred while the inmate is in the custody of the department. The custodial expenses may include, but are not limited to, board and room, medical and dental fees,

education costs, clothing costs, and the costs of supervision, services, and treatment to the inmate. The correctional fee shall not exceed the actual cost of keeping the inmate in custody. The correctional fees ~~shall be assessed as court costs and any correctional fees~~ collected pursuant to this subsection shall be credited ~~to the general fund of the state. The correctional fees shall be collected as other court costs pursuant to section 602.8107~~ as a reimbursement to the appropriate correctional institution. This subsection does not limit the right of the director to obtain any other remedy authorized by law.

Sec. 4. Section 904.112, Code 1997, is amended to read as follows:

904.112 INSTITUTIONAL RECEIPTS.

~~All institutional~~ Institutional receipts of the department of corrections shall be deposited in the general fund of the state except ~~for reimbursements~~ as follows:

1. Reimbursement for services provided to another institution or state agency, rentals charged to employees or other persons for room, apartment, or housing, and charges for meals.

2. Receipts which are specifically required to be otherwise expended or deposited under this chapter.

Sec. 5. Section 904.311A, Code 1997, is amended to read as follows:

904.311A PRISON RECYCLING FUND.

~~The Iowa prison~~ A recycling fund for each prison institution is created ~~and established~~ as a separate and distinct fund in the state treasury. All moneys remitted to the department for the recycling operations ~~in each fiscal year commencing with the fiscal year beginning July 1, 1994,~~ of a prison institution shall be deposited in the fund established for that institution. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in ~~the~~ each fund shall be credited to ~~the~~ that fund. Notwithstanding section 8.33, moneys in ~~the~~ each fund shall not revert to the general fund of the state at the close of a fiscal year but shall remain in ~~the~~ that fund and be used as directed in this section in the succeeding fiscal year. The treasurer of state shall act as custodian of ~~the~~ each fund and disburse moneys from ~~the~~ each fund as directed by the department for the purpose of payment of operating expenses for recycling.

Sec. 6. Section 904.809, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 5. An inmate of a correctional institution employed pursuant to this section shall surrender to the department of corrections the inmate's total earnings less deductions for federal, state, and local taxes, and any other payroll deductions required by law. The department of corrections shall deduct twenty percent of the balance to be credited to the inmate's general account. The department shall then deduct from the earnings remaining as follows:

a. The department shall first deduct the following amounts in the following order of priority.

(1) An amount the inmate may be legally obligated to pay for the support of the inmate's dependents, the amount of which shall be paid to the dependents through the department of human services collection services center.

(2) Restitution as ordered by the court pursuant to chapter 910.

(3) Five percent of the balance to the victim compensation fund created in section 912.14.

(4) An amount the inmate is legally obligated to pay for any other financial obligation.

(5) An amount determined to be the cost to the department of corrections for providing for the incarceration of the inmate.

b. Of the balance remaining after deductions and payments required pursuant to paragraph "a", the department shall deposit in the Iowa state industries revolving fund created in section 904.813, an amount equal to the costs incurred by the fund related to the inmate's employment pursuant to this section. Any balance remaining after the deductions and payments required by this subsection shall be credited to the inmate's general account.

Sec. 7. NEW SECTION. 905.14 FEES FOR PROBATION AND PAROLE.

1. A person placed on probation or parole and subject to supervision by a district department shall be required to pay an enrollment fee to the district department to offset the costs of supervision. The fee shall be based on the offense class of the most serious offense for which the person has received probation or parole, including deferred judgments or deferred sentences, and shall be as follows:

a. For a felony, one hundred fifty dollars.

b. For an aggravated misdemeanor, one hundred twenty-five dollars.

c. For a serious or simple misdemeanor, one hundred dollars.

2. The fees established pursuant to this section shall not be waived by the sentencing court. Each district department shall retain fees collected for administrative and program services.

3. The department of corrections may adopt rules for the administration of this section. If adopted, the rules shall include a provision for waiving the collection of fees for persons determined to be unable to pay.

Sec. 8. Section 907.3, subsection 1, unnumbered paragraph 1, Code 1997, is amended to read as follows:

With the consent of the defendant, the court may defer judgment and may place the defendant on probation upon ~~such~~ conditions as it may require. Upon a showing that the defendant is not cooperating with the program of probation or is not responding to it, the court may withdraw the defendant from the program, pronounce judgment, 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 fulfillment of the conditions of probation and the payment of fees imposed and not waived by the judicial district department of correctional services under section 905.14, the defendant shall be discharged without entry of judgment. Upon violation of the conditions of probation, the court may proceed as provided in chapter 908.

Sec. 9. Section 907.3, subsection 3, Code 1997, is amended to read as follows:

3. By record entry at the time of or after sentencing, the court may suspend the sentence and place the defendant on probation upon ~~such~~ terms and conditions as it may require including commitment to an alternate jail facility or a community correctional residential treatment facility for a specific number of days to be followed by a term of probation as specified in section 907.7, or commitment of the defendant to the judicial district department of correctional services for supervision or services under section 901B.1 at the level of sanctions which the district department determines to be appropriate and the payment of fees imposed under section 905.14. A person so committed who has probation revoked shall be given credit for such time served. However, the court shall not suspend the minimum term of two days imposed pursuant to section 708.2A, subsection 6, paragraph "a", or a sentence imposed under section 708.2A, subsection 6, paragraph "b", and the court shall not suspend a sentence imposed pursuant to section 236.8 or 236.14 for contempt.

Sec. 10. Section 907.7, unnumbered paragraphs 1 and 2, Code 1997, are amended to read as follows:

The length of the probation shall be for ~~such~~ a term as the court may fix but not to exceed five years if the offense is a felony or not to exceed two years if the offense is a misdemeanor.

The length of the probation shall not be less than one year if the offense is a misdemeanor and shall not be less than two years if the offense is a felony. However, the court may subsequently reduce the length of the probation if the court determines that the purposes of probation have been fulfilled and the fees imposed under section 905.14 have been paid to or waived by the judicial district department of correctional services. The purposes of probation are to provide maximum opportunity for the rehabilitation of the defendant and to protect the community from further offenses by the defendant and others.

Sec. 11. Section 907.9, unnumbered paragraph 1, Code 1997, is amended to read as follows:

At any time that the court determines that the purposes of probation have been fulfilled and the fees imposed under section 905.14 have been paid to or waived by the judicial district department of correctional services, the court may order the discharge of a person from probation. At any time that a probation officer determines that the purposes of probation have been fulfilled and the fees imposed under section 905.14 have been paid to or waived by the judicial district department of correctional services, the officer may order the discharge of a person from probation after approval of the district director, and notification of the sentencing court and county attorney who prosecuted the case. The sentencing judge, unless the judge is no longer serving or is otherwise unable to, may order a hearing on its own motion, or shall order a hearing upon the request of the county attorney, for review of such discharge. If the sentencing judge is no longer serving or unable to order such hearing, the chief judge of the district or the chief judge's designee shall order any hearing pursuant to this section. Following the hearing, the court shall approve or rescind such discharge. If a hearing is not ordered within thirty days after notification by the probation officer, the person shall be discharged and the probation officer shall notify the state court administrator of such discharge. At the expiration of the period of probation, in cases where the court fixes the term of probation and if the fees imposed under section 905.14 have been paid to or waived by the judicial district department of correctional services, the court shall order the discharge of the person from probation, and the court shall forward to the governor a recommendation for or against restoration of citizenship rights to that person. A person who has been discharged from probation shall no longer be held to answer for the person's offense. Upon discharge from probation, if judgment has been deferred under section 907.3, the court's criminal record with reference to the deferred judgment shall be expunged. The record maintained by the state court administrator as required by section 907.4 shall not be expunged. The court's record shall not be expunged in any other circumstances.

Sec. 12. MOTOR VEHICLE LICENSE REINSTATEMENT PENALTY — DEPOSIT AND DISTRIBUTION.

1. Notwithstanding the deposit provisions of sections 321.218A and 321A.32A, moneys collected during the fiscal year beginning July 1, 1997, and ending June 30, 1998, by the state department of transportation pursuant to those sections are deposited with the department of human services for the fiscal year beginning July 1, 1997, and ending June 30, 1998, and shall be allocated as follows:

a. The first $1,000,000 shall be used for the establishment, improvement, operation, and maintenance of county or multicounty juvenile detention homes. Funds allocated in this paragraph shall be prorated among eligible detention homes.

b. Moneys in excess of $1,000,000 shall be allocated to the judicial districts as determined by the state court administrator to be used by the judicial districts pursuant to recommendations of the planning group for court-ordered services for juveniles provided in each judicial district which were established pursuant to 1991 Iowa Acts, chapter 267, section 119. Moneys allocated and distributed pursuant to this paragraph shall be used for the improvement, expansion, construction, and operation of runaway assessment facilities, runaway assessment services, and juvenile delinquency prevention and intervention services.

2. Notwithstanding section 8.33, moneys appropriated in 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 only for the purposes designated in this section in the succeeding fiscal year.

Approved May 26, 1997

CHAPTER 191

HOUSEHOLD HAZARDOUS MATERIALS

S.F. 285

AN ACT relating to household hazardous materials and retail labeling requirements.

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

Section 1. Section 455F.1, subsection 4, Code 1997, is amended to read as follows:

4. "Household hazardous material" means a product used for residential purposes and designated by rule of the department of natural resources and may include any hazardous substance as defined in section 455B.411, subsection 2; and any hazardous waste as defined in section 455B.411, subsection 3; and shall include but is not limited to the following materials: motor oils, motor oil filters, gasoline and diesel additives, degreasers, waxes, polishes, pure solvents, ~~paints, with the exception of latex-based paints,~~ lacquers, thinners, caustic household cleaners, spot and stain remover with petroleum base, ~~and~~ petroleum-based fertilizers, and paints with the exception of latex-based paints. However, "household hazardous material" does not include noncaustic household cleaners, laundry detergents or soaps, dishwashing compounds, chlorine bleach, personal care products, personal care soaps, cosmetics, and medications.

Sec. 2. Section 455F.8B, subsection 2, Code 1997, is amended by striking the subsection.

Sec. 3. Section 455F.9, Code 1997, is amended to read as follows:

455F.9 EDUCATION PROGRAM.

In addition to the "Toxic Cleanup Days" program the department shall implement a public information and education program regarding the use and disposal of household hazardous materials. The program shall provide appropriate information concerning the reduction in use of the materials, including the purchase of smaller quantities, ~~and~~ selection of alternative products, and hazards associated with the use of unregistered and unregulated alternative products. The department shall cooperate with existing educational institutions, the household product industry, distributors, wholesalers, and retailers, and other agencies of government and shall enlist the support of service organizations, whenever possible, in promoting and conducting the programs in order to effectuate the household hazardous materials policy of the state.

Sec. 4. Section 455F.3, Code 1997, is repealed on January 1, 1998.

Approved May 26, 1997

CHAPTER 192

STORAGE OF EGGS

S.F. 161

AN ACT modifying the holding temperature required for the storage of eggs sold at retail.

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

Section 1. Section 196.8, Code 1997, is amended read as follows:

196.8 QUALITY.

1. All eggs offered for sale to an establishment must be no lower than United States department of agriculture consumer grade "B". ~~Retailers selling eggs at retail must hold~~

~~eggs at a temperature not to exceed sixty degrees Fahrenheit or sixteen degrees Celsius.~~ From the time of candling and grading until they reach the consumer, all eggs designated for human consumption shall be held at a temperature not to exceed forty-five degrees Fahrenheit or seven degrees Celsius ambient temperature. The forty-five degrees Fahrenheit or seven degrees Celsius ambient temperature requirement applies to any place or room in which eggs are stored, except inside a vehicle during transportation where the ambient temperature may exceed forty-five degrees Fahrenheit or seven degrees Celsius, provided the transport vehicle is equipped with refrigeration units capable of delivering air at a temperature not greater than forty-five degrees Fahrenheit or seven degrees Celsius and capable of cooling the vehicle to a temperature not greater than forty-five degrees Fahrenheit or seven degrees Celsius. All shell eggs shall be kept from freezing.

2. Notwithstanding subsection 1, eggs gathered for sale at a poultry show from fowl exhibited at the show which show has received financial assistance from the state in prior fiscal years, shall be exempt from the storage temperature and consumer grade quality requirements contained in subsection 1. If eggs are offered for sale at such an exhibit, five hundred dollars is appropriated to the department to reimburse the sponsoring agency of the exhibit for the expenses associated with the exhibit.

Approved May 27, 1997

CHAPTER 193

AGRICULTURAL DRAINAGE WELLS AND RELATED PROVISIONS

S.F. 473

† **AN ACT** requiring owners of agricultural drainage wells to prevent surface water intake into the wells, providing for the closure of certain wells and the construction of alternative drainage systems, providing state assistance for closing agricultural drainage wells, prohibiting the construction and use of certain structures located in agricultural drainage well areas, providing for the assessment and collection of certain drainage district expenses, providing penalties, and providing an effective date.

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

Section 1. Section 159.1, Code 1997, is amended by adding the following new subsections:

NEW SUBSECTION. 0A. "Agricultural drainage well" means the same as defined in section 455H.1.

NEW SUBSECTION. 0B. "Agricultural drainage well area" means the same as defined in section 455H.1.

NEW SUBSECTION. 1A. "Designated agricultural drainage well area" means the same as defined in section 455H.1.

Sec. 2. NEW SECTION. 159.29A AGRICULTURAL DRAINAGE WELLS — ALTERNATIVE DRAINAGE SYSTEM ASSISTANCE FUND.

1. An alternative drainage system assistance fund is created in the state treasury under the control of the soil conservation division. The fund is composed of moneys appropriated by the general assembly, and moneys available to and obtained or accepted by the division or the state soil conservation committee established pursuant to section 161A.4, from the United States or private sources for placement in the fund.

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

2. Moneys in the fund are subject to an annual audit by the auditor of state. The fund is subject to warrants written by the director of revenue and finance, drawn upon the written requisition of the division.

3. The fund shall be used to support the alternative drainage system assistance program as provided in section 159.29B. Moneys shall be used to provide financial incentives under the program, and to defray expenses by the division in administering the program. However, not more than one percent of the money in the fund is available to defray administrative expenses. The division may adopt rules pursuant to chapter 17A to administer this section.

4. The division shall not in any manner directly or indirectly pledge the credit of the state.

5. Section 8.33 shall not apply to moneys in the fund. Notwithstanding section 12C.7, moneys earned as income, including as interest, from the fund shall remain in the fund until expended as provided in this section.

Sec. 3. NEW SECTION. 159.29B AGRICULTURAL DRAINAGE WELLS — ALTERNATIVE DRAINAGE SYSTEM ASSISTANCE PROGRAM.

1. The soil conservation division shall establish an alternative drainage system assistance program as provided by rules which shall be adopted by the division pursuant to chapter 17A. The program shall be supported from moneys deposited in the alternative drainage system assistance fund created pursuant to section 159.29A.

2. To the extent that moneys are available to support the program, the division shall provide cost-share moneys to persons closing agricultural drainage wells located within designated agricultural drainage well areas, and constructing alternative drainage systems which are part of a drainage district in accordance with the priority system established pursuant to section 159.29. The amount of moneys allocated in cost-share payments to a person qualifying under the program shall not exceed seventy-five percent of the estimated cost of installing the alternative drainage system or seventy-five percent of the actual cost of installing the alternative drainage system, whichever is less.

3. a. A person who owns an interest in land within a designated agricultural drainage well area shall not be eligible to participate in the program, if the person is any of the following:

(1) A party to a pending legal or administrative action, including a contested case proceeding under chapter 17A, relating to an alleged violation involving an animal feeding operation as regulated by the department of natural resources, regardless of whether the pending action is brought by the department or the attorney general.

(2) Is classified as a habitual violator for a violation of state law involving an animal feeding operation as regulated by the department of natural resources.

b. Noncrop acres located within a designated agricultural drainage well area shall not be eligible to benefit from the program.

The department of natural resources shall cooperate with the division by providing information necessary to administer this subsection.

Sec. 4. NEW SECTION. 455H.1 DEFINITIONS.

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

1. "Agricultural drainage well" means a vertical opening to an aquifer or permeable substratum which is constructed by any means including but not limited to drilling, driving, digging, boring, augering, jetting, washing, or coring, and which is capable of intercepting or receiving surface or subsurface drainage water from land directly or by a drainage system.

2. "Agricultural drainage well area" means an area of land where surface or subsurface water drains into an agricultural drainage well directly or through a drainage system connecting to the agricultural drainage well.

3. "Alternative drainage system" means a drainage system constructed as part of a drainage district in order to drain surface or subsurface water from land due to the closing of an agricultural drainage well.

4. "Department" means the department of natural resources.

5. "Designated agricultural drainage well area" means an agricultural drainage well area in which there is located an anaerobic lagoon or earthen manure storage basin required to obtain a construction permit by the department of natural resources.

6. "Division" means the soil conservation division of the department of agriculture and land stewardship.

7. "Drainage district" means a drainage district established pursuant to chapter 468.

8. "Drainage system" means tile lines, laterals, surface inlets, or other improvements which are constructed to facilitate the drainage of land.

9. "Earthen storage structure" means an earthen cavity, either covered or uncovered, including but not limited to an anaerobic lagoon or earthen manure storage basin which is used to store manure, sewage, wastewater, industrial waste, or other waste as regulated by the department of natural resources, if stored in a liquid or semi-liquid state.

10. "Land" means land which is used or which is suitable for use for any purpose, if the land is located within an agricultural drainage well area which includes land used or suitable for use in farming.

11. "Surface water" means water occurring on the surface of the ground.

12. "Surface water intake" means an artificial opening to a drain tile line which drains into an agricultural drainage well, if the artificial opening allows surface water to enter the drain tile line without filtration through the soil profile.

Sec. 5. NEW SECTION. 455H.2 PREVENTING SURFACE WATER DRAINAGE INTO AGRICULTURAL DRAINAGE WELLS — PENALTY.

Not later than December 31, 1998, all of the following shall apply:

1. An owner of land on which an agricultural drainage well is located shall prevent surface water from draining into the agricultural drainage well. The landowner shall comply with rules, which shall be adopted by the department, in consultation with the division, required to carry out this section. The landowner shall do all of the following:

a. If the land has a surface water intake emptying into an agricultural drainage well, including a surface water intake located in a road ditch, the landowner shall remove the surface water intake.

b. If the land has a cistern connecting to an agricultural drainage well, the landowner shall construct and maintain sidewalls surrounding the cistern in order to prevent surface water runoff directly emptying into the agricultural drainage well.

c. If the land has an agricultural drainage well, the landowner shall ensure that the agricultural drainage well and related drainage system are adequately ventilated in a manner that does not allow surface water to directly drain into the agricultural drainage well.

d. The landowner shall install a locked cover over the agricultural drainage well or its cistern in order to prevent unauthorized access to the agricultural drainage well or its cistern.

This subsection does not require a person to remove a tile line that drains into an agricultural drainage well if the tile line does not have a surface water intake. This subsection also does not prohibit a person from installing a tile line, if the installed tile line does not increase an agricultural drainage well area.

2. An agricultural drainage well shall be inspected to ensure compliance with this section, as required by the county board of supervisors in the county in which the agricultural drainage well is located.

3. The department shall adopt guidelines as necessary to assist counties in performing inspections as provided in this section. The guidelines shall not affect the authority of a county to designate a person to perform inspections.

Sec. 6. NEW SECTION. 455H.3 CLOSING OF AGRICULTURAL DRAINAGE WELLS AND CONSTRUCTION OF ALTERNATIVE DRAINAGE SYSTEMS.

1. Not later than December 31, 1999, the owner of land which is within a designated

agricultural drainage well area shall close each agricultural drainage well located on the land. The owner shall close the agricultural drainage well in a manner using materials and according to specifications required by rules which shall be adopted by the department in consultation with the division. The department may provide different closing requirements based on classifications established by the department. However, the department's requirements shall ensure that an agricultural drainage well is closed by using sealing materials such as bentonite to permanently seal the agricultural drainage well from contamination by surface or subsurface water drainage.

2. A person owning land affected by the closing of an agricultural drainage well as required pursuant to subsection 1 may construct an alternative drainage system as part of an established or new drainage district as provided in chapter 468. The alternative drainage system shall ensure that surface or subsurface water does not drain into an agricultural drainage well.

Sec. 7. NEW SECTION. 455H.4 NOTICE.

1. The department shall provide information regarding landowners registering agricultural drainage wells pursuant to section 159.29 to each county board of supervisors in which an agricultural drainage well is registered.

2. The department shall notify landowners of land on which an agricultural drainage well is located of the deadline for complying with this chapter. The notice shall be provided by print, electronic media, or other notification process. The department shall provide the notice in cooperation with the county board of supervisors in the county where the agricultural drainage well is located.

3. The department shall mail a special notice to owners of land registering agricultural drainage wells pursuant to section 159.29.

Sec. 8. NEW SECTION. 455H.5 PROHIBITION AGAINST CONSTRUCTING EARTHEN STORAGE STRUCTURES.

A person shall not construct or expand an earthen storage structure within an agricultural drainage well area. Each day that a person operates an earthen storage structure which is constructed in violation of this section constitutes a separate violation.

Sec. 9. NEW SECTION. 455H.6 PENALTIES.

1. a. A person who violates sections 455H.2 or 455H.3 is subject to a civil penalty of not more than one thousand dollars. However, if a person is found to have violated a section and again violates the section by not taking action necessary to correct a previous violation within sixty days after the person was found to have committed the previous violation, the person is subject to a civil penalty not to exceed five thousand dollars. If a person is convicted of violating a section two or more times and again violates that section by not taking action necessary to correct a previous violation within sixty days after the person was found to have committed the last previous violation, the person is subject to a civil penalty not to exceed fifteen thousand dollars.

b. A person who violates section 455H.5 is subject to a civil penalty not to exceed five thousand dollars.

2. Moneys collected from the assessment of civil penalties and interest on civil penalties as provided for in this section shall be deposited in the manure storage indemnity fund as created in section 204.2.

Sec. 10. NEW SECTION. 455H.7 REIMBURSEMENT OF EXPENSES.

The expenses incurred by a county in carrying out this chapter shall be prorated among the landowners in the county who own land on which an agricultural drainage well is located. The amount shall be placed upon the tax books, and collected with interest and penalties after due, in the same manner as other unpaid property taxes. If expenses are incurred by a drainage district, the board shall levy an assessment on the lands in the district where an agricultural drainage well is located as provided in section 468.50.

Sec. 11. NEW SECTION. 468.189 CLOSING AGRICULTURAL DRAINAGE WELLS — ASSESSMENT OF COSTS WITHIN A DRAINAGE DISTRICT.

The costs of closing an agricultural drainage well and constructing an alternative drainage system as part of a drainage district shall be assessed as a special assessment by the board as provided in this chapter.

Sec. 12. DEPARTMENTAL RULES. The department of agriculture and land stewardship and the department of natural resources shall adopt all rules required to carry out this Act by December 31, 1997.

Sec. 13. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 29, 1997

CHAPTER 194

LEVEE AND DRAINAGE DISTRICTS — STATE-OWNED LAND

H.F. 336

AN ACT providing for the assessment of lands owned by the department of natural resources within levee and drainage districts.

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

Section 1. Section 468.43, unnumbered paragraph 3, Code 1997, is amended to read as follows:

When ~~any~~ state-owned ~~lands~~ land under the jurisdiction of the department of natural resources ~~are~~ is situated within a levee or drainage district, the commissioners ~~to assess~~ assessing benefits shall ascertain and return in their report the amount of benefits and the apportionment of costs and expenses to ~~such lands~~ the land, and the board of supervisors shall assess the ~~same~~ amount against ~~such lands~~ the land. ~~However, the commissioners shall not assess benefits to property below the ordinary high water mark in a sovereign state-owned lake, marsh or stream under the jurisdiction of the department of natural resources.~~

Approved May 29, 1997

CHAPTER 195

LINKED DEPOSIT INVESTMENT PROGRAMS

H.F. 613

AN ACT relating to linked deposit investment programs.

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

Section 1. Section 12.32, subsection 1, Code 1997, is amended to read as follows:

1. "Eligible borrower" means any person who is in the business or is entering the business of producing, processing, or marketing horticultural crops or nontraditional crops in this state or any person in this state who is qualified to participate in one of the programs in this division. "Eligible borrower" does not include a person who has been determined to be delinquent in making child support payments or any other payments due the state.

Sec. 2. Section 12.32, subsection 3, Code 1997, is amended to read as follows:

3. "Linked investment" means a certificate of deposit placed pursuant to this division by the treasurer of state with an eligible lending institution, at an interest rate not more than three percent below current market ~~rates~~ rate on the condition that the institution agrees to lend the value of the deposit, according to the investment agreement provided in section 12.35, to an eligible borrower at a rate not to exceed four percent above the rate paid on the certificate of deposit. The treasurer of state shall determine and make available the current market rate which shall be used each month.

Sec. 3. Section 12.33, Code 1997, is amended to read as follows:

12.33 ~~LEGISLATIVE FINDINGS AND INTENT -- PURPOSE~~ PUBLIC POLICY.

~~1. The general assembly finds the following:~~

~~a. That many horticultural operations throughout the state are experiencing economic stagnation or decline.~~

~~b. That high interest rates have caused potentially viable operations to cease or not expand in the area of horticultural or nontraditional crop production, processing, or marketing.~~

~~2. The~~ It is the public policy of this state that a linked investments for tomorrow program ~~provided for in this division is intended~~ be established to provide statewide availability of lower cost funds for lending purposes that will inject needed capital into the business of, and stimulate existing or encourage new businesses in, the area of producing, processing, or marketing horticultural or nontraditional crops.

~~3. It is the public policy of the state through the linked investments for tomorrow program to create an availability of lower cost funds to inject needed capital into the business of producing, processing, or marketing horticultural crops or nontraditional crops.~~

Sec. 4. Section 12.34, subsection 1, Code 1997, is amended to read as follows:

1. The treasurer of state may invest up to the lesser of sixty-eight million dollars or ten percent of the balance of the state pooled money fund in certificates of deposit in eligible lending institutions pursuant to this division.

Sec. 5. Section 12.40, subsection 3, Code 1997, is amended to read as follows:

3. In order to qualify as an eligible borrower, the rural small business must be located in a city with a population of five thousand or less. A rural small business located in a city located in a county with a population in excess of three hundred thousand, if the city is contiguous to another city in the county and that other city is contiguous to the largest city in that county, shall be ineligible to qualify as a borrower. In order to qualify under this program, all owners of the business or borrowers must not have a combined net worth exceeding five hundred thousand dollars as defined in rules adopted by the treasurer of state pursuant to chapter 17A and the rural small business must meet all of the following criteria:

a. Be a for-profit business.

b. Have annual sales of two million dollars or less.

c. Not be operated out of the home of any person, unless the person is eligible for a deduction on federal income taxes pursuant to 26 U.S.C. § 280A.

d. Not involve real estate investments, rental of real estate, leasing of real estate, or real estate speculation.

e. Liquor, beer, and wine sales must not exceed twenty percent of annual sales for establishments holding a class "C" liquor license issued pursuant to section 123.30.

Sec. 6. Section 12.40, subsection 4, Code 1997, is amended to read as follows:

4. In order to qualify as an eligible borrower, the transfer of the rural small business must be by purchase, lease-purchase, or contract of sale. The purchase must be for a portion of the business which is essential to its continued viability, including real estate where the business is located, fixtures attached to the real estate, equipment, supplies, and machinery relied upon by the business, and inventory for sale by the business.

Sec. 7. Section 12.40, subsection 7, Code 1997, is amended to read as follows:

7. ~~The~~ During the lifetime of this loan program, the maximum ~~loan~~ amount of assistance that ~~a~~ an eligible borrower or a business may receive ~~under~~ through this loan program shall be fifty thousand dollars.

Sec. 8. Section 12.41, subsection 1, Code 1997, is amended to read as follows:

1. In order to qualify as an eligible borrower, the loan application ~~shall~~ must be for the purchase or lease of land, machinery, equipment, or the purchase of other inputs used in the business of producing, processing, or marketing horticultural or nontraditional crops as defined in rules adopted by the treasurer.

Sec. 9. Section 12.43, Code 1997, is amended to read as follows:

12.43 ~~TARGETED~~ FOCUSED SMALL BUSINESS LINKED INVESTMENTS PROGRAM CREATED — DEFINITIONS.

The treasurer of state shall adopt rules to implement a ~~targeted~~ focused small business linked investments program to increase the availability of lower cost funds to inject needed capital into small businesses owned and operated by women or minorities, which is the public policy of the state. The rules shall be in accordance with the following:

~~1. "Targeted small business" means a business as defined in section 15.102, subsection 5.~~

~~2. A linked investment shall only be approved in connection with a loan application for a targeted small business which has been certified pursuant to section 10A.104, subsection 8.~~

1. As used in this section:

a. "Focused small business" means a new small business which is fifty-one percent or more owned, operated, and actively managed by one or more women, minority persons, or persons with a disability, provided the business meets all the requirements of subsection 5.

b. "Disability" is defined as provided in section 15.102, subsection 5.

c. "Major life activity" is defined as provided in section 15.102, subsection 5.

d. "Minority person" is defined as provided in section 15.102, subsection 5.

~~3.~~ 2. Loan applications for a ~~targeted~~ focused small business shall be for the purchase of land, machinery, equipment, or licenses, or patent, trademark, or copyright fees and expenses.

~~4.~~ 3. ~~The~~ During the lifetime of this loan program, the maximum ~~size of a targeted small business loan is two~~ amount of assistance that an eligible borrower or business may borrow or receive through this loan program shall be one hundred ~~fifty~~ thousand dollars ~~per borrower~~. An eligible borrower or business under this program shall be limited to one loan from one financial institution.

~~5.~~ 4. A preference shall be given to those persons who are less able than other persons to secure funds for a ~~targeted~~ focused small business without participation in the ~~targeted~~ focused small business linked investment program.

5. In order to qualify under this program, all owners of the business or borrowers must not

have a combined net worth exceeding five hundred thousand dollars as defined in rules adopted by the treasurer of state pursuant to chapter 17A and the focused small business must meet all of the following criteria:

a. Be a for-profit business.

b. Have annual sales of two million dollars or less.

c. Not be operated out of the home of any person, unless the person is eligible for a deduction on federal income taxes pursuant to 26 U.S.C. § 280A.

d. Not involve real estate investments, rental of real estate, leasing of real estate, or real estate speculation.

e. Liquor, beer, and wine sales must not exceed twenty percent of annual sales for establishments holding a class "C" liquor license issued pursuant to section 123.30.

6. Loan proceeds shall not be used to refinance existing debt, including credit card debt. However, proceeds may be used to refinance a short-term bridge loan made in anticipation of the treasurer of state's approval of the linked investment loan package.

7. Eligible lending institutions shall verify the borrower is eligible to participate under the provisions of this section pursuant to rules adopted by the treasurer of state pursuant to chapter 17A.

Sec. 10. This Act shall have no effect, pursuant to section 4.13, on loans in effect on the effective date of this Act.

Sec. 11. In addition to the assistance already available through the department of economic development's targeted small business program, the department of economic development shall develop a proposal for "instant buy down" assistance to targeted small businesses. The department of economic development shall provide a recommended proposal for this type of assistance and an estimate of necessary additional funding for such assistance to the chairpersons of the economic development appropriation subcommittees of the general assembly by December 15, 1997.

Approved May 29, 1997

CHAPTER 196

WRONGFUL IMPRISONMENT

H.F. 674

AN ACT providing a cause of action against the state for wrongful imprisonment.

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

Section 1. NEW SECTION. 663A.1 WRONGFUL IMPRISONMENT — CAUSE OF ACTION.

1. As used in this section, a "wrongfully imprisoned person" means an individual who meets all of the following criteria:

a. The individual was charged, by indictment or information, with the commission of a public offense classified as an aggravated misdemeanor or felony.

b. The individual did not plead guilty to the public offense charged, or to any lesser included offense, but was convicted by the court or by a jury of an offense classified as an aggravated misdemeanor or felony.

c. The individual was sentenced to incarceration for a term of imprisonment not to exceed two years if the offense was an aggravated misdemeanor or to an indeterminate term of

years under chapter 902 if the offense was a felony, as a result of the conviction.

d. The individual's conviction was vacated or dismissed, or was reversed, and no further proceedings can be or will be held against the individual on any facts and circumstances alleged in the proceedings which had resulted in the conviction.

e. The individual was imprisoned solely on the basis of the conviction that was vacated, dismissed, or reversed and on which no further proceedings can be or will be had.

2. Upon receipt of an order vacating, dismissing, or reversing the conviction and sentence in a case for which no further proceedings can be or will be held against an individual on any facts and circumstances alleged in the proceedings which resulted in the conviction, the district court shall make a determination whether there is clear and convincing evidence to establish either of the following findings:

(1) That the offense for which the individual was convicted, sentenced, and imprisoned, including any lesser-included offenses, was not committed by the individual.

(2) That the offense for which the individual was convicted, sentenced, and imprisoned was not committed by any person, including the individual.

3. If the district court finds that there is clear and convincing evidence to support either of the findings specified in subsection 2, the district court shall do all of the following:

a. Enter an order finding that the individual is a wrongfully imprisoned person.

b. Orally inform the person and the person's attorney that the person has a right to commence a civil action against the state under chapter 669 on the basis of wrongful imprisonment.

4. Within seven days of entry of the order finding that an individual is a wrongfully imprisoned person, the clerk of court shall forward a copy of the order, together with a copy of this section, to the individual named in the order.

5. A claim for wrongful imprisonment under this section is a "claim" for purposes of chapter 669, notwithstanding anything in section 669.14 to the contrary. Notwithstanding section 669.8, however, an action brought under this section shall not preclude or otherwise limit any action or claim for relief based on any negligent or wrongful acts or omissions which arose during the period of the wrongful imprisonment, but which are not related to the facts and circumstances underlying the conviction or proceedings to obtain relief from the conviction.

6. Damages recoverable from the state by a wrongfully imprisoned person under this section are limited to the following:

a. The amount of restitution for any fine, surcharge, other penalty, or court costs imposed and paid and any reasonable attorney's fees and expenses incurred in connection with all criminal proceedings and appeals regarding the wrongfully imposed judgment and sentence and such fees and expenses incurred in connection with any civil actions and proceedings for postconviction relief which are related to the wrongfully imposed judgment and sentence.

b. An amount of liquidated damages in an amount equal to fifty dollars per day of wrongful imprisonment.

c. The value of any lost wages, salary, or other earned income which directly resulted from the individual's conviction and imprisonment, up to twenty-five thousand dollars per year.

d. The value of reasonable attorney's fees for services provided in connection with an action under this section.

7. In awarding damages under this section, the state appeal board or the court shall not offset the award by any expenses incurred by the state or any political subdivision of the state in connection with the arrest, prosecution, and imprisonment of the individual, including, but not limited to, expenses for food, clothing, shelter, and medical care.

8. Actions under this section shall be commenced within two years of entry of the district court order adjudging the individual to be a wrongfully imprisoned person.

Approved May 29, 1997

CHAPTER 197

TORT REFORM — MISCELLANEOUS PROVISIONS

H.F. 693

AN ACT relating to civil actions and statutes of limitations in civil actions, the rate of interest on judgments and decrees, procedures for furnishing patient records of plaintiffs, comparative fault in consortium claims, damages in civil actions, joint and several liability, and providing effective dates.

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

Section 1. Section 135.11, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 18A. Consult with the office of statewide clinical education programs at the university of Iowa college of medicine and annually submit a report to the general assembly by January 15 verifying the number of physicians in active practice in Iowa by county who are engaged in providing obstetrical care. To the extent data are readily available, the report shall include information concerning the number of deliveries per year by specialty and county, the age of physicians performing deliveries, and the number of current year graduates of the university of Iowa college of medicine and the university of osteopathic medicine and health sciences entering into residency programs in obstetrics, gynecology, and family practice. The report may include additional data relating to access to obstetrical services that may be available.

Sec. 2. Section 535.3, subsection 1, Code 1997, is amended by striking the subsection and inserting in lieu thereof the following:

1. Interest shall be allowed on all money due on judgments and decrees of courts at a rate calculated according to section 668.13, except for interest due pursuant to section 85.30 for which the rate shall be ten percent per year.

Sec. 3. Section 535.3, subsection 2, Code 1997, is amended by striking the subsection.

Sec. 4. Section 535.3, subsection 3, Code 1997, is amended to read as follows:

3. Interest on periodic payments for child, spousal, or medical support shall not accrue until thirty days after the payment becomes due and owing and shall accrue at a rate of ten percent per annum thereafter.

Sec. 5. Section 614.1, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. WITH RESPECT TO PRODUCTS.

a. Those founded on the death of a person or injuries to the person or property brought against the manufacturer, assembler, designer, supplier of specifications, seller, lessor, or distributor of a product based upon an alleged defect in the design, inspection, testing, manufacturing, formulation, marketing, packaging, warning, labeling of the product, or any other alleged defect or failure of whatever nature or kind, based on the theories of strict liability in tort, negligence, or breach of an implied warranty shall not be commenced more than fifteen years after the product was first purchased, leased, bailed, or installed for use or consumption unless expressly warranted for a longer period of time by the manufacturer, assembler, designer, supplier of specifications, seller, lessor, or distributor of the product. This subsection shall not affect the time during which a person found liable may seek and obtain contribution or indemnity from another person whose actual fault caused a product to be defective. This subsection shall not apply if the manufacturer, assembler, designer, supplier of specifications, seller, lessor, or distributor of the product intentionally misrepresents facts about the product or fraudulently conceals information about the product and that conduct was a substantial cause of the claimant's harm.

b. (1) The fifteen-year limitation in paragraph "a" shall not apply to the time period in which to discover a disease that is latent and caused by exposure to a harmful material, in

which event the action shall be deemed to have accrued when the disease and such disease's cause have been made known to the person or at the point the person should have been aware of the disease and such disease's cause. This subsection shall not apply to cases governed by section 614.1, subsection 11.

(2) As used in this paragraph, "harmful material" means silicon gel breast implants, which were implanted prior to July 12, 1992; and chemical substances commonly known as asbestos, dioxins, tobacco, or polychlorinated biphenyls, whether alone or as part of any product; or any substance which is determined to present an unreasonable risk of injury to health or the environment by the United States environmental protection agency pursuant to the federal Toxic Substance Control Act, 15 U.S.C. § 2601 et seq., or by this state, if that risk is regulated by the United States environmental protection agency or this state.

Sec. 6. Section 614.1, subsection 9, Code 1997, is amended to read as follows:

9. MALPRACTICE.

a. ~~Those~~ Except as provided in paragraph "b", those founded on injuries to the person or wrongful death against any physician and surgeon, osteopath, osteopathic physician and surgeon, dentist, podiatric physician, optometrist, pharmacist, chiropractor, physician assistant, 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.

b. An action subject to paragraph "a" and brought on behalf of a minor who was under the age of eight years when the act, omission, or occurrence alleged in the action occurred, shall be commenced no later than the minor's tenth birthday or as provided in paragraph "a", whichever is later.

Sec. 7. Section 614.8, Code 1997, is amended to read as follows:

614.8 MINORS AND PERSONS WITH MENTAL ILLNESS.

a. The times limited for actions ~~herein~~ in this chapter, except those brought for penalties and forfeitures, ~~shall be~~ are extended in favor of ~~minors and~~ persons with mental illness, so that they shall have one year from and after the termination of ~~such~~ the disability within which to commence ~~said~~ an action.

b. Except as provided in section 614.1, subsection 9, the times limited for actions in this chapter, except those brought for penalties and forfeitures, are extended in favor of minors, so that they shall have one year from and after attainment of majority within which to commence an action.

Sec. 8. Section 622.10, Code 1997, is amended to read as follows:

622.10 COMMUNICATIONS IN PROFESSIONAL CONFIDENCE — EXCEPTIONS — REQUIRED CONSENT TO RELEASE OF MEDICAL RECORDS AFTER COMMENCEMENT OF LEGAL ACTION — APPLICATION TO COURT.

1. A practicing attorney, counselor, physician, surgeon, physician assistant, advanced registered nurse practitioner, mental health professional, or the stenographer or confidential clerk of any such person, who obtains information by reason of the person's employment, or a member of the clergy shall not be allowed, in giving testimony, to disclose any confidential communication properly entrusted to the person in the person's professional capacity, and necessary and proper to enable the person to discharge the functions of the person's office according to the usual course of practice or discipline.

2. The prohibition does not apply to cases where the person in whose favor the prohibition is made waives the rights conferred; nor does the prohibition apply to physicians or

surgeons, physician assistants, advanced registered nurse practitioners, mental health professionals, or to the stenographer or confidential clerk of any physicians or surgeons, physician assistants, advanced registered nurse practitioners, or mental health professionals, in a civil action in which the condition of the person in whose favor the prohibition is made is an element or factor of the claim or defense of the person or of any party claiming through or under the person. The evidence is admissible upon trial of the action only as it relates to the condition alleged.

3. a. In a civil action in which the condition of the plaintiff in whose favor the prohibition is made is an element or factor of the claim or defense of the adverse party or of any party claiming through or under the adverse party, the adverse party shall make a written request for records relating to the condition alleged upon the plaintiff's counsel for a legally sufficient patient's waiver under federal and state law. Upon receipt of a written request, the plaintiff shall execute the patient's waiver and release it to the adverse party making the request within sixty days of receipt of the written request. The patient's waiver may require a physician or surgeon, physician assistant, advanced registered nurse practitioner, or mental health professional to do all of the following:

(1) Provide a complete copy of the patient's records including, but not limited to, any reports or diagnostic imaging relating to the condition alleged.

(2) Consult with the attorney for the adverse party prior to providing testimony regarding the plaintiff's medical history and the condition alleged and opinions regarding health etiology and prognosis for the condition alleged subject to the limitations in paragraph "c".

b. If a plaintiff fails to sign a waiver within the prescribed time period, the court may order disclosure or compliance. The failure of a party to comply with the court's order may be grounds for dismissal of the action or any other relief authorized under the rules of civil procedure.

c. Any physician or surgeon, physician assistant, advanced registered nurse practitioner, or mental health professional who provides records, provides information during consultation, or otherwise responds in good faith to a request pursuant to paragraph "a" shall be immune with respect to all civil or criminal penalties, claims, or actions of any kind with respect to this section.

d. Any physician or surgeon, physician assistant, advanced registered nurse practitioner, or mental health professional who provides records or consults with the counsel for the adverse party shall be entitled to charge a reasonable fee for production of the records, diagnostic imaging, and consultation. Any party seeking consultation shall be responsible for payment of all charges. The fee for copies of any records shall be based upon actual cost of production.

e. Defendant's counsel shall provide a written notice to plaintiff's counsel in a manner consistent with the Iowa rules of civil procedure providing for notice of deposition at least ten days prior to any meeting with plaintiff's physician or surgeon, physician assistant, advanced registered nurse practitioner, or mental health professional. Plaintiff's counsel has the right to be present at all such meetings, or participate in telephonic communication with the physician or surgeon, physician assistant, advanced registered nurse practitioner, or mental health professional and counsel for the defendant. Plaintiff's counsel may seek a protective order structuring all communication by making application to the court at any time.

f. The provisions of this subsection do not apply to actions or claims brought pursuant to chapter 85, 85A, or 85B.

4. If an adverse party desires the oral deposition, either discovery or evidentiary, of a physician or surgeon, physician assistant, advanced registered nurse practitioner, or mental health professional to which the prohibition would otherwise apply or the stenographer or confidential clerk of a physician or surgeon, physician assistant, advanced registered nurse practitioner, or mental health professional or desires to call a physician or surgeon, physician assistant, advanced registered nurse practitioner, or mental health professional

to which the prohibition would otherwise apply or the stenographer or confidential clerk of a physician or surgeon, physician assistant, advanced registered nurse practitioner, or mental health professional as a witness at the trial of the action, the adverse party shall file an application with the court for permission to do so. The court upon hearing, which shall not be ex parte, shall grant permission unless the court finds that the evidence sought does not relate to the condition alleged and shall fix a reasonable fee to be paid to the physician or surgeon, physician assistant, advanced registered nurse practitioner, or mental health professional by the party taking the deposition or calling the witness.

5. For the purposes of this section, "mental health professional" means a psychologist licensed under chapter 154B, a registered nurse licensed under chapter 152, a social worker licensed under chapter 154C, a marital and family therapist licensed under chapter 154D, a mental health counselor licensed under chapter 154D, or an individual holding at least a master's degree in a related field as deemed appropriate by the board of behavioral science examiners.

6. ~~No~~ A qualified school guidance counselor, who has met the certification and accreditation standards of the department of education as provided in section 256.11, subsection 10, who obtains information by reason of the counselor's employment as a qualified school guidance counselor shall not be allowed, in giving testimony, to disclose any confidential communications properly entrusted to the counselor by a pupil or the pupil's parent or guardian in the counselor's capacity as a qualified school guidance counselor and necessary and proper to enable the counselor to perform the counselor's duties as a qualified school guidance counselor.

Sec. 9. Section 624.18, Code 1997, is amended to read as follows:

624.18 ~~DISTINCTION BETWEEN DEBT AND~~ DESIGNATION AND CALCULATION OF DAMAGES.

1. In all actions where the plaintiff recovers a sum of money, the amount to which the plaintiff is entitled may be awarded the plaintiff by the judgment generally, without any distinction being therein made as to whether such sum is recovered by way of debt or damages.

1A. In all personal injury actions where the plaintiff recovers a sum of money that, according to special verdict, is intended, in whole or in part, to address the future damages of the plaintiff, that portion of the judgment that reflects the future damages shall be adjusted by the court or the finder of fact to reflect the present value of the sum.

2. Under no circumstances shall there be a reduction to present value more than one time by either the trier of fact or the court.

Sec. 10. Section 668.3, subsection 1, Code 1997, is amended to read as follows:

1. a. Contributory fault shall not bar recovery in an action by a claimant to recover damages for fault resulting in death or in injury to person or property unless the claimant bears a greater percentage of fault than the combined percentage of fault attributed to the defendants, third-party defendants and persons who have been released pursuant to section 668.7, but any damages allowed shall be diminished in proportion to the amount of fault attributable to the claimant.

b. Contributory fault shall not bar recovery in an action by a claimant to recover damages for loss of services, companionship, society, or consortium, unless the fault attributable to the person whose injury or death provided the basis for the damages is greater in percentage than the combined percentage of fault attributable to the defendants, third-party defendants, and persons who have been released pursuant to section 668.7, but any damages allowed shall be diminished in proportion to the amount of fault attributable to the person whose injury or death provided the basis for the damages.

Sec. 11. Section 668.3, subsection 2, paragraph b, Code 1997, is amended to read as follows:

b. The percentage of the total fault allocated to each claimant, defendant, third-party defendant, ~~and~~ person who has been released from liability under section 668.7, and injured or deceased person whose injury or death provides a basis for a claim to recover damages for loss of consortium, services, companionship, or society. For this purpose the court may determine that two or more persons are to be treated as a single party.

Sec. 12. Section 668.3, subsection 8, Code 1997, is amended to read as follows:

8. In an action brought pursuant to this chapter the court shall instruct the jury to answer special interrogatories or, if there is no jury, shall make findings on each specific item of requested or awarded damages indicating that portion of the judgment or decree awarded for past damages and that portion of the judgment or decree awarded for future damages. All awards of future damages shall be calculated according to the method set forth in section 624.18.

Sec. 13. Section 668.4, Code 1997, is amended to read as follows:

668.4 JOINT AND SEVERAL LIABILITY.

In actions brought under this chapter, the rule of joint and severable* liability shall not apply to defendants who are found to bear less than fifty percent of the total fault assigned to all parties. However, a defendant found to bear fifty percent or more of fault shall only be jointly and severally liable for economic damages and not for any noneconomic damage awards.

Sec. 14. Section 668.13, subsection 3, Code 1997, is amended to read as follows:

3. Interest shall be calculated as of the date of judgment at a 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 prior to the date of the judgment plus two percent. The state court administrator shall distribute notice monthly of that rate and any changes to that rate to all district courts.

Sec. 15. If any provision of this Act or the application thereof to any person is invalid, the invalidity shall not affect the provisions or applications of this Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are severable.

Sec. 16. EFFECTIVE DATES. Sections 2, 3, 4, 8, 9, 10, 11, 12, 13, and 14 of this Act shall apply to actions filed after July 1, 1997. Section 5 of this Act shall apply to actions filed after July 1, 1997, except that any cause of action having actually accrued as of the date of enactment of this Act shall be preserved according to the law applicable to the statute of limitations in effect at the time of accrual. Sections 6 and 7 of this Act shall apply to all causes of action accruing on or after July 1, 1997, and to all causes of action accruing before July 1, 1997, and filed after July 1, 1999.

Approved May 29, 1997

* The word "several", as it appeared in the 1997 Code and in the bill as introduced, probably intended

CHAPTER 198

MENTAL HEALTH AND DEVELOPMENTAL DISABILITY FUNDING — ALLOWED GROWTH FACTOR ADJUSTMENT

H.F. 255

AN ACT relating to the allowed growth factor adjustment for county mental health, mental retardation, and developmental disabilities services, making appropriations, and providing an effective date.

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

Section 1. COUNTY MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES ALLOWED GROWTH FACTOR ADJUSTMENT. There is appropriated from the general fund of the state to the department of human services for the fiscal biennium beginning July 1, 1997, and ending June 30, 1999, the following amounts, or so much thereof as is necessary, to be used for the purpose designated:

For distribution to counties of the county mental health, mental retardation, and developmental disabilities allowed growth factor adjustment, in accordance with section 331.438, subsection 2, and section 331.439, subsection 3, as amended by this Act:

1997-98 FY	$	6,163,211
1998-99 FY	$	12,504,538

For the fiscal year beginning July 1, 1997, the county mental health, mental retardation, and developmental disabilities allowed growth factor adjustment shall be 2.89 percent, and for the fiscal year beginning July 1, 1998, the county mental health, mental retardation, and developmental disabilities allowed growth factor adjustment shall be 2.89 percent.

Sec. 2. Section 331.424A, subsection 4, Code 1997, is amended to read as follows:

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. 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 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. A levy certified under this section is not subject to the appeal provisions of sections 331.426 and 444.25B or to any other provision in law authorizing a county to exceed, increase, or appeal a property tax levy limit.

Sec. 3. Section 331.438, subsection 2, Code 1997, is amended to read as follows:

~~2. 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 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.~~

2. a. A state payment to a county for a fiscal year shall consist of the sum of the state funding the county is eligible to receive from the property tax relief fund in accordance with section 426B.2 plus the county's portion of state funds appropriated for the allowed growth factor adjustment established by the general assembly under section 331.439, subsection 3.

b. A county's portion of the allowed growth factor adjustment appropriation for a fiscal year shall be determined in accordance with the following formula:

(1) One-half based upon the county's proportion of the state's general population.

(2) One-half based upon the county's proportion of the sum of the following for the fiscal year which commenced two years prior to the beginning date of the fiscal year in which the allowed growth factor adjustment moneys are distributed:

(a) The total net expenditure amount for qualified mental health, mental retardation, and developmental disabilities services for all counties as reported pursuant to section 331.439, subsection 1, paragraph "a".

(b) The total of property tax relief payments distributed to counties in accordance with section 426B.2.

c. The department of human services shall provide for payment of the amount due a county for the county's allowed growth factor adjustment determined in accordance with this subsection. The director of human services shall authorize warrants payable to the county treasurer for the amounts due and the warrants shall be mailed in January of each year. The county treasurer shall credit the amount of the warrant to the county's services fund created under section 331.424A.

Sec. 4. Section 331.439, subsection 3, Code 1997, is amended to read as follows:

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 authorized an allowed growth factor adjustment as established by ~~the general assembly~~ statute 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. The statute establishing the allowed growth factor adjustment shall establish the adjustment for the fiscal year which commences two years from the beginning date of the fiscal year in progress at the time the statute is enacted.

b. Based upon information contained in county management plans and budgets, the state-county management committee shall recommend an allowed growth factor adjustment to the governor by November 15 for the ~~succeeding~~ fiscal year which commences two years from the beginning date of the fiscal year in progress at the time the recommendation is made. The allowed growth factor adjustment shall address costs associated with new consumers of service, service cost inflation, and investments for economy and efficiency. The governor shall consider the committee's recommendation in developing the governor's recommendation for an allowed growth factor adjustment for ~~inclusion in~~ such fiscal year. The governor's recommendation shall be submitted at the time the governor's proposed budget for the succeeding fiscal year is submitted in accordance with chapter 8.

c. The amount of the appropriation required to fund the allowed growth factor adjustment for a fiscal year shall be calculated by applying the adjustment established by statute for that fiscal year to the sum of the following:

(1) The total amount of base year expenditures for all counties.

(2) The total amount of the appropriations for allowed growth factor adjustments made to all counties in all of the fiscal years prior to that fiscal year.

Sec. 5. Section 426B.2, Code 1997, is amended to read as follows:

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.~~ The moneys in the property tax relief fund available to counties for a fiscal year shall be distributed as provided in this section. 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, ~~Code 1995, and reported to the state on October 15, 1994~~.

Moneys provided to a county for property tax relief in a fiscal year in accordance with this subsection 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.~~ 2. ~~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~~ The distributions under subsection 1 shall continue to be made until the combined amount of the ~~payments~~ distributions 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.~~

~~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.~~ 3. 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~~ subsection 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. 6. Section 426B.3, Code 1997, is amended to read as follows:

426B.3 NOTIFICATION OF 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. 7. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved February 27, 1997

CHAPTER 199

FEDERAL BLOCK GRANT APPROPRIATIONS FOR FY 1996-97 — HUMAN SERVICES

H.F. 125

AN ACT appropriating federal block grant funds and amending appropriations from the general fund of the state to the department of human services for the state fiscal year beginning July 1, 1996, and providing an effective date.

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

Section 1. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT. There is appropriated from the fund created in section 8.41 to the department of human services for the fiscal year beginning July 1, 1996, and ending June 30, 1997, from moneys received under the federal temporary assistance for needy families block grant pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, which were appropriated for the federal fiscal year beginning October 1, 1996, and ending September 30, 1997, the following amounts to be used for the purposes designated:

Moneys appropriated in this section shall be used in accordance with the federal law making the funds available, applicable Iowa law, and administrative rules adopted to implement the federal and Iowa law. If actual federal revenues credited to the fund created in section 8.41 through June 30, 1997, are less than the amounts appropriated in this section, the amounts appropriated shall be reduced proportionately and the department may reduce expenditures as deemed necessary by the department to meet the reduced funding level:

1. For assistance under the family investment program under chapter 239 and in accordance with 1996 Iowa Acts, chapter 1213, section 1:

..... $ 71,040,801

For the fiscal year beginning July 1, 1996, the department shall continue the practice of depositing child support assigned to the state under the family investment program into the family investment program appropriation. However, if the federal government reduces the amount of federally reimbursable administrative costs for child support payable to the state, then not more than an amount equivalent to the reduction may be deposited into the appropriation for that fiscal year to the department for child support recovery. Moneys deposited in accordance with this paragraph are appropriated for the purposes of the appropriation to which the moneys are deposited.

2. For the federal-state job opportunities and basic skills (JOBS) program, and implementing family investment agreements, in accordance with 1996 Iowa Acts, chapter 1213, section 7:

..... $ 6,144,890

3. For field operations, in accordance with 1996 Iowa Acts, chapter 1213, section 21:

..... $ 1,920,867

4. For general administration, in accordance with 1996 Iowa Acts, chapter 1213, section 22:

..... $ 1,172,187

5. To supplement the appropriation and allocation for local administrative costs and other local services made in 1996 Iowa Acts, chapter 1210, section 10, subsection 3, paragraph "d":

..... $ 1,495,176

6. To supplement the appropriations made in 1996 Iowa Acts, chapter 1218, section 14, subsections 1 and 2:

a. For training, maintenance, and upgrades of computer software:

..... $ 200,758

b. 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:

..... $ 183,297

Notwithstanding section 8.33, moneys appropriated in this section of this Act which remain unencumbered or unobligated at the close of the fiscal year shall not revert from the fund from which appropriated but shall remain available for the purpose designated in the succeeding fiscal year.

Sec. 2. 1996 Iowa Acts, chapter 1213, section 1, unnumbered paragraph 2, is amended to read as follows:

For assistance under the family investment program under chapter 239:

..... $ ~~34,787,255~~
16,683,536

Sec. 3. 1996 Iowa Acts, chapter 1213, section 6, unnumbered paragraph 2, and subsection 1, are amended to read as follows:

For protective child day care assistance and state child care assistance:

..... $ ~~12,547,100~~
13,271,301

1. Of the funds appropriated in this section, ~~$2,496,286~~ $3,220,487 shall be used for protective child day care assistance.

Sec. 4. 1996 Iowa Acts, chapter 1213, section 10, unnumbered paragraph 2, is amended to read as follows:

For child and family services:

..... $ ~~85,460,607~~
95,907,604

Sec. 5. 1996 Iowa Acts, chapter 1213, section 10, subsection 9, is amended to read as follows:

9. Notwithstanding section 234.35, subsection 1, for the fiscal year beginning July 1, 1996, state funding for shelter care paid pursuant to section 234.35, subsection 1, paragraph "h", shall be limited to ~~$3,223,732~~ 5,914,676. The department shall develop a formula in consultation with the shelter care committee created by the department to allocate shelter care funds to the department's regions. The formula shall be based on the region's proportion of the state population of children and historical usage. The department may adopt emergency rules to implement the provisions of this subsection.

Sec. 6. 1996 Iowa Acts, chapter 1213, section 21, unnumbered paragraph 2, is amended to read as follows:

For field operations, including salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

..... $ ~~38,483,998~~
44,796,369

..... FTEs 2,019.00

Sec. 7. 1996 Iowa Acts, chapter 1213, section 22, unnumbered paragraph 2, is amended to read as follows:

For general administration, including salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

..... $ ~~11,917,316~~
12,537,466

..... FTEs 401.00

Sec. 8. TRANSFER AUTHORITY. Subject to the provisions of section 8.39, for the fiscal year beginning July 1, 1996, if necessary to meet federal maintenance of effort requirements, the department of human services may transfer between any of the appropriations made to the department for the following purposes in adjusting for funding that the state would have previously been eligible to receive as federal matching funds under Titles IV-A and IV-F of the federal Social Security Act, provided that the combined amount of state and federal temporary assistance for needy families block grant funding for each appropriation remains the same before and after the transfer:

1. For the family investment program made in this Act and in 1996 Iowa Acts, chapter 1213.
2. For child day care assistance made in this Act and in 1996 Iowa Acts, chapters 1210 and 1213.
3. For child and family services made in this Act and in 1996 Iowa Acts, chapter 1213.
4. For field operations made in this Act and in 1996 Iowa Acts, chapters 1210 and 1213.
5. For general administration made in this Act and in 1996 Iowa Acts, chapters 1210 and 1213.

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

Approved March 13, 1997

CHAPTER 200

APPROPRIATIONS — ENERGY CONSERVATION — PETROLEUM OVERCHARGE FUNDS

S.F. 82

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, 1997, and ending June 30, 1998, 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 OHA fund, then the Warner/Imperial and Stripper Well funds:

..... $ 700,000

2. To the department of natural resources for the following purposes:

a. For the state energy program, from the Exxon fund:

..... $ 115,000

b. For administration of petroleum overcharge programs from the Stripper Well fund, not to exceed the following amount:

..... $ 250,000

Notwithstanding section 8.33, the unencumbered or unobligated moneys remaining at the end of any fiscal year from the appropriations made in subsections 1 and 2 shall not revert but shall be available for expenditure during subsequent fiscal years until expended for the purposes for which originally appropriated.

Approved March 20, 1997

CHAPTER 201

APPROPRIATIONS — ECONOMIC DEVELOPMENT

H.F. 655

AN ACT appropriating funds to the department of economic development, certain board of regents institutions, the department of workforce development, the public employment relations board, making statutory changes, and providing an effective date.

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

Section 1. DEPARTMENT OF ECONOMIC DEVELOPMENT. 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, 1997, and ending June 30, 1998, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADMINISTRATIVE SERVICES DIVISION

a. General administration

For salaries, support, maintenance, miscellaneous purposes, and for providing that a business receiving moneys from the department for the purpose of job creation shall make available ten percent of the new jobs created for promise jobs program participants who are qualified for the jobs created and for not more than the following full-time equivalent positions:

.....	$	1,461,470
.....	FTEs	23.75

b. Film office

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	228,493
.....	FTEs	2.00

2. BUSINESS DEVELOPMENT DIVISION

a. Business development operations

For salaries, support, maintenance, miscellaneous purposes, for not more than the following full-time equivalent positions, for allocating $495,000 to support activities in conjunction with the Iowa manufacturing technology center, $150,000 to the graphic arts center, and $100,000 to the university of northern Iowa for operation of industrial technology programs at the ag based industrial lubrication center:

.....	$	3,916,397
.....	FTEs	17.76

The business development division may expend up to $125,000 for a pilot project relating to labor availability recruitment in the areas of information technologists, engineering, and building trades. If a pilot project is implemented, the business development division shall submit a progress report to the general assembly no later than January 1, 1998.

The department shall develop minimum requirements for buildings and sites to be listed on the IMEDIA system.

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, and targeted small business program:

.....	$	445,463
.....	FTEs	5.00

c. Federal procurement office

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	101,585
.....	FTEs	3.00

Notwithstanding section 8.33, moneys remaining unencumbered or unobligated on June 30, 1998, shall not revert and shall be available for expenditure during the fiscal year beginning July 1, 1998, for the same purposes.

d. Strategic investment fund

For deposit in the strategic investment fund for salaries, support, for not more than the following full-time equivalent positions:

.....	$	6,796,466
.....	FTEs	10.50

The department may allocate from the strategic investment fund up to $600,000 for the entrepreneurial ventures assistance program. The department shall seek the advice, consultation, and cooperation of the entrepreneurial centers and the major benefactor of the centers in the implementation of the entrepreneurial ventures assistance program.

The department may allocate from the strategic investment fund up to $100,000 for the microbusiness rural enterprise assistance program under section 15.114.

The department shall provide an annual report on the progress made by the department in making the community economic betterment program a self-sustaining, revolving loan program.

e. 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, 1997, and ending June 30, 1998, the following amount, or so much thereof as is necessary, for insurance economic development and international insurance economic development:

.....	$	200,000

f. Value-added agriculture

There is appropriated from the moneys available to support value-added agricultural products and processes, four percent, or so much thereof as is necessary, of the total moneys available to support value-added agricultural products and processes pursuant to section 423.24 each quarter for administration of the value-added agricultural products and processes financial assistance program as provided in section 15E.111, including salaries, support, maintenance, miscellaneous purposes, and for not more than 2.00 FTEs.

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:

.....	$	589,741
.....	FTEs	8.50

There is also appropriated from the rural community 2000 program revolving fund estab-

lished in section 15.287 to the community assistance program for the purposes of the community economic preparedness program:

..... $ 50,000

b. Main street/rural main street program

For salaries and support for not more than the following full-time equivalent positions:

..... $ 418,931

..... 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, 1998, shall not revert to any fund but shall be available for expenditure for purposes of the contract during the fiscal year beginning July 1, 1998.

c. Community 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, rural innovations grant program, and the rural enterprise fund:

..... $ 720,055

..... FTEs 4.50

From moneys appropriated under this paragraph, the department shall distribute $150,000 equally to Iowa's councils of governments for planning and technical assistance to assist local governments in developing community development strategies for addressing long-term and short-term community needs.

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:

..... $ 529,000

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 on June 30, 1998, shall not revert but shall be available for expenditure for purposes of the contract during the fiscal year beginning July 1, 1998.

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:

..... $ 412,505

..... FTEs 18.75

e. Housing development fund

For providing technical assistance to communities of all sizes and local financial institutions to help meet local housing needs and to provide and transfer matching funds for the HOME program:

..... $ 1,300,000

Notwithstanding section 8.33, moneys committed to grantees under contract from the housing development fund and moneys transferred for matching funds for the HOME program that remain unexpended or unobligated on June 30, 1998, shall not revert to any fund but shall be available for obligation and expenditure for purposes of those programs during the fiscal year beginning July 1, 1998.

f. Shelter assistance program

For the purposes of the shelter assistance fund:

..... $ 400,000

4. INTERNATIONAL DIVISION

a. International trade operations

For salaries, support, maintenance, miscellaneous purposes, for allocating $100,000 to develop markets in, investment opportunities with, and direct trade with greater China,

none of which is to be used for gubernatorial or legislative travel purposes, and for not more than the following full-time equivalent positions:

..... $ 1,317,360
..... FTEs 10.00

From among the full-time equivalent positions authorized by this lettered paragraph, one position shall concentrate on the export sale of grain, one on the export sale of livestock, and one on the export sale of value-added agricultural products.

b. Foreign trade offices

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 651,150

c. Export trade assistance program

For export trade activities, including a program to encourage and increase participation in trade shows and trade missions by providing financial assistance to businesses for a percentage of their costs of participating in trade shows and trade missions, by providing for the lease/sublease of showcase space in existing world trade centers, by providing temporary office space for foreign buyers, international prospects, and potential reverse investors, and by providing other promotional and assistance activities, including salaries and support:

..... $ 425,000

Notwithstanding section 8.33, moneys appropriated by this lettered paragraph which remain unobligated or unexpended on June 30, 1998, shall not revert to the general fund of the state but shall be transferred to and deposited in the strategic investment fund created in section 15.313.

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 paragraph of the funds transferred:

..... $ 112,500

5. TOURISM DIVISION

a. Tourism operations

For salaries, support, maintenance, miscellaneous purposes, 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:

..... $ 772,037
..... FTEs 18.52

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:

..... $ 4,127,000

The department shall not use the moneys appropriated in this lettered paragraph, unless the department develops public-private partnerships with Iowa businesses in the tourism industry, Iowa tour groups, Iowa tourism organizations, and political subdivisions in this state to assist in the development of advertising efforts. The department shall, to the fullest extent possible, develop cooperative efforts for advertising with contributions from other sources.

Sec. 2. COMMUNITY DEVELOPMENT LOAN FUND. 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, 1997, and ending June 30, 1998, 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. JOB TRAINING FUND. Notwithstanding section 15.251, subsection 2, there is appropriated from the job training fund to the department of economic development for the fiscal year beginning July 1, 1997, and ending June 30, 1998, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For administration of chapter 260E, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 185,000
..... FTEs 2.40

Appropriations to the department of economic development for administration of chapter 260E and the department of workforce development for the target alliance program shall be funded on a proportional basis if receipts to the job training fund are insufficient to fund both appropriations in their entirety.

Sec. 4. WORKFORCE DEVELOPMENT FUND. There is appropriated from the workforce development fund account created in section 15.342A, for the fiscal year beginning July 1, 1997, and ending June 30, 1998, to the workforce development fund created in section 15.343, the following amount, for the purposes of the workforce development fund:

..... $ 5,531,028

Sec. 5. APPRENTICESHIP PROGRAM. It is the intent of the general assembly that the department of economic development allocate $600,000 for high technology apprenticeship programs for the fiscal year beginning July 1, 1997, under the procedures specified in section 15.343.

Sec. 6. Of all funds appropriated to or receipts credited to the job training fund created in section 260F.6, subsection 1, up to $150,000 for the fiscal year beginning July 1, 1997, and ending June 30, 1998, and not more than 1.30 FTEs may be used for the administration of the Iowa jobs training Act.

Sec. 7. IOWA STATE UNIVERSITY. 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, 1997, and ending June 30, 1998, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For funding and maintaining in their current locations the existing small business development centers, and for not more than the following full-time equivalent positions:

..... $ 1,222,880
..... FTEs 5.80

2. For the Iowa state university of science and technology research park, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 370,000
..... FTEs 4.31

3. For funding the institute for physical research and technology, provided that $318,358 shall be allocated to the industrial incentive program in accordance with the intent of the general assembly, and for not more than the following full-time equivalent positions:

..... $ 4,273,617
..... FTEs 46.42

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 of science and technology shall report annually to the joint appropriations subcommittee on economic development and legislative fiscal bureau 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 the 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. 8. UNIVERSITY OF IOWA. There is appropriated from the general fund of the state to the state university of Iowa for the fiscal year beginning July 1, 1997, and ending June 30, 1998, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the university of Iowa research park, including salaries, support, maintenance, equipment, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	321,700
.....	FTEs	4.35

2. For funding the advanced drug development program at the Oakdale research park and for not more than the following full-time equivalent positions:

.....	$	250,925
.....	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, 1997.

Sec. 9. UNIVERSITY OF NORTHERN IOWA. There is appropriated from the general fund of the state to the university of northern Iowa for the fiscal year beginning July 1, 1997, and ending June 30, 1998, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the metal casting institute, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	160,000
.....	FTEs	2.75

2. For the institute of decision making, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	667,145
.....	FTEs	10.00

Sec. 10. DEPARTMENT OF WORKFORCE DEVELOPMENT. There is appropriated from the general fund of the state, to the department of workforce development for the fiscal year beginning July 1, 1997, and ending June 30, 1998, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. DIVISION OF LABOR SERVICES

For the division of labor services, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	2,850,551
.....	FTEs	93.00

From the contractor registration fees, the division of labor services shall reimburse the department of inspections and appeals for all costs associated with hearings under chapter 91C, relating to contractor registration.

2. DIVISION OF INDUSTRIAL SERVICES

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	2,258,254
.....	FTEs	33.00

3. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent position for the workforce development state and regional boards:

.....	$	120,534
.....	FTE	0.50

4. For salaries, support, maintenance, miscellaneous purposes for collection of labor market information, and for not more than the following full-time equivalent position:

.....	$	66,250
.....	FTE	1.00

5. For salaries, support, maintenance, and miscellaneous purposes for the mentoring project for family investment program participants, and for not more than the following full-time equivalent positions:

.....	$	73,051
.....	FTEs	1.50

6. a. Youth workforce programs

For purposes of the conservation corps and for not more than the following full-time equivalent positions:

.....	$	920,853
.....	FTEs	1.80

Notwithstanding section 8.33, moneys committed to grantees under contract that remain unexpended on June 30, 1998, of the fiscal year shall not revert to any fund but shall be available for expenditure for purposes of the contract during the fiscal year beginning July 1, 1998.

b. Workforce investment program

For a competitive grant program by the department 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, and not more than the following full-time equivalent position:

.....	$	479,831
.....	FTE	0.90

The department shall ensure that the workforce investment program is coordinated with services provided under the federal Job Training Partnership Act and that welfare recipients receive priority for services under both programs.

Notwithstanding section 8.33, moneys committed to grantees under contract that remain unexpended on June 30, 1998, shall not revert to any fund but shall be available for expenditure for purposes of the contract during the fiscal year beginning July 1, 1998.

c. Labor management coordinator

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent position:

.....	$	65,935
.....	FTE	1.00

The Iowa workforce development board shall be responsible for the functions previously conducted by the state labor management cooperation council. The board, the department of workforce development, and the labor management coordinator shall cooperate to improve communications and facilitate dialogue between labor, management, and government on workforce development problems facing the state, to form in-plant labor management committees, and to provide technical assistance to establish effective labor management policies in the state.

Sec. 11. JOB TRAINING FUND. Notwithstanding section 15.251, subsection 2, there is appropriated from the job training fund to the department of workforce development for the fiscal year beginning July 1, 1997, and ending June 30, 1998, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the target alliance program:

..... $ 30,000

Sec. 12. ADMINISTRATIVE CONTRIBUTION SURCHARGE FUND. There is appropriated from the administrative contribution surcharge fund of the state to the department of workforce development for the fiscal year beginning July 1, 1997, and ending June 30, 1998, the following amount, or so much thereof as is necessary, for the purposes designated:

DIVISION OF JOB SERVICE

Notwithstanding section 96.7, subsection 12, paragraph "c", for salaries, support, maintenance, conducting labor availability surveys, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 6,720,000
..... FTEs 144.12

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. 13. EMPLOYMENT SECURITY CONTINGENCY FUND. There is appropriated from the special employment security contingency fund to the department of workforce development for the fiscal year beginning July 1, 1997, and ending June 30, 1998, the following amounts, or so much thereof as is necessary, for the purposes designated:

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:

..... $ 175,000

Any additional penalty and interest revenue may be used to accomplish the mission of the department.

Sec. 14. PUBLIC EMPLOYMENT RELATIONS BOARD. There is appropriated from the general fund of the state to the public employment relations board for the fiscal year beginning July 1, 1997, and ending June 30, 1998, 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:

..... $ 818,685
..... FTEs 12.80

Sec. 15. Moneys remaining in the division-approved training fund created in 1990 Iowa Acts, chapter 1261, section 5, subsection 2, paragraph "d", is appropriated to the department of workforce development to provide training and direct client services to promise jobs

* Division of Industrial Services probably intended

recipients in the fiscal year beginning July 1, 1997. The division-approved training fund is closed out June 30, 1998.

Sec. 16. NEW SECTION. 15.350 SHELTER ASSISTANCE FUND.

A shelter assistance 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 and received under section 428A.8 for purposes of the construction, rehabilitation, expansion, or costs of operations of group home shelters for the homeless and domestic violence shelters. Of the moneys in the fund, not less than five hundred forty-six thousand dollars shall be spent annually on homeless shelter projects. Notwithstanding section 8.33, all moneys in the shelter assistance fund 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 subsequent fiscal years.

Sec. 17. Section 16.5, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 17. Provide moneys to the shelter assistance fund created in section 15.350.

Sec. 18. Section 16.40, subsection 2, Code 1997, is amended by striking the subsection.

Sec. 19. Section 16.100, subsection 2, paragraph a, Code 1997, is amended by striking the subsection.*

Sec. 20. Section 260F.2, subsection 11, Code 1997, is amended to read as follows:

11. "Project" means a training arrangement which is the subject of an agreement entered into between the community college and a business to provide program services. "Project" also means a department-sponsored training arrangement which is sponsored by the department and administered under sections 260F.6A and 260F.6B.

Sec. 21. NEW SECTION. 260F.6B HIGH TECHNOLOGY APPRENTICESHIP PROGRAM.

The community colleges and the department of economic development are authorized to fund high technology apprenticeship programs which comply with the requirements specified in section 260C.44 and which may include both new and statewide apprenticeship programs. Notwithstanding the provisions of section 260F.6, subsection 2, relating to maximum award amounts, moneys allocated to the community colleges with high technology apprenticeship programs shall be distributed to the community colleges based upon contact hours under the programs administered during the prior fiscal year as determined by the department of education. The department of economic development shall adopt rules governing this section's operation and participant eligibility.

Sec. 22. Section 428A.8, unnumbered paragraph 1, Code 1997, is amended to read as follows:

On or before the tenth day of each month the county recorder shall determine and pay to the treasurer of state eighty-two and three-fourths percent of the receipts from the real estate transfer tax collected during the preceding month and the treasurer of state shall deposit ninety-five percent of the receipts in the general fund of the state and transfer five percent of the receipts to the ~~Iowa finance authority for deposit in the housing improvement fund created in section 16.100~~ shelter assistance fund created in section 15.350.

Sec. 23. 1996 Iowa Acts, chapter 1218, section 55, subsection 3, is amended to read as follows:

3. The moneys appropriated in this section shall be used only for providing assistance in ~~the form of loan guarantees, irrevocable letters of credit, and~~ accordance with section 15E.175, subsection 3, paragraph "b". However, to be eligible for funding an indemnification for liability ~~agreements~~ agreement shall be entered into prior to ~~October 15, 1996~~ June 30, 1998.

* The word "paragraph" probably intended

Sec. 24. 1996 Iowa Acts, chapter 1219, section 92, is amended to read as follows:

SEC. 92. There is allocated from the unobligated funds remaining in the Wallace technology transfer foundation fund, after the allocation in section 78, subsection 2, paragraph "d", of this Act, on June 30, 1996, $100,000 for deposit in the housing improvement fund created in section 16.100 for the purposes of the fund. Any funds remaining shall not revert to any fund, notwithstanding section 8.33. Unobligated funds remaining on June 30, 1997, shall revert to the ~~general fund of the state~~ strategic investment fund created in section 15.313.

Sec. 25. To the extent possible, the administrative rules for the high technology apprenticeship programs authorized in section 260F.6B shall be generally consistent with the current administrative rules in 261 IAC ch. 17, with the exception that the definition of "currently existing program" shall be stricken.

Sec. 26. All physical assets of the Wallace technology transfer foundation shall be transferred to the possession of the department of economic development on June 30, 1997.

Sec. 27. In providing moneys from the shelter assistance fund to homeless shelter programs, the department is requested to consider exploring the potential to allocate moneys to homeless shelter programs based in part on their ability to move their clients toward self-sufficiency.

Sec. 28. The department of economic development and the department of workforce development shall within the budget proposals for the fiscal year beginning July 1, 1999, detail the number of FTEs and contract employees included in the budget proposal. During the budget process for the fiscal year beginning July 1, 1999, the joint economic development appropriation subcommittee shall examine contract employees in relationship to the budgets of the department of economic development and the department of workforce development.

Sec. 29. *On or before June 30, 1998, the board of directors of the Iowa seed capital corporation shall wind up the affairs of the corporation, including termination of staff, dissolution of the corporation, and transfer of remaining assets and liabilities to the Iowa capital investment board pursuant to H.F. 652, if enacted. In the event that the remaining assets and liabilities cannot be transferred to the Iowa capital investment board, the board of directors of the Iowa seed capital corporation shall provide for the orderly liquidation of all assets, settle existing liabilities, and transfer remaining moneys to the general fund of the state. The joint appropriations subcommittee on economic development supports the implementation of H.F. 652 relating to the increasing of venture capital in Iowa.

Sec. 30. HOUSING ASSISTANCE INTERIM STUDY. As housing in Iowa is a critical need, the legislative council is requested to establish an interim committee to provide the opportunity to learn about housing assistance organizations. By October 30, 1997, the study committee shall submit a report to the general assembly.

Sec. 31. HOUSING ASSISTANCE INFORMATION. By October 15, 1997, all housing assistance organizations in Iowa are requested to submit a report to the secretary of the senate and the chief clerk of the house of representatives based on such information as is needed for the interim study requested in section 30.

Sec. 32. BUDGET PROPOSALS. The department of economic development and the department of workforce development shall submit all budget proposals in the traditional format as well as in the budgeting for results format for the fiscal year beginning July 1, 1998.

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* Item veto; see message at end of the Act

Sec. 33. 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. 34. EFFECTIVE DATE. Sections 23 and 24 of this Act, being deemed of immediate importance, take effect upon enactment.

Approved April 22, 1997, except the item which I hereby disapprove and which is designated as Section 29 in its entirety. My reason for vetoing this item is delineated in the item veto message pertaining to this Act to the Speaker of the House of Representatives this same date, a copy of which is attached hereto.

TERRY E. BRANSTAD, *Governor*

Dear Mr. Speaker:

I hereby transmit House File 655, an Act appropriating funds to the Department of Economic Development, certain Board of Regents institutions, the Department of Workforce Development, the Public Employment Relations Board, making statutory changes, and providing an effective date.

House File 655 is, therefore, approved on this date with the following exception, which I hereby disapprove.

I am unable to approve section 29, in its entirety, which relates to the dissolution of the Iowa Seed Capital Corporation. This provision was intended to be enacted in conjunction with House File 652, which would establish a new structure for seed and venture capital programs in Iowa. Due to the uncertain outcome of the General Assembly's deliberations concerning House File 652, I am unable to approve this provision. If House File 652 fails to be enacted, the Iowa Seed Capital Corporation should remain in existence until the General Assembly again has the opportunity to consider the state's seed and venture capital policies in the 1998 session.

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 655 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 202

FEDERAL BLOCK GRANT APPROPRIATIONS

S.F. 240

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.

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, 1997, and ending September 30, 1998, the following amount:

..... $ 11,945,086

a. Funds appropriated in this subsection are the anticipated funds to be received from the federal government for the designated federal fiscal year under 42 U.S.C., chapter 6A, subchapter XVII, which provides for the substance abuse prevention and treatment block grant. The department shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

b. Of the funds appropriated in this subsection, an amount not exceeding 5 percent shall be used by the department for administrative expenses.

c. The department shall expend no less than an amount equal to the amount expended for treatment services in state fiscal year beginning July 1, 1996, for pregnant women and women with dependent children.

d. Of the funds appropriated in this subsection, an amount not exceeding $24,585 shall be used for audits.

e. Of the funds appropriated in this subsection, an amount not exceeding $438,275 shall be used for current and former recipients of federal supplemental security income (SSI).

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 1997-1998 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, 1997, and ending September 30, 1998, the following amount:

..... $ 2,740,750

b. Funds appropriated in this subsection are the anticipated funds to be received from the federal government for the designated federal fiscal year under 42 U.S.C., chapter 6A, subchapter XVII, which provides for the community mental health services block grant. The department shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

c. The administrator of the division of mental health 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 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 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, 1997, and ending September 30, 1998, the following amount:

..... $ 6,871,361

The funds appropriated in this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under 42 U.S.C., chapter 7, subchapter V, which provides for the maternal and child health services block grant. The department shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

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. a. Sixty-three percent of the remaining funds appropriated in subsection 1 shall be allocated to supplement appropriations for maternal and child health programs within the Iowa department of public health. Of these funds, $284,548 shall be set aside for the statewide perinatal care program.

b. Thirty-seven percent of the remaining funds appropriated in subsection 1 shall be allocated to the university of Iowa hospitals and clinics under the control of the state board of regents for mobile and regional child health specialty clinics. The university of Iowa hospitals and clinics shall not receive an allocation for indirect costs from the funds 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 in section 4, subsection 4 of this Act for the federal fiscal year beginning October 1, 1997, 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, 1997, and ending September 30, 1998, the following amount:

..... $ 1,939,595

Funds appropriated in this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under 42 U.S.C., chapter 6A, subchapter XVII, which provides for the preventive health and health services block grant. The department shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

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 for services to victims of sex offenses and for rape prevention education.

4. Of the remaining funds appropriated in subsection 1, 7 percent 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 42 U.S.C., chapter 33, subchapter III, 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 services. The moneys specified in 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, 1997, and ending September 30, 1998, the following amount:

..... $ 5,556,000

Funds appropriated in this subsection are the anticipated funds to be received from the federal government for the designated fiscal year under 42 U.S.C., chapter 46, subchapter V, which provides for the drug control and system improvement grant program. The drug enforcement and abuse prevention coordinator shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

2. An amount not exceeding 7 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. STOP VIOLENCE AGAINST WOMEN 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, 1997, and ending September 30, 1998, the following amount:

..... $ 1,886,000

Funds appropriated in this subsection are the anticipated funds to be received from the federal government for the designated fiscal year under 42 U.S.C., chapter 46, subchapter XII-H, which provides for grants to combat violent crimes against women. The drug enforcement and abuse prevention coordinator shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

2. An amount not exceeding 5 percent of the funds appropriated in subsection 1 shall be used by the drug enforcement and abuse prevention coordinator for administrative expenses. From the funds set aside by this subsection for administrative expenses, the drug enforcement and abuse prevention coordinator shall pay to the auditor of the 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. 7. LOCAL LAW ENFORCEMENT BLOCK GRANT 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, 1997, and ending September 30, 1998, the following amount:

..... $ 333,497

Funds appropriated in this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under the federal Omnibus Consolidated Recissions and Appropriations Act of 1996, Pub. L. No. 104-134, which provides for grants to reduce crime and improve public safety. The drug enforcement and abuse prevention coordinator shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

2. An amount not exceeding 3 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. 8. RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR STATE PRISONERS FORMULA GRANT PROGRAM. 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, 1997, and ending September 30, 1998, the following amount:

..... $ 208,726

Funds appropriated in this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under 42 U.S.C., chapter 136, which provides grants for substance abuse treatment programs in state and local correctional facilities. The drug enforcement and abuse prevention coordinator shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

Sec. 9. 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, 1997, and ending September 30, 1998, the following amount:

..... $ 5,292,291

Funds appropriated in this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under 42 U.S.C., chapter 106, which provides for the community services block grant. The division of community action agencies of the department of human rights shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

b. The administrator of the division of community action agencies of the department of human rights shall allocate not less than 96 percent of the amount of the block grant to eligible community action agencies for programs benefiting low-income persons. Each eligible agency shall receive a minimum allocation of no less than $100,000. The minimum allocation shall be achieved by 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. 10. 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, 1997, and ending September 30, 1998, the following amount:

..... $ 30,400,000

Funds appropriated in this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under 42 U.S.C., chapter 69, which provides for community development block grants. The department of economic development shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

2. An amount not exceeding $1,414,000 for the federal fiscal year beginning October 1, 1997, 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 $707,000 for the federal fiscal year beginning October 1, 1997, of funds appropriated in subsection 1 and a matching contribution from the state equal to $707,000 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. 11. 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, 1997, and ending September 30, 1998, the following amount:

..... $ 18,143,877

The funds appropriated in this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under 42 U.S.C., chapter 94, subchapter II, which provides for the low-income home energy assistance block grants. The division of community action agencies of the department of human rights shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

2. An amount not exceeding $1,542,229 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 in 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 under 42 U.S.C., chapter 94, subchapter II, 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, 1998, at least 15 percent of the funds appropriated in subsection 1 shall be used for low-income residential weatherization or other related home repairs for low-income households. Of this amount, an amount not exceeding 10 percent may be used for administrative expenses.

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 5 percent of the funds appropriated in subsection 1 shall be used for assessment and resolution of energy problems.

Sec. 12. 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, 1997, and ending September 30, 1998, the following amount:

..... $ 27,014,462

Funds appropriated in this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under 42 U.S.C., chapter 7, subchapter XX, which provides for the social services block grant. The department of human services shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

2. Not more than $1,717,784 of the funds appropriated in subsection 1 shall be used by the department of human services for general administration. From the funds set aside in 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, 1997, for the following programs within the department of human services:

a. Field operations:

..... $ 10,274,258

b. Child and family services:

..... $ 1,536,742

c. Local administrative costs and other local services:

..... $ 1,089,616

d. Volunteers:

..... $ 119,084

e. Community-based services:

..... $ 136,946

f. MH/MR/DD/BI community service (local purchase):
..... $ 12,140,032

Sec. 13. 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. 14. 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 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. 15. CHILD CARE AND DEVELOPMENT BLOCK GRANT. There is appropriated from the fund created by section 8.41 to the department of human services for the federal fiscal year beginning October 1, 1997, and ending September 30, 1998, the following amount:
..... $ 25,405,945

Funds appropriated in this section are the funds anticipated to be received from the federal government under 42 U.S.C., chapter 105, subchapter II-B, which provides for the child care and development block grant. The department shall expend the funds appropriated in this section as provided in the federal law making the funds available and in conformance with chapter 17A.

Sec. 16. 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 services to victims of sex offenses and for rape prevention education 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, the director of the legislative service bureau, 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.

3. If funds received from the federal government for a specific grant number specified in this Act is less than the amount appropriated, the amount appropriated shall be reduced accordingly. An annual report listing any such appropriation reduction shall be submitted to the fiscal committee of the legislative council.

Sec. 17. PROCEDURE FOR INCREASED FEDERAL FUNDS.

1. If funds received from the federal government in the form of block grants exceed the amounts appropriated in sections 1, 2, 3, 4, 5, 7, 10, and 12 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 11 of this Act for the low-income home energy assistance program, 15 percent of the excess shall be allocated to the low-income residential weatherization program.

3. If funds received from the federal government for a specific grant number specified in this Act exceeds the amount appropriated, the excess amount is appropriated for the purpose designated in the appropriation. An annual report listing any such excess appropriations shall be submitted to the fiscal committee of the legislative council.

4. If funds received from the federal government from community services block grants exceed the amount appropriated in section 9 of this Act, 100 percent of the excess is allocated to the community services block grant program.

Sec. 18. 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, 1997, and ending June 30, 1998, 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. 19. 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, 1997, and ending June 30, 1998, 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. The following amounts are appropriated to the department of agriculture and land stewardship for the fiscal year beginning July 1, 1997, and ending June 30, 1998:

1. For plant and animal disease and pest control, grant number 10025:
..... $ 857,232
2. For assistance for intrastate meat and poultry, grant number 10475:
..... $ 976,294
3. For farmers market nutrition program, grant number 10577:
..... $ 412,981
4. For food and drug — research grants, grant number 13103:
..... $ 88,000
5. For surface coal mining regulation, grant number 15250:
..... $ 142,986
6. For abandoned mine land reclamation, grant number 15252:
..... $ 1,497,303
7. For pesticide enforcement program, grant number 66700:
..... $ 640,339
8. For pesticide certification program, grant number 66720:
..... $ 116,479
9. For United States environmental protection agency special federal grant, grant number 66SPX:
..... $ 44,750
10. For federal-state marketing improvement, grant number 10156:
..... $ 2,900
11. For pesticides research, grant number 66502:
..... $ 33,750
12. For watershed protection and flood protection, grant number 10904:
..... $ 20,000
13. For wetlands protection, grant number 66461:
..... $ 135,600

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, 1997, and ending June 30, 1998, 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, 1997, and ending June 30, 1998, 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. The following amounts are appropriated to the department for the blind for the fiscal year beginning July 1, 1997, and ending June 30, 1998:

1. For vocational rehabilitation — FICA, grant number 13802:
..... $ 242,745
2. For assistive technology information network, grant number 84224:
..... $ 21,400
3. For rehabilitation services — basic support, grant number 84126:
..... $ 4,475,017
4. For rehabilitation training, grant number 84129:
..... $ 19,795
5. For independent living project, grant number 84169:
..... $ 58,349

6. For older blind, grant number 84177:
..... $ 262,472
7. For supported employment, grant number 84187:
..... $ 71,659

Sec. 22. ETHICS AND CAMPAIGN DISCLOSURE 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, 1997, and ending June 30, 1998, are appropriated to the Iowa ethics and campaign disclosure board 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, 1997, and ending June 30, 1998, 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. The following amounts are appropriated to the Iowa state civil rights commission for the fiscal year beginning July 1, 1997, and ending June 30, 1998:

1. For housing and urban development (HUD) discrimination complaints, grant number 14401:
..... $ 190,300
2. For job discrimination — special projects, grant number 30002:
..... $ 542,700

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, 1997, and ending June 30, 1998, 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. The following amount is appropriated to the college student aid commission for the fiscal year beginning July 1, 1997, and ending June 30, 1998:

For the Stafford loan program, grant number 84032:
..... $ 20,699,769

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, 1997, and ending June 30, 1998, 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, 1997, and ending June 30, 1998, 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, 1997, and ending June 30, 1998, 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. The following amounts are appropriated to the department of cultural affairs for the fiscal year beginning July 1, 1997, and ending June 30, 1998:

1. For historic preservation grants-in-aid, grant number 15904:
..... $ 523,769

2. For promotion of the arts — education, grant number 45003:
..... $ 45,000
3. For promotion of the arts — federal and state, grant number 45007:
..... $ 354,900

Sec. 28. 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, 1997, and ending June 30, 1998, 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. The following amounts are appropriated to the department of economic development for the fiscal year beginning July 1, 1997, and ending June 30, 1998:

1. For department of agriculture, grant number 10000:
..... $ 122,000
2. For procurement office, department of defense, grant number 12600:
..... $ 90,000
3. For national Affordable Housing Act, grant number 14239:
..... $ 9,869,012
4. For community service Act funds, grant number 94003:
..... $ 965,000
5. For department of labor program, grant number 17249:
..... $ 5,572,969
6. For job opportunities and basic skills program, grant number 13781:
..... $ 99,648
7. For environmental protection agency program, grant number 66000:
..... $ 74,000

Sec. 29. 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, 1997, and ending June 30, 1998, 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. The following amounts are appropriated to the department of education for the fiscal year beginning July 1, 1997, and ending June 30, 1998:

1. For school breakfast program, grant number 10553:
..... $ 5,788,130
2. For school lunch program, grant number 10555:
..... $ 46,420,762
3. For special milk program for children, grant number 10556:
..... $ 120,029
4. For child care food program, grant number 10558:
..... $ 18,612,258
5. For summer food service for children, grant number 10559:
..... $ 700,000
6. For administration expenses for child nutrition, grant number 10560:
..... $ 900,000
7. For public telecommunication facilities, grant number 11550:
..... $ 150,000
8. For vocational rehabilitation — state supplementary assistance, grant number 13625:
..... $ 354,576
9. For vocational rehabilitation — FICA, grant number 13802:
..... $ 10,170,777
10. For nutrition education and training, grant number 10564:
..... $ 80,440

11. For mine health and safety, grant number 17600:
..... $ 61,000
12. For veterans education, grant number 64111:
..... $ 190,042
13. For adult education, grant number 84002:
..... $ 2,311,621
14. For bilingual education, grant number 84003:
..... $ 100,000
15. For education of handicapped children, grant number 84009:
..... $ 112,528
16. For E.C.I.A. — chapter 1, grant number 84010:
..... $ 65,000,000
17. For migrant education, grant number 84011:
..... $ 400,000
18. For educationally deprived children, grant number 84012:
..... $ 440,000
19. For education for neglected — delinquent children, grant number 84013:
..... $ 310,000
20. For handicapped education, grant number 84025:
..... $ 110,755
21. For handicapped — state grants, grant number 84027:
..... $ 25,311,959
22. For handicapped professional preparation, grant number 84029:
..... $ 114,740
23. For public library services, grant number 84034:
..... $ 1,043,977
24. For interlibrary cooperation, grant number 84035:
..... $ 163,282
25. For vocational education — state grants, grant number 84048:
..... $ 11,924,189
26. For rehabilitation services — basic support, grant number 84126:
..... $ 21,866,828
27. For rehabilitation training, grant number 84129:
..... $ 51,053
28. For chapter 2 block grant, grant number 84151:
..... $ 2,936,975
29. For E.E.S.A. Title II, grant number 84164:
..... $ 2,060,707
30. For public library construction, grant number 84154:
..... $ 20,000
31. For emergency immigrant education, grant number 84162:
..... $ 85,760
32. For independent living project, grant number 84169:
..... $ 250,653
33. For education of handicapped — incentive, grant number 84173:
..... $ 4,189,677
34. For education of handicapped — infants and toddlers, grant number 84181:
..... $ 1,804,815
35. For Byrd scholarship program, grant number 84185:
..... $ 219,000
36. For drug free schools/communities, grant number 84186:
..... $ 3,181,657
37. For supported employment, grant number 84187:
..... $ 308,006

38. For homeless youth and children, grant number 84196:
..... $ 262,101
39. For even start, grant number 84213:
..... $ 702,601
40. For E.C.I.A. capital expense, grant number 84216:
..... $ 650,000
41. For E.C.I.A. state improvements, grant number 84218:
..... $ 465,000
42. For AIDS prevention project, grant number 93118:
..... $ 235,577
43. For headstart collaborative grant, grant number 93600:
..... $ 128,816
44. For serve America, grant number 94001:
..... $ 185,263
45. For environment education grants, grant number 66951:
..... $ 5,000
46. For teacher preparation education, grant number 84243:
..... $ 1,173,622
47. For department of education contracts, grant number 84999:
..... $ 50,000
48. For goals 2000, grant number 84276:
..... $ 3,234,618
49. For Iowa libraries on-line, grant number 84039:
..... $ 160,000
50. For learn and serve America, grant number 94004:
..... $ 192,650
51. For star schools grant, grant number 84203:
..... $ 1,981,250

Sec. 30. 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, 1997, and ending June 30, 1998, 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. The following amounts are appropriated to the department of elder affairs for the fiscal year beginning July 1, 1997, and ending June 30, 1998:

1. For nutrition program for elderly, grant number 10570:
..... $ 2,327,500
2. For senior community service employment program, grant number 17235:
..... $ 949,594
3. For prevention of elder abuse, grant number 93041:
..... $ 58,327
4. For preventive health, grant number 93043:
..... $ 182,933
5. For supportive services, grant number 93044:
..... $ 4,347,217
6. For nutrition, grant number 93045:
..... $ 6,032,746
7. For frail elderly, grant number 93046:
..... $ 108,465
8. For ombudsman activity, grant number 93042:
..... $ 54,838
9. For health care financing administration, grant number 93779:
..... $ 248,705

Sec. 31. DEPARTMENT OF WORKFORCE 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, 1997, and ending June 30, 1998, are appropriated to the department of workforce development for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the department of workforce development for the fiscal year beginning July 1, 1997, and ending June 30, 1998:

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:
..... $ 114,898
5. For labor certification, grant number 17202:
..... $ 108,885
6. For employment service, grant number 17207:
..... $ 9,480,817
7. For unemployment insurance grant to state, grant number 17225:
..... $ 19,730,000
8. For occupational safety and health, grant number 17500:
..... $ 1,951,362
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
12. For the federal Job Training Partnership Act, grant number 17250:
..... $ 21,000,000
13. For the federal department of labor, grant number 17000:
..... $ 1,000,000
14. For the federal young adult conservation corps, grant number 10663:
..... $ 10,000

Sec. 32. 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, 1997, and ending June 30, 1998, 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. 33. 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, 1997, and ending June 30, 1998, 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. 34. 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, 1997, and ending June 30, 1998, 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. The following amounts are

appropriated to the department of human rights for the fiscal year beginning July 1, 1997, and ending June 30, 1998:

1. For juvenile justice and delinquency prevention, grant number 16540:
..... $ 678,820
2. For weatherization assistance, grant number 81042:
..... $ 2,623,312
3. For client assistance, grant number 84161:
..... $ 103,000
4. For department of justice Title V delinquency prevention, grant number 16546:
..... $ 209,000

Sec. 35. 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, 1997, and ending June 30, 1998, 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. The following amounts are appropriated to the department of human services for the fiscal year beginning July 1, 1997, and ending June 30, 1998:

1. For food stamps, grant number 10551:
..... $ 3,843,072
2. For administration expense for food stamps, grant number 10561:
..... $ 10,868,315
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:
..... $ 320,651
8. For child care for at-risk families, grant number 93574:
..... $ 229,006
9. For mental health training, grant number 93244:
..... $ 548,678
10. For family support payments to states, grant number 93560:
..... $ 3,397,953
11. For child support enforcement, grant number 93563:
..... $ 27,684,474
12. For refugee and entrant assistance, grant number 93566:
..... $ 4,962,622
13. For developmental disabilities basic support, grant number 93630:
..... $ 881,675
14. For children's justice, grant number 93643:
..... $ 173,548
15. For child welfare services, grant number 93645:
..... $ 4,790,826
16. For crisis nursery, grant number 93656:
..... $ 370,756
17. For foster care Title IV-E, grant number 93658:
..... $ 19,827,081
18. For adoption assistance, grant number 93659:
..... $ 8,588,000

19. For child abuse basic, grant number 93669:
..... $ 289,319
20. For child abuse challenge, grant number 93672:
..... $ 250,446
21. For Title IV-E independent living, grant number 93674:
..... $ 482,634
22. For sexually transmitted disease control program, grant number 93777:
..... $ 2,377,077
23. For medical assistance, grant number 93778:
..... $ 939,022,998
24. For adoption opportunities, grant number 13652:
..... $ 264,250

Sec. 36. 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, 1997, and ending June 30, 1998, 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. The following amounts are appropriated to the department of inspections and appeals for the fiscal year beginning July 1, 1997, and ending June 30, 1998:

1. For assistance for intrastate meat and poultry, grant number 10475:
..... $ 22,069
2. For food and drug research grants, grant number 13103:
..... $ 6,593
3. For Title XVIII Medicare inspections, grant number 13773:
..... $ 2,041,165
4. For state medicaid fraud control unit, grant number 13775:
..... $ 17,401
5. For state medicaid fraud control, grant number 93775:
..... $ 304,418

Sec. 37. 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, 1997, and ending June 30, 1998, 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. The following amount is appropriated to the judicial department for the fiscal year beginning July 1, 1997, and ending June 30, 1998:

For United States department of health and human services, grant number 13000:
..... $ 150,000

Sec. 38. 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, 1997, and ending June 30, 1998, 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. The following amounts are appropriated to the department of justice for the fiscal year beginning July 1, 1997, and ending June 30, 1998:

1. For United States department of justice, grant number 16000:
..... $ 2,118,000
2. For United States department of health and human services, grant number 13000:
..... $ 236,791

Sec. 39. 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, 1997, and ending June 30, 1998, 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. 40. 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, 1997, and ending June 30, 1998, 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. 41. 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, 1997, and ending June 30, 1998, 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. The following amounts are appropriated to the department of natural resources for the fiscal year beginning July 1, 1997, and ending June 30, 1998:

1. For forestry incentive program, grant number 10064:
..... $ 685,000
2. For cooperative forestry assistance, grant number 10664:
..... $ 455,000
3. For fish restoration, grant number 15605:
..... $ 5,303,125
4. For wildlife restoration, grant number 15611:
..... $ 2,700,000
5. For acquisition, development, and planning, grant number 15916:
..... $ 5,000
6. For recreation boating safety financial assistance, grant number 20005:
..... $ 284,000
7. For Clean Lakes Act, grant number 66435:
..... $ 30,000
8. For consolidated environmental programs support, grant number 66600:
..... $ 7,845,754
9. For energy conservation, grant number 81041:
..... $ 859,717
10. For grants for local government, grant number 81052:
..... $ 140,000
11. For Title VI revolving loan fund, grant number 66458:
..... $ 640,000
12. For disaster assistance, grant number 83516:
..... $ 5,000
13. For United States geological survey, soil conservation service, mapping projects, grant number 15808:
..... $ 73,112

Sec. 42. 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, 1997, and ending June 30, 1998, 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. 43. 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, 1997, and ending June 30, 1998, 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. 44. 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, 1997, and ending June 30, 1998, 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. The following amounts are appropriated to the department of public defense for the fiscal year beginning July 1, 1997, and ending June 30, 1998:

1. For military operations — Army national guard, grant number 12991:
..... $ 10,001,159
2. For superfund authorization, grant number 83011:
..... $ 81,112
3. For state and local emergency operations centers, grant number 83512:
..... $ 3,000
4. For state disaster preparedness grants, grant number 83505:
..... $ 50,000
5. For state and local assistance, grant number 83534:
..... $ 1,297,324
6. For disaster assistance, grant number 83516:
..... $ 4,754,643
7. For hazardous materials transport, grant number 20703:
..... $ 97,222

Sec. 45. 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, 1997, and ending June 30, 1998, 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. 46. 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, 1997, and ending June 30, 1998, 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. The following amounts are appropriated to the Iowa department of public health for the fiscal year beginning July 1, 1997, and ending June 30, 1998:

1. For women, infants, and children, grant number 10557:
..... $ 32,430,973
2. For food and drug — research grants, grant number 13103:
..... $ 16,176
3. For primary care services, grant number 13130:
..... $ 193,028
4. For health services — grants and contracts, grant number 13226:
..... $ 184,782
5. For drug abuse research grant, grant number 13279:
..... $ 50,243
6. For prevention disability, grant number 13283:
..... $ 57,080
7. For asbestos enforcement, grant number 66706:
..... $ 43,800
8. For health programs for refugees, grant number 13987:
..... $ 31,923
9. For radon control, grant number 66032:
..... $ 285,500
10. For toxic substance compliance monitoring, grant number 66701:
..... $ 166,030
11. For asbestos enforcement program, grant number 66702:
..... $ 163,943

12. For drug-free schools — communities, grant number 84186:
..... $ 777,521
13. For hazardous waste, grant number 66802:
..... $ 62,025
14. For regional delivery systems, grant number 93110:
..... $ 175,582
15. For TB control — elimination, grant number 93116:
..... $ 231,568
16. For AIDS prevention project, grant number 93118:
..... $ 426,761
17. For physician education, grant number 93161:
..... $ 358,834
18. For childhood lead abatement, grant number 93197:
..... $ 732,781
19. For family planning projects, grant number 93217:
..... $ 614,500
20. For immunization program, grant number 93268:
..... $ 1,700,127
21. For needs assessment grant, grant number 93283:
..... $ 910,189
22. For model programs for adolescents, grant number 93902:
..... $ 15,840
23. For rural health, grant number 93913:
..... $ 53,519
24. For HIV cares grants, grant number 93917:
..... $ 495,354
25. For trauma care, grant number 93953:
..... $ 14,554
26. For preventive health services, grant number 93977:
..... $ 651,135
27. For AIDS prevention project, grant number 93940:
..... $ 1,309,595
28. For refugee health, grant number 93987:
..... $ 7,500
29. For breast and cervical cancer, grant number 93919:
..... $ 1,591,544
30. For consumer protection safety, grant number 87001:
..... $ 1,000
31. For federal emergency medical services for children, grant number 93127:
..... $ 45,473
32. For federal environmental protection agency, grant number 66000:
..... $ 25,000
33. For United States department of health and human services, grant number 13000:
..... $ 45,000
34. For United States department of health and human services, food and drug administration, grant number 13101:
..... $ 100,845
35. For federal environmental protection agency lead certification program, grant number 66707:
..... $ 276,551
36. Loan repayment, grant number 93165:
..... $ 75,000
37. Primary care services, grant number 93130:
..... $ 43,000

38. Nutrition education and training, grant number 10564:
..... $ 53,128
39. Community scholarship, grant number 93931:
..... $ 36,000

Sec. 47. 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, 1997, and ending June 30, 1998, 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. The following amounts are appropriated to the department of public safety for the fiscal year beginning July 1, 1997, and ending June 30, 1998:

1. For department of housing and urban development, grant number 14000:
..... $ 30,000
2. For department of justice, grant number 16000:
..... $ 837,789
3. For marijuana control, grant number 16580:
..... $ 58,000
4. For state and community highway safety, grant number 20600:
..... $ 2,301,196

Sec. 48. STATE BOARD OF REGENTS. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1997, and ending June 30, 1998, 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. The following amounts are appropriated to the state board of regents for the fiscal year beginning July 1, 1997, and ending June 30, 1998:

1. For agricultural experiment, grant number 10203:
..... $ 3,849,235
2. For cooperative extension service, grant number 10500:
..... $ 8,150,000
3. For school breakfast program, grant number 10553:
..... $ 9,800
4. For school lunch program, grant number 10555:
..... $ 204,358
5. For maternal and child health, grant number 13110:
..... $ 131,901
6. For cancer treatment research, grant number 13395:
..... $ 7,839
7. For general research, grant number 83500:
..... $ 240,557,904
8. For handicapped — state grants, grant number 84027:
..... $ 280,526
9. For rehabilitation services basic support, grant number 84126:
..... $ 51,608

Sec. 49. DEPARTMENT OF REVENUE AND FINANCE. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1997, and ending June 30, 1998, are appropriated to the department of revenue and finance for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 50. OFFICE OF SECRETARY OF STATE. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1997, and ending June 30, 1998, are appropriated to the office of secretary

of state for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 51. IOWA STATE FAIR AUTHORITY. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1997, and ending June 30, 1998, are appropriated to the Iowa state fair authority for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 52. OFFICE OF 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, 1997, and ending June 30, 1998, 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. 53. IOWA TELECOMMUNICATIONS AND TECHNOLOGY 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, 1997, and ending June 30, 1998, are appropriated to the Iowa telecommunications and technology commission for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 54. OFFICE OF TREASURER OF STATE. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1997, and ending June 30, 1998, are appropriated to the office of treasurer of state for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 55. 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, 1997, and ending June 30, 1998, 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. The following amounts are appropriated to the state department of transportation for the fiscal year beginning July 1, 1997, and ending June 30, 1998:

1. For airport improvement program — federal aviation administration, grant number 20106:
..... $ 100,000

2. For highway research, plan and construction, grant number 20205:
..... $ 214,950,000

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. 56. 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, 1997, and ending June 30, 1998, 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. 57. 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, 1997, and ending June 30, 1998, 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.

Sec. 58. LIHEAP FUNDING — DISCONNECTION PROHIBITION. It is the intent of the general assembly that if the governor determines federal funds are insufficient to adequately provide for certification of eligibility for the low-income home energy assistance program by the community action agencies during the federal fiscal year which commences October 1, 1997, the Iowa utilities board shall issue an order prohibiting disconnection of service from November 1 through April 1 by a regulated public utility furnishing gas or electricity to households whose income falls at or below one hundred fifty percent of the federal poverty level as established by the United States office of management and budget. The board shall promptly adopt rules in accordance with section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement this requirement. The energy assistance bureau of the department of human rights, in consultation with the community action agencies, shall certify to the utilities, households that are eligible for moratorium protection utilizing the agency's existing electronic database. Rules adopted under this section shall also be published as a notice of intended action as provided in section 17A.4.

Approved May 1, 1997

CHAPTER 203

APPROPRIATIONS — HEALTH AND HUMAN RIGHTS

H.F. 710

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 governor's alliance on substance abuse, and the commission of veterans affairs, and providing an effective date.

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, 1997, and ending June 30, 1998, 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:

.....	$	1,499,238
.....	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, 1997, and ending June 30, 1998, 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:

.....	$	1,110,372
.....	FTEs	35.00

If the anticipated amount of federal funding from the federal equal employment opportu-

nity commission and the federal department of housing and urban development exceeds $625,000 during the fiscal year beginning July 1, 1997, the Iowa state civil rights commission may exceed their authorized staffing level to hire additional staff to process or to support the processing of employment and housing complaints during that fiscal year.

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, 1997, and ending June 30, 1998, 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:

.....	$	512,362
.....	FTEs	28.00

2. For aging programs and services:

.....	$	3,657,598

All funds appropriated in this subsection shall be received and disbursed by the director of elder affairs for aging programs and services. These funds shall not be used by the department for administrative purposes, and 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. It is the intent of the general assembly that the Iowa chapters of the Alzheimer's association and the case management program for frail elders shall collaborate and cooperate fully to assist families in maintaining family members with Alzheimer's disease in the community for the longest period of time possible. Funds appropriated in this subsection may be used to supplement federal funds under federal regulations. To receive funds appropriated in this subsection, a local area agency on aging shall match the funds with funds from other sources according to rules adopted by the department. 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.

3. The department shall maintain policies and procedures regarding Alzheimer's support and the retired senior volunteer program.

Sec. 4. GOVERNOR'S ALLIANCE ON SUBSTANCE ABUSE. There is appropriated from the general fund of the state to the governor's alliance on substance abuse for the fiscal year beginning July 1, 1997, and ending June 30, 1998, 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:

.....	$	379,443
.....	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, 1997, and ending June 30, 1998, 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:

..... $ 1,878,409
..... FTEs 64.40

(1) Of the funds appropriated in this lettered paragraph, $738,185 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 will exceed the allocation, the department shall establish by administrative rule a mechanism to reduce financial assistance under the renal disease program in order to keep expenditures within the amounts allocated.

(2) Hospitals shall not collect fees for birth certificates in excess of the amounts as set out in the administrative rules of the Iowa department of public health.

(3) Of the funds appropriated in this lettered paragraph, $118,055 shall be used to provide regulatory oversight of accountable health plans.

(4) Of the funds appropriated in this lettered paragraph, $46,658 shall be used for the purchase, verification, updating, and storage of health data information.

(5) The department shall compile, correlate, and disseminate data from health care providers, the state medical assistance program, third-party payors, associations, and other appropriate sources in furtherance of the purpose and intent of this appropriation.

(6) The department shall request and receive information from other state agencies similar to that required of third-party payors for the purpose of dissemination of health data. The department may enter into agreements for studies on health-related questions and provide or make data available to health care providers, health care subscribers, third-party payors, and the general public. The department may purchase data for the purpose of dissemination of health data information. The department shall assure the confidentiality of the data collected from other state agencies, hospitals, and third-party payors under chapter 22. The compilation of data information prepared for release or dissemination from the data collected shall be a public record. The department shall adopt administrative rules to address a contracting process, define confidential information, set fees to be charged for data, and prescribe the forms upon which the information is to be made available.

b. PROFESSIONAL LICENSURE

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,007,538
..... FTEs 15.00

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 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 a scope of practice review committee or unanticipated litigation costs arising from the discharge of the board's regulatory duties. Before the department expends or encumbers funds for a scope of practice review committee or 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, 1997, shall not exceed 5 percent of the average annual fees generated by the boards for the previous two fiscal years.

c. EMERGENCY MEDICAL SYSTEMS

For salaries, support, maintenance, and emergency medical services training of emergency medical services (EMS) personnel at the state, county, and local levels, and for not more than the following full-time equivalent positions:

..... $ 1,030,954
..... FTEs 13.00

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.

2. HEALTH PROTECTION DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,198,030
..... FTEs 75.00

b. Of the funds appropriated in this subsection, $75,000 shall be used for chlamydia testing.

c. Of the funds appropriated in this subsection, $39,547 shall be used for the lead abatement program.

d. The state university of Iowa hospitals and clinics shall not receive indirect costs from the funds appropriated in this subsection.

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:

..... $ 656,216
..... FTEs 39.60

(1) The division shall continue to coordinate with substance abuse treatment and prevention providers regardless of funding source to assure the delivery of substance abuse treatment and prevention programs.

(2) The commission on substance abuse, in conjunction with the division, shall continue to coordinate the 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. 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.

c. For program grants:

..... $ 8,390,159

(1) 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.

(2) Of the funds appropriated in this lettered paragraph, $950,000 shall be used by the Iowa department of public health to continue the integrated substance abuse managed care system.

4. FAMILY AND COMMUNITY HEALTH DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 3,466,136
..... FTEs 72.00

(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.

(2) Of the funds appropriated in this lettered paragraph, the following amounts shall be allocated to the state university of Iowa hospitals and clinics under the control of the state board of regents for the following programs under the Iowa specialized child health care services:

(a) Mobile and regional child health specialty clinics:

..... $ 392,931

The regional clinic located in Sioux City shall maintain a social worker component to assist the families of children participating in the clinic program.

Of the funds allocated in this subparagraph subdivision, $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, $1,105,461 shall be used for maternal and child health services.

(6) If during the 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 shall continue efforts to realize the "Healthy Iowans 2000" goal of promoting prevention and health promotion to improve the qualify* of life of Iowans and to hold down health care costs.

(9) Of the funds appropriated in this lettered paragraph, $165,391 shall be allocated for the office of rural health to provide technical assistance to rural areas in the area of health care delivery.

(10) Of the funds appropriated in this lettered paragraph, $182,028 shall be used to develop, implement, and maintain rural health provider recruitment and retention efforts.

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 the counties for public health nursing, home care aide/chore, and senior health programs:

..... $ 11,683,924

The local board of health and local board of supervisors shall jointly determine which one shall be a contractor for these funds in a single contract beginning July 1, 1997. For those counties participating in a multi-county project, each local board of health and local board of supervisors of participating counties shall jointly agree upon the county that will serve as the contractor with the department. The funds appropriated in this lettered paragraph shall be allocated as follows:

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* The word "quality" probably intended

(1) For the public health nursing program:

..... $ 2,511,871

(a) Funds allocated in this subparagraph for the public health nursing program 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 subparagraph, "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.

(b) 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.

(c) In order to receive allocations under this subparagraph, the local boards of health and board of supervisors having jurisdiction shall jointly 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 or board of supervisors. The contractor 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. The contractor shall make an effort to prevent duplication of services.

(d) If by July 30, 1997, the department is unable to conclude contracts for use of the allocated funds in a county, the department shall consider the unused funds allocated under this subparagraph 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 for the fiscal year, the department may allocate the moneys to counties with demonstrated special needs for public health nursing.

(e) The department shall adopt rules governing the expenditure of funds allocated by this subparagraph. 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.

(f) The department shall 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.

(2) For the home care aide/chore program:

..... $ 8,586,716

Funds allocated in this subparagraph for the home care aide/chore program 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 for each fiscal year, up to 15 percent of the funds allocated in this subparagraph 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:

(a) "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.

(b) "Elderly person" means a person who is 60 years of age or older.

(c) "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.

(d) "Low-income person" means a person whose income and resources are below the guidelines established by the department.

(e) "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 allocated in this subparagraph 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 subparagraph, the county board of supervisors and local boards of health, after consultation with the 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 jointly 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 the agency's 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 local board of health, as decided locally. The contractor shall contract 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, 1997, the department is unable to conclude contracts for use of the allocated funds in a county, the department shall consider the unused funds allocated under this subparagraph an unallocated pool. The department shall also identify any allocated funds which the counties do not anticipate spending during the fiscal year. If the anticipated excess funds available to any county are substantial, the department and the county may agree to return those excess funds, if the funds are other than program revenues, to the department, and if returned, the department shall consider the returned funds a part of the unallocated pool. The department shall, prior to February 15, 1998, reallocate the funds in the unallocated pool among the counties in which the department has concluded contracts under this subparagraph. 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, 1998, 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 adopt rules governing the expenditure of funds allocated under this subparagraph. 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 adopt 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/chore 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.

(3) For the senior health program:

..... $ 585,337

The allocation made in this subparagraph for the senior health program shall be distributed by a formula to senior health programs located in counties which provide funding on a matching basis for the senior health program.

(4) Notwithstanding the program allocations under subpargraphs (1), (2), and (3), a county may submit to the department a plan for an alternate allocation of funding which provides for assuring the delivery of existing services and the essential public health services based on an assessment of community needs, and targeted populations to be served under the alternate plan. The department shall adopt rules to administer these programs. The department may establish demonstration projects which provide for an alternate allocation of funds based upon the proposed plan to provide essential public health services as determined by the community health assessment and targeted populations to be served.

d. 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.

e. For primary and preventive health care for children:

..... $ 75,000

Funds appropriated in this lettered paragraph shall be used 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.

f. For the Iowa healthy family program under section 135.106:

..... $ 952,000

(1) Of the funds appropriated in this lettered paragraph, not more than $165,000 shall be used to continue the existing infant mortality and morbidity prevention pilot projects in Polk, Scott, and Woodbury counties with no more than 15 percent being used for administrative expenses.

(2) Of the funds appropriated in this lettered paragraph, not more than $25,000 shall be used to continue supporting multidisciplinary research into the cause of individual infant deaths in the state and shall be used solely for research purposes.

(3) Of the funds appropriated in this lettered paragraph, not more than $140,000 shall be used to continue existing mid-level practitioners demonstration projects in Black Hawk, Polk, and Scott counties. The funds shall be issued in three equal grant amounts and shall be used to promote the use of mid-level practitioners, which includes obstetrical-gynecological nurse practitioners and family nurse practitioners focusing on maternal and child health, to improve access to prenatal care and obstetrical services.

(4) The remaining funds appropriated in this lettered paragraph shall be used for the healthy opportunities for parents to experience success program. Any new funds or funds in excess of that necessary to continue existing programs shall be used by the department to expand the program to counties with greatest need and the capacity to deliver the services. Any funds contracted to agencies under subparagraphs (1), (2), and (3) which are projected to be unused at the close of the fiscal year shall be allowed to be reallocated to the healthy opportunities for parents to experience success program.

The department shall develop a plan during the fiscal year beginning July 1, 1997, and ending June 30, 1998, for expansion of the healthy opportunities for parents to experience success program to all counties throughout the state.

g. For primary care provider recruitment and retention endeavors:

..... $ 235,000

h. For the prospective minor parents decision-making assistance program under chapter 135L, and for not more than the following full-time equivalent positions:

..... $ 28,930

..... FTEs 1.00

5. STATE BOARD OF DENTAL EXAMINERS

For salaries, support, maintenance, miscellaneous purposes, and not more than the following full-time equivalent positions:

..... $ 304,500
..... 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:

..... $ 1,203,648
..... 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:

..... $ 1,006,293
..... FTEs 18.00

8. STATE BOARD OF PHARMACY EXAMINERS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 741,909
..... FTEs 12.00

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.

12. Consolidation of state funding sources for public health nursing, home care aide, and the senior health program into a single contract for each county, as jointly agreed upon by the county board of supervisors and any boards of health within the county, shall be implemented statewide beginning July 1, 1997. It shall be the department's goal to add federal funding for health promotion as federal funds become available. The department shall submit a report to the general assembly on or before January 2, 1998, which shall include a progress evaluation of the first year of the statewide contract for each county beginning July 1, 1997. The department may include other state and federal funding sources with the understanding that local, city, or county funds not be supplanted.

Sec. 6. PILOT PROJECT — SCOPE OF PRACTICE REVIEW COMMITTEES.

1. The Iowa department of public health shall, to the extent possible with moneys made available in the appropriations in this health Act for professional licensure boards, conduct a study of utilizing scope of practice review committees to evaluate and make recommendations to the general assembly, and to the appropriate licensure boards on the following issues:

a. Requests from practitioners seeking to become newly licensed health professionals or to establish their own licensure boards.

b. Request from health professionals seeking to expand or narrow the scope of practice of a health profession.

c. Unresolved administrative rulemaking disputes between licensure boards.

2. A scope of practice review committee established under this section shall evaluate the issues specified in subsection 1 and make recommendations to the general assembly pursu-

ant to subsection 3 based on the following standards and guidelines:

a. It is in the best interest of the public that scope of practice review committees be established to monitor scope of practice issues and concerns and promote consistency between licensure boards.

b. The proposed change does not pose a significant new danger to the public.

c. Enacting the proposed change will benefit the health, safety, or welfare of the public.

d. The public cannot be effectively protected by other more cost-effective means.

3. A pilot project utilizing scope of practice review committees shall be established based on the model and findings of the health professions committee of the Iowa health regulation task force. The pilot project shall commence on July 1, 1997, and shall end on June 30, 2000. The director of the Iowa department of public health, in consultation with members of the general assembly, the administrative rules review committee, and the professional licensure boards, shall select the issues subject to a scope of practice review.

Each scope of practice review committee shall be limited to five members as follows: one member representing the profession seeking licensure, a new board, or a change in scope of practice; one member of the health profession directly impacted by, or opposed to, the proposed change, one impartial health professional who is not directly or indirectly affected by the proposed change; and two impartial members of the general public. The department shall submit a progress report to the governor and the general assembly by January 1, 1998, and shall conduct a complete evaluation of the scope of practice review committee pilot project by January 1, 2000.

The department shall adopt rules in accordance with chapter 17A to implement the pilot project in accordance with the provisions of this section.

Sec. 7. 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, 1997, and ending June 30, 1998, 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:

.....	$	194,370
.....	FTEs	6.60

2. DEAF SERVICES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	303,229
.....	FTEs	7.00

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 continued and expanded interpretation services.

3. PERSONS WITH DISABILITIES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	101,354
.....	FTEs	2.00

4. LATINO AFFAIRS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	142,490
.....	FTEs	3.00

5. STATUS OF WOMEN DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 328,900
..... FTEs 3.00

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.

6. STATUS OF AFRICAN-AMERICANS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 114,266
..... FTEs 2.00

7. CRIMINAL AND JUVENILE JUSTICE PLANNING DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 385,099
..... FTEs 8.91

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.

8. COMMUNITY GRANT FUND

For the community grant fund established under section 232.190 for the continuation of existing grants for the fiscal year beginning July 1, 1997, and ending June 30, 1998, to be used for the purposes of the community grant fund and for not more than the following full-time equivalent positions:

..... $ 1,600,494
..... FTEs 1.40

An application from a community to receive a third consecutive year of funding from this program may receive priority consideration by the division in awarding of grants. An application from a community that has not previously received funding from this program may be considered eligible for a grant award. An application from a community for a fourth consecutive year of funding may also be considered eligible. The division's grant award criteria, shall include an assessment of third and fourth year applications' explanation of past and future plans to increase alternative support for community juvenile crime prevention initiatives, and a demonstration of community collaboration, not merely disbursements of funds to various organizations. The grant award criteria shall also include a demonstration of significant progress toward achieving past project objectives such as process and impact evaluation objectives, including objectives related to the number of persons served, and behavioral changes. Letters of support shall include specific commitments and shall be binding. The division shall encourage all potential applicants to consider the use of grant funds to provide assessment and intervention services for high-risk youth and their families, and to additionally consider the use of grant funds to support tobacco, alcohol, and other drug prevention education programs in the applicant's communities.

9. 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. 8. 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, 1997, and ending June 30, 1998, 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, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 292,038
..... 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, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 40,361,545
..... FTEs 800.82

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, 1997, and ending June 30, 1998, the Iowa veterans home may expend the excess amounts to exceed the number of full-time equivalent positions authorized 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. 9. VITAL RECORDS. The vital records modernization project as enacted in 1993 Iowa Acts, chapter 55, section 1, as amended by 1994 Iowa Acts, chapter 1068, section 8, shall be extended until June 30, 1998, and the increased fees to be collected pursuant to that project shall continue to be collected until June 30, 1998.

Sec. 10. COMMISSION ON COMMUNITY ACTION AGENCIES — FEDERAL FUNDING. Of the funds appropriated to the division of community action agencies of the department of human rights for administration in 1997 Iowa Acts, Senate File 240, if enacted,* $3,366 is allocated for the expenses of the commission on community action agencies.

Sec. 11. Section 99E.10, subsection 1, paragraph a, unnumbered paragraph 2, Code 1997, is amended by striking the unnumbered paragraph.

Sec. 12. Section 125.21, subsection 1, Code 1997, is amended by striking the subsection.

Sec. 13. Section 135.22A, subsection 6, paragraph f, Code 1997, is amended by striking the paragraph.

Sec. 14. Section 135.107, subsection 5, Code 1997, is amended by striking the subsection.

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* Chapter 202 herein

Sec. 15. Section 235C.3, subsection 7, unnumbered paragraph 1, Code 1997, is amended by striking the unnumbered paragraph.

Sec. 16. Section 272C.4, subsection 2, paragraph b, Code 1997, is amended by striking the paragraph.

Sec. 17. 1993 Iowa Acts, chapter 158, section 3, subsection 1, paragraph f, is amended by striking the paragraph.

Sec. 18. Section 135.77, Code 1997, is repealed.

Sec. 19. Section 135L.4, Code 1997, is repealed.

Sec. 20. NEW SECTION. 144.45A COMMEMORATIVE BIRTH AND MARRIAGE CERTIFICATES.

Upon application and payment of a thirty-five dollar fee, the director may issue a commemorate* copy of a certificate of birth or a certificate of marriage. Fees collected pursuant to this section shall be deposited in the emergency medical services fund established in section 135.25 to support the development and enhancement of emergency medical services systems and emergency medical services for children.

Sec. 21. CONTINGENT PROVISION. Appropriations to the department of human rights for the fiscal year beginning July 1, 1997, and ending June 30, 1998, are contingent upon repeal or amendment of section 216A.5 to extend the repeal of the department.

Sec. 22. EFFECTIVE DATE. Section 9 of this Act, relating to the vital records modernization project, being deemed of immediate importance, shall take effect upon enactment.

Approved May 2, 1997

CHAPTER 204

COMPENSATION FOR PUBLIC EMPLOYEES

S.F. 551

AN ACT relating to the compensation and benefits for public officials and employees, providing for related matters, and making appropriations.

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

Section 1. STATE COURTS — JUSTICES, JUDGES, AND MAGISTRATES.

1. The salary rates specified in subsection 2 are for the fiscal year beginning July 1, 1997, effective for the pay period beginning June 27, 1997, 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 fiscal year beginning July 1, 1997, effective with the pay period beginning June 27, 1997, and for subsequent pay periods.

a. Chief justice of the supreme court:

..... $ 107,500

* The word "commemorative" probably intended

b. Each justice of the supreme court:
..... $ 103,600
c. Chief judge of the court of appeals:
..... $ 103,500
d. Each associate judge of the court of appeals:
..... $ 99,600
e. Each chief judge of a judicial district:
..... $ 98,700
f. Each district judge except the chief judge of a judicial district:
..... $ 94,800
g. Each district associate judge:
..... $ 82,500
h. Each judicial magistrate:
..... $ 21,600
i. Each senior judge:
..... $ 5,400

Sec. 2. SALARY RATE LIMITS. Persons receiving the salary rates established under section 1 of this Act shall not receive any additional salary adjustments provided by this Act.

Sec. 3. APPOINTED STATE OFFICERS. The governor shall establish a salary for appointed nonelected persons in the executive branch of state government holding a position enumerated in section 4 of this Act within the range provided, by considering, among other items, the experience of the individual in the position, changes in the duties of the position, the incumbent's performance of assigned duties, and subordinates' salaries. However, the attorney general shall establish the salary for the consumer advocate, the chief justice of the state supreme court shall establish the salary for the state court administrator, the ethics and campaign disclosure board shall establish the salary of the executive director, and the state fair board shall establish the salary of the secretary of the state fair board, each within the salary range provided in section 4 of this Act.

The governor, in establishing salaries as provided in section 4 of this Act, shall take into consideration other employee benefits which may be provided for an individual including, but not limited to, housing.

A person whose salary is established pursuant to section 4 of this Act and who is a full-time permanent employee of the state shall not receive any other remuneration from the state or from any other source for the performance of that person's duties unless the additional remuneration is first approved by the governor or authorized by law. However, this provision does not exclude the reimbursement for necessary travel and expenses incurred in the performance of duties or fringe benefits normally provided to employees of the state.

Sec. 4. STATE OFFICERS — SALARY RATES AND RANGES. The following annual salary ranges are effective for the positions specified in this section for the fiscal year beginning July 1, 1997, and for subsequent fiscal years until otherwise provided by the general assembly. The governor or other person designated in section 3 of this Act shall determine the salary to be paid to the person indicated at a rate within the salary ranges indicated from funds appropriated by the general assembly for that purpose.

1. The following are salary ranges 1 through 5 for the fiscal year beginning July 1, 1997, effective with the pay period beginning June 27, 1997:

SALARY RANGES	Minimum	Maximum
(1) Range 1	$ 8,500	$26,600
(2) Range 2	$ 31,300	$53,500
(3) Range 3	$ 42,800	$62,400

(4) Range 4 ..... $ 51,600 $71,400

(5) Range 5 ..... $ 60,600 $80,300

2. The following are range 1 positions: There are no range 1 positions for the fiscal year beginning July 1, 1997.

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 of 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, and executive director of the commission of veterans affairs.

4. The following are range 3 positions: administrator of the division of emergency management of the department of public defense, administrator of the division 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, 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, and commandant of the veterans home.

7. The following are salary ranges 6 through 9 for the fiscal year beginning July 1, 1997, effective with the pay period beginning June 27, 1997:

SALARY RANGES	Minimum	Maximum
(1) Range 6	$ 46,800	$ 71,400
(2) Range 7	$ 64,100	$ 81,000
(3) Range 8	$ 68,700	$ 94,000
(4) Range 9	$ 76,700	$112,000

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 director 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 elder affairs, 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: the administrator of the state racing and gaming commission of the department of inspections and appeals, director of the department of general services, director of the department of personnel, director of public health, commissioner of public safety, 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, 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, director of the department of workforce development, lottery commissioner, the state court administrator, secretary of the state fair board, and the director of the department of management.

Sec. 5. PUBLIC EMPLOYMENT RELATIONS BOARD.

1. The salary rates specified in this section are effective for the fiscal year beginning July 1, 1997, with the pay period beginning June 27, 1997, 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:
..... $ 62,900

b. Two members of the public employment relations board:
..... $ 58,500

Sec. 6. COLLECTIVE BARGAINING AGREEMENTS FUNDED — GENERAL FUND. There is appropriated from the general fund of the state to the salary adjustment fund for distribution by the department of management to the various state departments, boards, commissions, councils, and agencies, including the state board of regents, for the fiscal year beginning July 1, 1997, and ending June 30, 1998, the amount of $47,455,091, 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 collective bargaining agreement negotiated pursuant to chapter 20 for employees in the state university of Iowa graduate student bargaining unit.

14. The annual pay adjustments, related benefits, and expense reimbursements referred to in sections 7 and 8 of this Act for employees not covered by a collective bargaining agreement.

Sec. 7. NONCONTRACT STATE EMPLOYEES — GENERAL.

1. a. For the fiscal year beginning July 1, 1997, 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, 1997, shall be increased by 3 percent for the pay period beginning June 27, 1997.

b. In addition to the increases specified in this subsection, for the fiscal year beginning July 1, 1997, employees may receive a step increase or the equivalent of a step 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. 8. STATE EMPLOYEES — STATE BOARD OF REGENTS. Funds from the appropriation in section 6 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 6 of this Act and for employees not covered by a collective bargaining agreement as follows:

1. For regents merit system employees and merit supervisory employees to fund for the fiscal year, 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, percentage increases comparable to those provided for contract-covered employees in section 6, subsection 6, of this Act.

Sec. 9. 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, 1997, and ending June 30, 1998, 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:

..... $ 864,802

2. There is appropriated from the primary road fund to the salary adjustment fund, for the fiscal year beginning July 1, 1997, and ending June 30, 1998, 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:

..... $ 4,163,835

3. Except as otherwise provided in this Act, the amounts appropriated in subsections 1 and 2 shall be used to fund the annual pay adjustments, expense reimbursements, and related benefits for public employees as provided in this Act.

Sec. 10. 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. 11. 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. The funds appropriated

from the general fund of the state for employees of the state board of regents shall exclude general university indirect costs and general university federal funds.

Sec. 12. 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. 13. USE OF SURPLUS HEALTH INSURANCE FUNDS. The executive council shall expend moneys from surplus funds in the health insurance reserve operating or terminal liability account to decrease state employee health insurance premium costs for the fiscal period beginning August 1997 and ending August 1998. However, the amount of the surplus expended shall not exceed $4,000,000 for the fiscal period beginning August 1997 and ending August 1998 and shall only be expended to reduce the insurance premium costs that would otherwise be paid for by moneys from the general fund of the state during the fiscal period.

Sec. 14. STATE TROOPER MEAL ALLOWANCE. The sworn peace officers in the department of public safety who are not covered by a collective bargaining agreement negotiated pursuant to chapter 20, excluding capitol police supervisors, shall receive the same per diem meal allowance as the sworn peace officers in the department of public safety who are covered by a collective bargaining agreement negotiated pursuant to chapter 20.

The department of management shall estimate the cost of providing per diem meal allowances as provided in this section and shall allocate the funding for the allowance from the salary adjustment fund.

Sec. 15. SALARY MODEL ADMINISTRATOR/COORDINATOR. Of the funds appropriated by section 6 of this Act, $56,209 for the fiscal year beginning July 1, 1997, is allocated to the department of management for salary and support of the salary model administrator/coordinator who shall work in conjunction with the legislative fiscal bureau to maintain the state's salary model used for analyzing, comparing, and projecting state employee salary and benefit information, including information relating to employees of the state board of regents. The information shall be used in collective bargaining processes under chapter 20 and in calculating the funding needs contained within the annual salary adjustment legislation. A state employee organization as defined in section 20.3, subsection 4, may request information produced by the model, but the information provided shall not contain information attributable to individual employees.

Sec. 16. Section 2.10, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 8. Commencing upon the convening of the Seventy-eighth General Assembly in January 1999, the annual salaries of members and officers of the general assembly, as the annual salaries existed during the preceding calendar year, shall be adjusted by an amount equal to the average of the annual cost-of-living pay adjustments negotiated for the members of the collective bargaining units represented by the state police officers council labor union, the American federation of state, county, and municipal employees, and the Iowa united professionals for the fiscal year beginning July 1, 1997. For the calendar year 2000, during the month of January, the annual salaries of members and officers of the general assembly shall be adjusted by an amount equal to the average of the annual cost-of-living pay adjustments received by the members of those collective bargaining units for the fiscal year beginning July 1, 1998. The annual salaries determined for the members and officers as provided in this section for the calendar year 2000 shall remain in effect for subsequent calendar years until otherwise provided by the general assembly.

Sec. 17. NEW SECTION. 7H.1 ANNUAL SALARIES OF ELECTED STATE OFFICERS. For the fiscal years beginning July 1, 1997, and July 1, 1998, the annual salaries of the

governor, lieutenant governor, attorney general, auditor of state, secretary of agriculture, secretary of state, and treasurer of state shall be determined as provided in this section. Commencing with the first pay period which ends during the new fiscal year in July, the annual salaries of the elected state officers enumerated in this section, as their annual salaries existed during the preceding fiscal year, shall be adjusted by an amount equal to the average of the annual cost-of-living pay adjustments negotiated for the members of the collective bargaining units represented by the state police officers council labor union, the American federation of state, county, and municipal employees, and the Iowa united professionals for the same fiscal year. The annual salaries determined for the elected state officers as provided in this section for the fiscal year beginning July 1, 1998, shall remain in effect for subsequent fiscal years until otherwise provided by the general assembly.

Approved May 9, 1997

CHAPTER 205

APPROPRIATIONS — JUSTICE SYSTEM

S.F. 533

AN ACT relating to and making appropriations to the justice system and providing effective dates.

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

Section 1. DEPARTMENT OF JUSTICE. There is appropriated from the general fund of the state to the department of justice for the fiscal year beginning July 1, 1997, and ending June 30, 1998, 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:

.....	$	6,995,561
.....	FTEs	177.50

2. Prosecuting attorney training program for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	269,392
.....	FTEs	6.00

a. In addition to the funds appropriated in this subsection for the fiscal year beginning July 1, 1997, and ending June 30, 1998, 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 809A.17, 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, 1997, and ending June 30, 1998, 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 809A.17, 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, 1997, and ending June 30, 1998, 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, 1997, and ending June 30, 1998, an amount not exceeding $150,000 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 $225,000, the excess funds shall not be appropriated to the department of justice pursuant to this subsection.

5. For victim assistance grants:

..... $ 1,759,806

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:

..... $ 121,259
..... FTEs 2.00

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 13.00 FTEs and to provide maintenance for the victim compensation functions of the department of justice.

8. The department of justice shall submit monthly financial statements to the legislative fiscal bureau and the department of management containing all appropriated accounts in the same manner as provided in the monthly financial status reports and personal services usage reports of the department of revenue and finance. The monthly financial statements shall include comparisons of the moneys and percentage spent of budgeted to actual revenues and expenditures on a cumulative basis for full-time equivalent positions and available moneys.

9. a. The department of justice, in submitting budget estimates for the fiscal year commencing July 1, 1998, 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 depart-

ment 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, 1996, and actual and expected reimbursements for the fiscal year commencing July 1, 1997.

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, 1998.

10. For legal services for persons in poverty grants as provided in section 13.34:

..... $ 500,000

As a condition for accepting a grant funded pursuant to this subsection, an organization receiving a grant shall submit a report to the general assembly by January 1, 1998, concerning the use of any grants received during the previous fiscal year and efforts made by the organization to find alternative sources of revenue to replace any reductions in federal funding for the organization.

In addition to moneys appropriated in this subsection, the executive council is authorized, in its discretion, to disburse from the civil reparations trust fund created in section 668A.1 an additional amount, not to exceed $450,000, to the department of justice for use as legal services for persons in poverty grants as provided in section 13.34.

Sec. 2. DEPARTMENT OF JUSTICE — ENVIRONMENTAL CRIMES INVESTIGATION AND PROSECUTION — FUNDING. There is appropriated from the environmental crime fund of the department of justice, consisting of court-ordered fines and penalties awarded to the department arising out of the prosecution of environmental crimes, to the department of justice for the fiscal year beginning July 1, 1997, and ending June 30, 1998, an amount not exceeding $20,000 to be used by the department, at the discretion of the attorney general, for the investigation and prosecution of environmental crimes, including the reimbursement of expenses incurred by county, municipal, and other local governmental agencies cooperating with the department in the investigation and prosecution of environmental crimes.

The expenditure of the funds appropriated in this section is contingent upon receipt by the environmental crime fund of the department of justice of an amount at least equal to the appropriations made in this section and received from contributions, court-ordered restitution as part of judgments in criminal cases, and consent decrees entered into as part of civil or regulatory enforcement actions. However, if the funds received during the fiscal year are in excess of $20,000, the excess funds shall be deposited in the general fund of the state.

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 purpose in the succeeding fiscal year.

Sec. 3. 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, 1997, and ending June 30, 1998, 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:

..... $ 2,372,826
..... FTEs 32.00

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, 1997, and ending June 30, 1998, 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 correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 27,618,153
..... FTEs 507.97

b. For the operation of the Anamosa correctional facility, including salaries, support, maintenance, employment of 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:

..... $ 20,888,037
..... FTEs 384.75

Moneys are provided within this appropriation for two 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 correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 17,284,751
..... FTEs 334.30

d. For the operation of the Newton correctional facility, including salaries, support, maintenance, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 19,251,272
..... FTEs 375.75

e. For the operation of the Mt. Pleasant correctional facility, including salaries, support, maintenance, employment of 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:

..... $ 14,911,431
..... FTEs 289.32

f. For the operation of the Rockwell City correctional facility, including salaries, support, maintenance, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 5,950,292
..... FTEs 115.00

g. For the operation of the Clarinda correctional facility, including salaries, support, maintenance, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 15,441,395
..... FTEs 263.00

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 correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 7,138,684
..... FTEs 146.00

i. For the operation of the Fort Dodge correctional facility, including salaries, support, maintenance, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 9,540,122
..... FTEs 149.00

2. a. If the inmate tort claim fund for inmate claims of less than $100 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 $100.

3. The department of corrections is authorized to construct a 200-bed living unit at the Mitchellville correctional facility utilizing federal grant moneys received by the department for this purpose.

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, 1997, and ending June 30, 1998, 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:

..... $ 2,024,844
..... FTEs 37.18

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 $100,000 during the fiscal year beginning July 1, 1997, for the privatization of services performed by the department using state employees as of July 1, 1997, 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.

The department of general services shall, notwithstanding any provisions of law or rule to the contrary, permit the department of corrections the opportunity to acquire, at no cost, computers that would otherwise be disposed of by the department of general services. The department of corrections shall use computers acquired under this paragraph to provide educational training and programs for inmates.

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:

..... $ 524,038

3. For federal prison reimbursement, reimbursements for out-of-state placements, and miscellaneous contracts:

..... $ 341,334

The department of corrections shall use funds appropriated in 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:

..... $ 463,128

..... FTEs 8.16

5. For annual payment relating to the financial arrangement for the construction of expansion in prison capacity as provided in 1989 Iowa Acts, chapter 316, section 7, subsection 6:

..... $ 625,860

6. For annual payment relating to the financial arrangement for the construction of expansion in prison capacity as provided in 1990 Iowa Acts, chapter 1257, section 24:

..... $ 3,186,275

7. For educational programs for inmates at state penal institutions:

..... $ 2,950,600

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. In addition, it is the intent of the general assembly that the department shall consult with the community colleges in the areas in which the institutions are located to utilize moneys appropriated in this subsection to fund the high school completion, high school equivalency diploma, adult literacy, and adult basic education programs in a manner so as to maintain these programs at the institutions.

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.

8. The department of corrections shall submit a report to the general assembly on January 1, 1998, concerning progress made in implementing the requirements of section 904.701, concerning hard labor by inmates.

9. The department of corrections shall study and consider the adoption of new guidelines concerning the transportation of inmates. The study may consider the use of the federal marshal transportation services. The department shall submit a report to the general assembly by January 15, 1998, concerning the results of the study, including information concerning the costs associated with the recommendations.

10. The department of corrections shall study and consider the implementation of a computer database to provide inmate case management and offender profiling to better identify, track, and assist inmates of the correctional institutions.

11. It is the intent of the general assembly that the department of corrections connect all of its correctional facilities to the Iowa communications network (ICN).

12. It is the intent of the general assembly that the department of corrections shall continue to operate the correctional farms under the control of the department at the same or greater level of participation and involvement as existed as of January 1, 1997, and shall further attempt to provide meaningful job opportunities at the farms for inmates.

13. The department of corrections, to the extent permissible by law, shall implement, as soon as possible but in no event later than July 1, 1997, a program to limit the availability of television to inmates in correctional facilities under the control of the department to channels representing networks or stations for which under normal circumstances a fee is not required.

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, 1997, and ending June 30, 1998, 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:

..... $ 7,157,999

(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:

..... $ 5,729,149

(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:

..... $ 3,465,497

(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:

..... $ 2,664,415

(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:

..... $ 9,339,723

(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:

..... $ 7,271,360

(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:

..... $ 4,599,542

(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:

..... $ 4,286,894

(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, 1998.

6. 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. 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, 1998.

It is the intent of the general assembly that each correctional facility make all reasonable efforts to maintain vocational education programs for inmates and to identify available funding sources to continue these programs. The department of corrections shall submit a report to the general assembly by January 1, 1998, concerning the efforts made by each correctional facility in maintaining vocational education programs for inmates.

*Sec. 8. *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 1996 Iowa Acts, chapter 1216, sections 6, 7, and 8, shall be considered encumbered pursuant to section 8.33, and shall not revert to the general fund of the state following the close of the fiscal year commencing July 1, 1996. As used in this section, unless the context otherwise requires, "encumbered funds" means the moneys appropriated to the department of corrections pursuant to 1996 Iowa Acts, chapter 1216, sections 6, 7, and 8, which would otherwise revert to the general fund of the state following the close 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, 1997, 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 authorized 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 authorized or equipment funded in section 4 of this Act, providing appropriations for department of corrections facilities. 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

* Item veto; see message at end of the Act

*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 close of the fiscal year commencing July 1, 1997.**

Sec. 9. 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.

3. State agencies shall submit to the legislative fiscal bureau by January 15, 1998, a report of the dollar value of products and services purchased from Iowa state industries by the state agency during the fiscal year beginning July 1, 1996, and ending June 30, 1997.

Sec. 10. 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, 1997, and ending June 30, 1998, the following amount, or so much thereof as is necessary, for the purposes designated:

..... $ 33,087,035

The funds appropriated and full-time equivalent positions authorized in this section are allocated as follows:

1. For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 12,300,519

..... FTEs 199.00

2. For the fees of court-appointed attorneys for indigent adults and juveniles, notwithstanding section 232.141 and chapter 815:

..... $ 20,786,516

Sec. 11. JUDICIAL DEPARTMENT. There is appropriated from the general fund of the state to the judicial department for the fiscal year beginning July 1, 1997, and ending June 30, 1998, 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, 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, 1997, and maintenance, equipment, and miscellaneous purposes:

..... $ 95,267,213

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

* Item veto; see message at end of the Act

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. 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.

d. The judicial department shall focus efforts upon the collection of delinquent fines, penalties, court costs, fees, surcharges, or similar amounts.

e. 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.

f. In addition to the requirements for transfers under section 8.39, the judicial department shall not change the appropriations from the amounts appropriated to the department in this Act, 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.

g. 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 to 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 required by this lettered paragraph shall be made by January 15, 1998, for the additional counties added to the system by 1996 Iowa Acts, chapter 1216, indicating whether the counties have reduced uncollected court fines and fees by 50 percent as a result of being added to the system.

h. The judicial department shall provide a report to the general assembly by January 1, 1998, concerning the amounts received and expended from the enhanced court collections fund created in section 602.1304 and the court technology and modernization fund created in section 602.8108, subsection 4, during the fiscal year beginning July 1, 1996, and ending June 30, 1997, and the plans for expenditures from each fund during the fiscal year beginning July 1, 1997, and ending June 30, 1998.

2. For the juvenile victim restitution program:

..... $ 155,396

Sec. 12. COURT TECHNOLOGY AND MODERNIZATION FUND — DISTRIBUTION. Of the moneys collected and deposited in the court technology and modernization fund established in section 602.8108 in the fiscal year beginning July 1, 1997, $58,333 shall be expended for the implementation of the criminal justice improvement network (CJIN) and up to $45,000 shall be expended for the data warehousing project.

Sec. 13. ENHANCED COURT COLLECTIONS FUND — DISTRIBUTION. Of the moneys collected and deposited in the enhanced court collections fund created in section 602.1304, the first $50,000 deposited in the fund in the fiscal year beginning July 1, 1997, shall be expended by the judicial department to provide federal matching funds for the Iowa supreme court improvement project for child in need of assistance cases.

Sec. 14. 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, 1997, and ending June 30, 1998, 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:

..... $ 3,806,457

Sec. 15. INDIGENT DEFENSE COSTS. The supreme court shall submit a written report for the preceding fiscal year no later than January 1, 1998, 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. 16. 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, 1998.

Sec. 17. 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, 1997, and ending June 30, 1998, 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:

..... $ 1,145,287
..... FTEs 27.55

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. 18. 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, 1997, and ending June 30, 1998, 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:

.....	$	924,802
.....	FTEs	18.00

A portion of the funds appropriated in this section shall be used to start a pilot program for probation violations in the sixth judicial district department of correctional services. Data shall be maintained to evaluate the pilot program.

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, 1997, and ending June 30, 1998, 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:

.....	$	4,253,196
.....	FTEs	227.26

If there is a surplus in the general fund of the state for the fiscal year ending June 30, 1998, within 60 days after the close 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:

.....	$	590,971
.....	FTEs	15.25

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, 1997, and ending June 30, 1998, 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 criminal justice information system, and for not more than the following full-time equivalent positions:

.....	$	2,272,374
.....	FTEs	38.80

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 17 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:

.....	$	9,975,859
.....	FTEs	198.00

Riverboat enforcement costs shall be billed in accordance with section 99F.10, subsection 4. The costs shall be not more than the department's estimated expenditures, including salary adjustment, for riverboat enforcement for the fiscal year.

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 after March 31, 1997, and one special agent for each racing facility which becomes operational during the fiscal year which begins July 1, 1997. One additional gaming enforcement officer, up to a total of four per boat, may be employed for each riverboat that has extended operations to 24 hours and has not previously operated with a 24-hour schedule. Positions authorized in this paragraph are in addition to the full-time equivalent positions authorized in this subsection.

3. a. For the division of narcotics enforcement, including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of 17 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:

.....	$	2,573,278
.....	FTEs	41.00

b. For the division of narcotics enforcement for 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 17 percent of the salaries for which the funds are appropriated, and for not more than the following full-time equivalent positions:

.....	$	1,513,605
.....	FTEs	31.80

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 17 percent of the salaries for which the funds are appropriated and for not more than the following full-time equivalent positions:

.....	$	1,244,094
.....	FTEs	27.00

6. For costs associated with the maintenance of the automated fingerprint information system (AFIS):

.....	$	233,265

7. An employee of the department of public safety who retires after July 1, 1997, but prior to June 30, 1998, 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.

8. For costs associated with the training and equipment needs of volunteer fire fighters:

.....	$	548,792

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 purpose designated in this subsection in the succeeding fiscal year.

9. For costs associated with supplies and support for DNA testing:

.....	$	100,000

10. For the state medical examiner and for not more than the following full-time equivalent positions:

.....	$	341,959
.....	FTEs	4.00

Any fees collected by the department of public safety for autopsies performed by the office of the state medical examiner shall be deposited in the general fund of the state.

Sec. 21. HIGHWAY SAFETY PATROL FUND. There is appropriated from the highway safety patrol fund created in section 80.41 to the division of highway safety, uniformed force, and radio communications of the department of public safety, for the fiscal year beginning July 1, 1997, and ending June 30, 1998, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. 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 17 percent of the salaries for which the funds are appropriated, and for not more than the following full-time equivalent positions:

..... $ 35,099,662
..... FTEs 568.00

It is the intent of the general assembly that, of the funds appropriated in this subsection, the division shall expend the amount necessary to provide the state match for the additional state troopers hired through the federal community-oriented policing services program and authorized pursuant to 1996 Iowa Acts, chapter 1216, section 22. It is the intent of the general assembly that once federal moneys for this program end, the division shall present proposals to the governor and the general assembly for continued funding of the state troopers described in this paragraph and for consideration of reducing the number of state troopers through attrition, by the same number as the number of troopers added through the federal program.

2. 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. 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.

3. 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:

..... $ 44,195

Sec. 22. DEPARTMENT OF CORRECTIONS — FACILITY REMODELING FUND. Notwithstanding sections 8.33, 8.39, and 602.8108A, the department of corrections shall direct the treasurer of state to transfer on June 30, 1997, $1,600,000 of the unused balance of funds in the Iowa prison infrastructure fund created in section 602.8108A, to a facility remodeling fund created in the state treasury and under the control of the department of corrections. Moneys in the facility remodeling fund shall be used by the department solely for the purpose of remodeling a structure in the fifth judicial district department of correctional services for use as a residential facility.

Sec. 23. Section 602.1304, subsection 2, paragraphs b and c, Code 1997, are amended to read as follows:

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 and modernization fund pursuant to section 602.8108, and the road use tax fund pursuant to section 602.8108, subsection 5, 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 and modernization 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; records management equipment, services, and projects; other technological improvements; electronic legal research equipment, systems, and projects; and the study, development, and implementation of other ~~technological improvements,~~ innovations~~,~~ and projects that would improve the administration of justice. The moneys in the collection fund may also be used for capital improvements necessitated by the installation or connection with the Iowa court information system, the Iowa communications network, and other technological improvements approved by the department.

Sec. 24. Section 602.6201, subsection 10, Code 1997, 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 ~~eleven~~ twelve during the period commencing July 1, ~~1996~~ 1997.

Sec. 25. Section 905.12, unnumbered paragraph 2, Code 1997, is amended to read as follows:

Any balance remaining after deductions and payments shall be credited to the resident's personal account at the district department and shall be paid to the resident upon release. The ~~deputy~~ director ~~of the department of corrections responsible for community based correctional programs~~ shall establish a plan to comply with the provisions of court orders entered pursuant to this section.

Sec. 26. 1995 Iowa Acts, chapter 166, section 2, is amended to read as follows:

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~~ 1998. 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~~ 1998, with full implementation of the requirements of section 904.701 by July 1, ~~1997~~ 1998, 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~~ 1998, 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~~ 1999.

Sec. 27. 1996 Iowa Acts, chapter 1216, section 7, subsection 7, is amended to read as follows:

7. For funding of the criminal justice program at the university of northern Iowa:
..... $ 175,000

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 purpose designated in this subsection in the succeeding fiscal year.

Sec. 28. 1996 Iowa Acts, chapter 1216, section 21, subsection 7, is amended to read as follows:

7. For costs associated with the training and equipment needs of volunteer fire fighters:
..... $ 875,000

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 purpose designated in this subsection in the succeeding fiscal year.

Sec. 29. LEGAL REPRESENTATION OF INDIGENTS — STUDY. The legislative council is requested to establish an interim committee to study issues concerning the provision of legal representation to indigents. The interim committee shall submit a report and recommendations to the general assembly by January 1, 1998.

Sec. 30. SENTENCING STUDY. The legislative council is requested to establish an interim study committee to review current criminal penalties and sentencing practices, including but not limited to the effects of mandatory minimum penalties on sentencing practices and the effects of sentencing practices on inmate populations at state and adult and residential community-based correctional facilities. The committee shall also conduct a comparative assessment of the relative penalties imposed for various crimes based not only on the threat posed by the prohibited criminal conduct, but also by the risk generally associated with particular criminal offenders.

Sec. 31. 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 5, subsection 13, relating to the availability of television to inmates in correctional facilities, being deemed of immediate importance, takes effect upon enactment.

*3. *Section 8 of this Act, relating to the encumbrance of certain moneys appropriated to the department of corrections for the fiscal year commencing July 1, 1996, being deemed of immediate importance, takes effect upon enactment.**

4. Section 22 of this Act, relating to the Iowa prison infrastructure fund and the facility remodeling fund, being deemed of immediate importance, takes effect upon enactment.

5. Section 27 of this Act, relating to the funding of the criminal justice program at the university of northern Iowa, being deemed of immediate importance, takes effect upon enactment.

Approved May 9, 1997, except the items which I hereby disapprove and which are designated as Section 8 in its entirety; and Section 31, subsection 3 in its entirety. My reasons for vetoing

* Item veto; see message at end of the Act

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 533, an Act relating to and making appropriations to the justice system and providing effective dates.

Senate File 533 is, therefore, approved on this date with the following exceptions, which I hereby disapprove.

I am unable to approve section 8 and section 31, subsection 3, in their entirety. These items would utilize a bad budgeting practice to fund additional staff in the Department of Corrections. I am approving direct funding for fifty new corrections officers in the bill, which is the proper way to budget for such ongoing expenses.

For the above reason, I hereby respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in Senate File 533 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 206

TAX CREDITS AND EXEMPTIONS — LOCAL BUDGET PRACTICES — PROPERTY TAX STATEMENTS

H.F. 726

AN ACT relating to the livestock production tax credit; increasing the state's reimbursement for the homestead, military service, and elderly and disabled credits; requiring the state to reimburse new property tax credits and exemptions; providing for local government budget practices and property tax statements; and including applicability date provisions.

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

DIVISION I
LIVESTOCK PRODUCTION TAX CREDIT

Section 1. Section 422.120, subsection 1, paragraph b, Code 1997, is amended by striking the paragraph and inserting in lieu thereof the following:

b. (1) The credit shall be available to an individual or corporate taxpayer if the taxpayer's federal taxable income is not more than ninety-nine thousand six hundred dollars for the tax year. In the case of married taxpayers, their combined federal taxable income shall be used to determine if they qualify for the credit.

(2) For each subsequent tax year, the maximum taxable income amount specified in subparagraph (1) shall be multiplied by the cumulative index factor for that tax year. "Cumulative index factor" means the product of the annual index factor for the 1997 calendar year and all annual index factors for subsequent calendar years. The cumulative index

factor applies to all tax years beginning on or after January 1 of the calendar year for which the latest annual index factor has been determined.

(3) The annual index factor for the 1997 calendar year is one hundred percent. For each subsequent calendar year, the annual index factor equals the annual inflation factor for that calendar year as computed in section 422.4 for purposes of the individual income tax.

Sec. 2. Section 422.120, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. As used in this division, "cow-calf operation" means any of the following:

a. Mature beef cows bred or for breeding.

b. Bred yearling heifers.

c. Breeding bulls.

Sec. 3. Section 422.121, Code 1997, is amended to read as follows:

422.121 APPROPRIATION.

Beginning with the fiscal year beginning July 1, 1997, there is appropriated annually from the general fund of the state two million dollars to refund the credits allowed under this division. Notwithstanding section 422.120, for tax years beginning on or after January 1, 1997, the livestock production tax credit shall only be allowed for cow-calf operations.

DIVISION II
HOMESTEAD, MILITARY, LOW-INCOME, ELDERLY AND DISABLED AND OTHER CREDITS AND REIMBURSEMENT CLAIMS

Sec. 4. NEW SECTION. 25B.7 FUNDING PROPERTY TAX CREDITS AND EXEMPTIONS.

1. Beginning with property taxes due and payable in the fiscal year beginning July 1, 1998, the cost of providing a property tax credit or property tax exemption which is enacted by the general assembly on or after January 1, 1997, shall be fully funded by the state. If a state appropriation made to fund a credit or exemption which is enacted on or after January 1, 1997, is not sufficient to fully fund the credit or exemption, the political subdivision shall be required to extend to the taxpayer only that portion of the credit or exemption estimated by the department of revenue and finance to be funded by the state appropriation. The department of revenue and finance shall determine by June 15 the estimated portion of the credit or exemption which will be funded by the state appropriation.

2. The requirement for fully funding and the consequences of not fully funding credits and exemptions under subsection 1 also apply to all of the following:

a. Homestead tax credit pursuant to sections 425.1 through 425.15.

b. Low-income property tax credit and elderly and disabled property tax credit pursuant to sections 425.16 through 425.40.

c. Military service property tax credit and exemption pursuant to chapter 426A and sections 427.3 through 427.7, to the extent of six dollars and seventy-five cents per thousand dollars of assessed value of the exempt property.

3. a. For purposes of this subsection, "base reimbursement amount" means the amount in dollars received for the fiscal year beginning July 1, 1996, by a city, county, or school district from the state as a reimbursement for the homestead tax credit, military service property tax credit, low-income property tax credit, or the elderly and disabled property tax credit, as appropriate. The county treasurer shall determine the base reimbursement amount for the cities, county, and school districts for each credit. The treasurer shall notify the department of management of the base reimbursement amounts for each credit of each school district.

b. The amount of state reimbursement received for a fiscal year beginning on or after July 1, 1997, and ending on or before June 30, 2002, by a city, county, or school district for the homestead tax credit, military service property tax credit, low-income property tax credit, or elderly and disabled property tax credit in excess of the base reimbursement amount for that credit shall be used as follows:

(1) In the case of a city, at least fifty percent shall be used for property tax relief with the remaining amount used for infrastructure. The county treasurer shall provide to each city located in the county the total amount of excess tax credit reimbursement received by the city.

(2) In the case of a county, at least fifty percent shall be used for property tax relief with the remaining amount used for infrastructure or for paying the expenses incurred in providing the statement and receipt required under section 445.5. The county treasurer shall provide the county auditor with the total amount of excess tax credit reimbursement received by the county.

(3) In the case of a school district, one hundred percent shall be used for property tax relief through the reduction in the additional levy under section 257.4. Each county treasurer shall provide the department of management with the total amount of excess tax credit reimbursement received by each school district in the county.

c. The requirements of paragraph "b" do not constitute a state mandate under this chapter.

d. This subsection is repealed June 30, 2002, for fiscal years beginning after that date.

Sec. 5. Section 8.59, Code 1997, is amended to read as follows:

8.59 APPROPRIATIONS FREEZE.

Notwithstanding contrary provisions of the Code, the amounts appropriated under the applicable sections of the Code for fiscal years commencing on or after July 1, 1993, are limited to those amounts expended under those sections for the fiscal year commencing July 1, 1992. If an applicable section appropriates moneys to be distributed to different recipients and the operation of this section reduces the total amount to be distributed under the applicable section, the moneys shall be prorated among the recipients. As used in this section, "applicable sections" means the following sections: 53.50, 229.35, 230.8, 230.11, 405A.8, 411.20, ~~425.1, 425.39, 426A.1,~~ 663.44, and 822.5.

Sec. 6. Section 425.2, unnumbered paragraphs 2 and 6, Code 1997, are amended to read as follows:

Upon the filing and allowance of the claim, the claim shall be allowed on that homestead for successive years without further filing as long as the property is legally or equitably owned and used as a homestead by that person or that person's spouse on July 1 of each of those successive years, and the owner of the property being claimed as a homestead declares residency in Iowa for purposes of income taxation, and the property is occupied by that person or that person's spouse for at least six months in each of those calendar years in which the fiscal year begins. When the property is sold or transferred, the buyer or transferee who wishes to qualify shall refile for the credit. However, when the property is transferred as part of a distribution made pursuant to chapter 598, the transferee who is the spouse retaining ownership of the property is not required to refile for the credit. Property divided pursuant to chapter 598 shall not be modified following the division of the property. An owner who ceases to use a property for a homestead or intends not to use it as a homestead for at least six months in a calendar year shall provide written notice to the assessor by July 1 following the date on which the use is changed. ~~If the written notice is not provided to the assessor by the appropriate July 1, the owner forfeits the right to file a belated claim on another homestead for the year the notice should have been given.~~ A person who sells or transfers a homestead or the personal representative of a deceased person who had a homestead at the time of death, shall provide written notice to the assessor that the property is no longer the homestead of the former claimant.

~~The failure of a person to file a claim under this section on or before July 1 of the year for which the person is first claiming the credit or to have the evidence of ownership recorded in the office of the county recorder does not disqualify the claim if the person claiming the credit or through whom the credit is claimed is otherwise qualified. The belated claim shall be filed with the appropriate assessor on or before December 31 of the following calendar~~

~~year and, if approved by the board of supervisors, the county treasurer shall submit the belated claim to the director of revenue and finance who shall send payment to the claimant. The payment shall be made from funds appropriated to the homestead credit fund.~~

Sec. 7. Section 425.39, subsection 1, Code 1997, is amended to read as follows:

~~1.~~ The ~~extraordinary~~ elderly and disabled property tax credit and reimbursement fund is created. There is appropriated annually from the general fund of the state to the department of revenue and finance to be credited to the ~~extraordinary~~ elderly and disabled property tax credit and reimbursement fund, from funds not otherwise appropriated, an amount sufficient to implement this division for claimants described in section 425.17, subsection 2, paragraph "a".

Sec. 8. Section 425.39, subsection 2, Code 1997, is amended by striking the subsection.

Sec. 9. Section 427.5, unnumbered paragraph 5, Code 1997, is amended by striking the unnumbered paragraph.

Sec. 10. Sections 5, 7, and 8 of this division of this Act apply to reimbursements made for property tax credits and to reimbursements for rent constituting property taxes payable on or after July 1, 1997.

DIVISION III
LOCAL GOVERNMENT BUDGETING PRACTICES

Sec. 11. Section 24.9, unnumbered paragraph 1, Code 1997, is amended to read as follows:

Each municipality shall file with the secretary or clerk thereof the estimates required to be made in sections 24.3 to 24.8, at least twenty days before the date fixed by law for certifying the same to the levying board and shall forthwith fix a date for a hearing thereon, and shall publish such estimates and any annual levies previously authorized as provided in section 76.2, with a notice of the time when and the place where such hearing shall be held ~~at least~~ not less than ten nor more than twenty days before the hearing. Provided that in municipalities of less than two hundred population such estimates and the notice of hearing thereon shall be posted in three public places in the district in lieu of publication.

Sec. 12. Section 24.9, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department of management shall prescribe the form for public hearing notices for use by municipalities.

Sec. 13. Section 24.17, Code 1997, is amended to read as follows:

24.17 BUDGETS CERTIFIED.

The local budgets of the various political subdivisions shall be certified by the chairperson of the certifying board or levying board, as the case may be, in duplicate to the county auditor not later than March 15 of each year on ~~blanks~~ forms, and pursuant to instructions, prescribed by the ~~state board, and according to the rules and instruction which shall be furnished all certifying and levying boards in printed form by the state board or city finance committee in the case of cities~~ department of management. ~~However, if a city or county holds a special levy election, the certification shall be not later than fourteen days following the special levy election, and.~~ However, if the political subdivision is a school district, as defined in section 257.2, its budget shall be certified not later than April 15 of each year.

One copy of the budget shall be retained on file in the office by the county auditor and the other shall be certified by the county auditor to the state board. The department of management shall certify the taxes back to the county auditor by June 15.

Sec. 14. Section 331.403, subsection 1, Code 1997, is amended to read as follows:

1. Not later than ~~October~~ December 1 of each year on forms and pursuant to instructions prescribed by the department of management, a county shall prepare an annual financial report showing for each county fund the financial condition as of June 30 and the results of operations for the year then ended. Copies of the report shall be maintained as a public record at the auditor's office and shall be ~~furnished to~~ filed with the director of the department of management and ~~to~~ with the auditor of state by December 1. A summary of the report, in a form prescribed by the director, shall be published by each county not later than ~~October~~ December 1 of each year in one or more newspapers which meet the requirements of section 618.14.

Sec. 15. Section 331.403, subsection 3, Code 1997, is amended by striking the subsection and inserting in lieu thereof the following:

3. A county that fails to meet the filing deadline imposed by this section shall have withheld from payments to be made to the county pursuant to chapter 405A an amount equal to five cents per capita until the financial report is filed.

Sec. 16. Section 331.434, subsection 3, Code 1997, is amended to read as follows:

3. The board shall set a time and place for a public hearing on the budget before the final certification date and shall publish notice of the hearing not less than ten nor more than twenty days prior to the hearing in the county newspapers selected under chapter 349. A summary of the proposed budget, in the form prescribed by the director of the department of management, shall be included in the notice. Proof of publication shall be filed with and preserved by the auditor. A levy is not valid unless and until the notice is published and filed. The department of management shall prescribe the form for the public hearing notice for use by counties.

Sec. 17. Section 331.434, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 7. Taxes levied by a county whose budget is certified after March 15 shall be limited to the prior year's budget amount. However, this penalty may be waived by the director of the department of management if the county demonstrates that the March 15 deadline was missed because of circumstances beyond the control of the county.

Sec. 18. Section 331.439, subsection 1, paragraph a, Code 1997, is amended to read as follows:

a. The county accurately reported by ~~October 15~~ December 1 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.

Sec. 19. Section 384.16, subsection 3, Code 1997, is amended to read as follows:

3. The council shall set a time and place for public hearing on the budget before the final certification date and shall publish notice of the hearing not less than ten nor more than twenty days before the hearing ~~as provided in section 362.3~~ in a newspaper published at least once weekly and having general circulation in the city. However, if the city has a population of two hundred or less, publication may be made by posting in three public places in the city. A summary of the proposed budget shall be included in the notice. Proof of publication must be filed with the county auditor. The department of management shall prescribe the form for the public hearing notice for use by cities.

Sec. 20. Section 384.16, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Taxes levied by a city whose budget is certified after March 15 shall be limited to the prior year's budget amount. However, this penalty may be waived by the director of the department of management if the city demonstrates that the March 15 deadline was missed because of circumstances beyond the control of the city.

Sec. 21. Section 384.22, Code 1997, is amended to read as follows:

384.22 ANNUAL REPORT.

Not later than ~~October~~ December 1 of each year, a city shall publish an annual report as provided in section 362.3 containing a summary for the preceding fiscal year of all collections and receipts, all accounts due the city, and all expenditures, the current public debt of the city, and the legal debt limit of the city for the current fiscal year. The report shall be prepared on forms and pursuant to instructions prescribed by the auditor of state. A copy of this report must be ~~furnished to~~ filed with the auditor of state not later than December 1 of each year.

A city that fails to meet the filing deadline imposed by this section shall have withheld from payments to be made to the city pursuant to chapter 405A an amount equal to five cents per capita until the annual report is filed with the auditor of state.

Sec. 22. Section 445.5, Code 1997, is amended to read as follows:

445.5 STATEMENT AND RECEIPT.

1. As soon as practicable after receiving the tax list prescribed in chapter 443, the treasurer shall deliver to the taxpayer a statement of taxes due and payable which shall include the following information:

a. The year of tax.

b. A description of the parcel.

c. The assessed value of the parcel, itemized by the value for land, dwellings, and buildings, for the current year and the previous year as valued by the assessor after application of any equalization orders.

d. The taxable value of the parcel, itemized by the value for land, dwellings, and buildings, for the current year and the previous year after application of any equalization orders, assessment limitations, and itemized valuation exemptions.

e. The complete name of all taxing authorities receiving a tax distribution, the amount of the distribution, and the percentage distribution for each named authority, listed from the highest to the lowest distribution percentage.

f. The consolidated levy rate for one thousand dollars of taxable valuation multiplied by the taxable valuation to produce the gross taxes levied before application of credits against levied taxes for the previous and current fiscal years.

g. The itemized credits against levied taxes deducted from the gross taxes levied in order to produce the net taxes owed for the previous and current fiscal years.

h. 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.

i. The total amount of taxes levied by each taxing authority in the previous fiscal year and the current fiscal year, the dollar amount difference between the two amounts, and that same difference expressed as a percentage increase or decrease.

If the person receiving the statement is not the titleholder of record or contract holder of record of the parcel, that person shall pay a fee at the rate of two dollars per parcel for each year. The treasurer shall at the same time deliver to the titleholder of record or contract holder of record a copy of the statement.

2. The county treasurer shall deliver to the taxpayer a receipt stating the year of tax, date of payment, a description of the parcel, and the amount of taxes, interest, fees, and costs paid except when payment of taxes is made by check, then a receipt shall be issued only upon request. The receipt shall be in full of the first half, second half, or full year amounts unless a payment is made under section 445.36A or 435.24, subsection 6.

*Sec. 23. *TAX STATEMENT STUDY COMMITTEE.*

1. There is established a tax statement study committee comprised of the members of the county finance committee and three county treasurers appointed by the governor in consultation with the Iowa state treasurers association.

* Item veto; see message at end of the Act

2. The committee shall study the following:

a. The fiscal impact of implementing redesigned property tax statements as required in section 445.5.

b. Identification of the impediments involved in requiring the tax statement in section 445.5.

c. The technological impact of implementing the property tax statement required in section 445.5.

d. The recommended design of the property tax statement required in section 445.5.

e. A process by which counties and the state can achieve the goal of providing a uniform tax statement design to be used statewide.

*3. The committee shall furnish a report of its study to the general assembly in January 1998.**

Sec. 24. APPLICABILITY DATES. **Section 22 of this division of this Act, amending section 445.5, applies to tax statements issued for the fiscal year beginning July 1, 2001.** The remainder of this division of this Act applies to budgets prepared for fiscal years beginning on or after July 1, 1998.

Approved May 15, 1997, except the items which I hereby disapprove and which are designated as Section 23 in its entirety; and that portion of Section 24 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 726, an Act relating to the livestock production tax credit; increasing the state's reimbursement for the homestead, military service, and elderly and disabled credits; requiring the state to reimburse new property tax credits and exemptions; providing for local government budget practices and property tax statements; and including applicability date provisions.

House File 726 is, therefore, approved on this date with the following exceptions, which I hereby disapprove.

I am unable to approve the items designated as section 23, in its entirety, and the designated portion of section 24. These items would delay the implementation of comprehensive property tax statements to property owners until the year 2001. With the tax limitation expiring, it is important to provide comprehensive information to the taxpayers relating to changes in their property taxes. The taxpayers should not have to wait four years to get this basic and important information on their annual property tax statements. By vetoing these items, taxpayers will receive the comprehensive information in 1998 for the fiscal years beginning on or after July 1, 1998.

For the above reason, I hereby respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 726 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

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* Item veto; see message at end of the Act

CHAPTER 207

APPROPRIATIONS — TRANSPORTATION

S.F. 391

AN ACT relating to and making appropriations to the state department of transportation, including allocation and use of moneys from the general fund of the state, road use tax fund, and primary road fund, providing for the nonreversion of certain moneys, establishing a toll-free road and weather reporting system, eliminating the motor vehicle use tax as the funding source for the value-added agricultural products and processes financial assistance program and the renewable fuels and coproducts fund, and providing effective dates.

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

Section 1. There is appropriated from the general fund of the state to the state department of transportation for the fiscal year beginning July 1, 1997, and ending June 30, 1998, 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:
..... $ 1,415,000

b. For airport engineering studies and improvement projects as provided in chapter 328:
..... $ 2,472,000

2. For planning and programming, for salaries, support, maintenance, and miscellaneous purposes:
..... $ 247,000

Sec. 2. There is appropriated from the road use tax fund to the state department of transportation for the fiscal year beginning July 1, 1997, and ending June 30, 1998, 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:
..... $ 1,295,000

2. For salaries, support, maintenance, and miscellaneous purposes:

a. Operations and finance:
..... $ 4,289,335

b. Administrative services:
..... $ 884,590

c. Planning and programming:
..... $ 429,785

d. Motor vehicles:
..... $ 22,475,386

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:
..... $ 77,000

6. For payment to the general fund of the state for indirect cost recoveries:
..... $ 96,000

7. For reimbursement to the auditor of state for audit expenses as provided in section 11.5B:

..... $ 33,740

8. For technology improvement projects consistent with the recommendations of the blue ribbon task force, including local area network development, electronic document management system development, geographic information system and global positioning system data development, and integrated database development:

..... $ 168,000

9. For up to the following amount for membership in the North America's superhighway corridor coalition:

..... $ 150,000

In accordance with the rights granted the state for membership in the North America's superhighway coalition, six individuals shall be appointed to represent the state as follows:

a. The director of transportation or the director's designee.

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

c. Four persons appointed in coordination between the speaker of the house of representatives and the president of the senate in consultation with the minority leader in each house to represent the state's interest in interstate highways 29, 35, and 80, and the business and labor community of the state.

Of these, the director of transportation or the director's designee and one of the other individuals, as determined by the speaker of the house of representatives and the president of the senate, shall be designated to serve on the executive committee of the coalition.

10. For assisting the department of public safety in analyzing how to provide and, if feasible, implementing and operating a system providing toll-free telephone road and weather conditions information:

..... $ 110,000

Sec. 3. There is appropriated from the primary road fund to the state department of transportation for the fiscal year beginning July 1, 1997, and ending June 30, 1998, 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:

..... $ 26,348,764
..... FTEs 254.00

b. Administrative services:

..... $ 5,433,910
..... FTEs 98.00

c. Planning and programming:

..... $ 8,157,859
..... FTEs 174.00

d. Project development:

..... $ 54,347,000
..... FTEs 1,185.00

It is the intent of the general assembly that no more than $313,600, plus an allocation for salary adjustment, be expended from the highway beautification fund for salaries and benefits for no more than 9.00 FTEs.

e. Maintenance:

..... $ 98,407,750
..... FTEs 1,592.00

f. Motor vehicles:

..... $ 893,597
..... FTEs 548.00

2. For use to meet cash flow needs for maintenance of the state highway system due to the unavailability of sufficient funds appropriated under subsection 1, paragraph "e":
..... $ 954,000

3. 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:
..... $ 3,250,000

It is the intent of the general assembly that no more than $3,110,347 plus an allocation for salary adjustment, from the highway materials and equipment revolving fund, be expended for salaries and benefits for no more than 89.00 FTEs.

4. 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

5. Unemployment compensation:
..... $ 328,000

6. 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:
..... $ 1,463,000

7. For disposal of hazardous wastes from field locations and the central complex:
..... $ 1,000,000

8. For payment to the general fund for indirect cost recoveries:
..... $ 704,000

9. For reimbursement to the auditor of state for audit expenses as provided in section 11.5B:
..... $ 207,260

10. For technology improvement projects consistent with the recommendations of the blue ribbon task force, including local area network development, electronic document management system development, geographic information system and global positioning system data development, and integrated database development:
..... $ 1,032,000

11. For improvements to upgrade the handling of wastewater at various field facilities throughout the state:
..... $ 400,000

12. For replacement of roofs according to the department's priority list at field facility locations in Decorah, Charles City, Fairfield, Fort Dodge, Neola, Harlan, or Denison:
..... $ 400,000

13. For tuckpointing of the south building at the department facility in Ames:
..... $ 160,000

14. For field garage facilities at Des Moines, Anamosa, Correctionville, Charles City, and Sheldon:
..... $ 3,500,000

Section 8.33 does not apply to funds appropriated in subsections 11 through 14. Funds appropriated in subsections 11 through 14 shall remain available for expenditure for the purposes designated until June 30, 2000. Unencumbered or unobligated funds remaining on June 30, 2000, from funds appropriated in subsections 11 through 14 shall revert to the primary road fund on August 31, 2000.

Sec. 4. For the fiscal year beginning July 1, 1998, any appropriations from the road use tax fund, from the primary road fund, or from use tax receipts to departments for services provided to the state department of transportation shall be within the authority of the joint appropriations subcommittee on transportation, infrastructure, and capitals and shall appear as line items in the bill relating to and making appropriations to the state department of transportation.

*Sec. 5. *Section 8.60, subsection 8, Code 1997, is amended by striking the subsection.**

Sec. 6. Section 15E.112, subsections 1 and 3, Code 1997, are amended to read as follows:

1. A value-added agricultural products and processes financial assistance fund is created within the state treasury under the control of the department. Three million six hundred fifty thousand dollars is appropriated from the general fund of the state to the fund each fiscal year. The fund shall consist of ~~any money~~ those appropriated ~~by the general assembly~~ moneys 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 assets of the fund shall be used by the department only for carrying out the purposes of section 15E.111.

3. Payments of interest, recaptures of awards, or repayments of moneys loaned under the value-added agricultural products and processes financial assistance program shall be deposited into the fund. Section 8.33 does not apply to any moneys in the fund. ~~Unencumbered or unobligated moneys in the fund derived from moneys deposited pursuant to section 423.24, which are in excess of three million six hundred fifty thousand dollars of unencumbered or unobligated moneys in the fund deposited pursuant to that section, which are remaining on June 30 of each fiscal year, shall be credited on August 31 to the road use tax fund as created in section 312.1.~~

Sec. 7. Section 159A.7, subsection 1, unnumbered paragraph 1, Code 1997, is amended to read as follows:

A renewable fuels and coproducts fund is created in the state treasury under the control of the office of renewable fuels and coproducts. ~~The fund is composed of moneys accepted by the office.~~ Three hundred fifty thousand dollars is appropriated from the general fund of the state to the fund each fiscal year. The fund may also include ~~moneys appropriated by the general assembly, and~~ other moneys available to and obtained or accepted by the office, including moneys from the United States, other states in the union, foreign nations, state agencies, political subdivisions, and private sources.

Sec. 8. Section 159A.7, subsection 3, Code 1997, is amended by striking the subsection.

Sec. 9. Section 159A.7, subsection 6, Code 1997, is amended to read as follows:

6. Section 8.33 does not apply to moneys in the fund. Income received by investment of moneys in the fund shall remain in the fund. ~~Unencumbered or unobligated moneys in the fund derived from moneys deposited pursuant to section 423.24, which are in excess of three hundred fifty thousand dollars of unencumbered or unobligated moneys in the fund deposited pursuant to that section, and which are remaining on June 30 of each fiscal year, shall be credited on August 31 to the road use tax fund as created in section 312.1.~~

*Sec. 10. *Section 312.2, subsection 13, Code 1997, is amended by striking the subsection.**

Sec. 11. Section 423.24, subsection 1, paragraph b, Code 1997, is amended by striking the paragraph.

Sec. 12. 1996 Iowa Acts, chapter 1218, section 51, subsection 3, is amended by striking the subsection and inserting in lieu thereof the following:

3. PRESENTATIONS AND REPEAL. The state transportation commission shall make a presentation to the joint appropriations subcommittee on transportation, infrastructure, and capitals not later than February 1, 1998, regarding the effect that complying with subsection 2 will have on the commission's compliance with section 313.2A. The department of economic development shall also make a presentation to the joint appropriations subcommittee on transportation, infrastructure, and capitals, not later than February 1, 1998, regarding the economic development impact of implementing subsection 2.

This section is repealed effective July 1, 2000.

Sec. 13. 1994 Iowa Acts, chapter 1119, section 36, is repealed.

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* Item veto; see message at end of the Act

Sec. 14. 1995 Iowa Acts, chapter 67, section 49, is repealed.

Sec. 15. EFFECTIVE DATES.
1. Sections 13 and 14 of this Act take effect July 1, 1997.
2. Sections 5 and 10 of this Act take effect July 1, 1998.
3. Sections 6, 7, 8, 9, and 11 of this Act take effect July 1, 2000.

Approved May 19, 1997, except for the items which I hereby disapprove and which are designated as Section 5 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 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 391, an Act relating to and making appropriations to the state Department of Transportation, including allocation and use of moneys from the general fund of the state, road use tax fund, and primary road fund, providing for the nonreversion of certain moneys, establishing a toll-free road and weather reporting system, eliminating the motor vehicle use tax as the funding source for the value-added agricultural products and processes financial assistance program and the renewable fuels and coproducts fund, and providing for the designation of access Iowa highways, and providing effective dates.

Senate File 391 is, therefore, approved on this date with the following exceptions, which I hereby disapprove.

I am unable to approve the items designated as section 5 and section 10, in their entirety. These items would eliminate the revenue source used to pay for the costs of investigating and prosecuting odometer fraud cases. In 1988, a 25 cent fee on vehicle titles was established to pay for the additional expenses incurred by the Attorney General's office to handle odometer fraud cases. The revenues from the fee should continue to be deposited in the general fund and appropriated to the Attorney General to be used for that purpose.

For the above reason, I hereby respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in Senate File 391 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 208

APPROPRIATIONS — HUMAN SERVICES

H.F. 715

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:

DIVISION I
APPROPRIATIONS

Section 1. FAMILY INVESTMENT PROGRAM GENERAL FUND. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1997, and ending June 30, 1998, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To be credited to the family investment program account and used for assistance under the family investment program under chapter 239 or the JOBS program under chapter 249C, or under chapter 239B, as created in Senate File 516, if enacted by the Seventy-seventh General Assembly, 1997 Session:*

..... $ 9,060,000

1. The department of workforce development, in consultation with the department of human services, shall implement recruitment and employment practices to include former and current family investment program recipients. The department of workforce development shall submit a report of the practices implemented and the results of the implementation to the general assembly by January 1, 1998.

It is the intent of the general assembly that the department of human services shall work with the department of workforce development and local community collaborative efforts to provide support services for family investment program participants. The support services shall be directed to those participant families who would benefit from the support services and are likely to have success in achieving economic independence. ***Community collaborative efforts selected to provide support services shall have an existing program providing support services with a significant local match and a measurable record of success.***

2. Of the funds appropriated in this section, $6,832,592 is allocated for the JOBS program.

3. The department shall work with religious organizations and other charitable institutions to increase the availability of host homes, referred to as second chance homes or other living arrangements under the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, § 103. The purpose of the homes or arrangements is to provide a supportive and supervised living arrangement for minor parents receiving assistance under the family investment program who, under 1995 Iowa Acts, chapter 53, section 1, subsection 3, paragraph "a", or under chapter 239B, as created in Senate File 516, if enacted by the Seventy-seventh General Assembly, 1997 Session,* may receive assistance while living in an alternative setting other than with their parent or legal guardian.

Sec. 2. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT. There is appropriated from the fund created in section 8.41 to the department of human services for the fiscal year beginning July 1, 1997, and ending June 30, 1998, from moneys received under the federal temporary assistance for needy families block grant pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, which are appropriated for the federal fiscal years beginning October 1, 1996, and ending September 30, 1997, and beginning October 1, 1997, and ending September 30, 1998, the following amounts to be used for the purposes designated:

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* Chapter 41 herein

** Item veto; see message at end of the Act

Moneys appropriated in this section shall be used in accordance with the federal law making the funds available, applicable Iowa law, appropriations made from the general fund of the state in this Act for the purpose designated, and administrative rules adopted to implement the federal and Iowa law. If actual federal revenues credited to the fund created in section 8.41 through June 30, 1998, are less than the amounts appropriated in this section, the amounts appropriated shall be reduced proportionately and the department may reduce expenditures as deemed necessary by the department to meet the reduced funding level:

1. To be credited to the family investment program account and used for assistance under the family investment program under chapter 239 or chapter 239B, as created in Senate File 516, if enacted by the Seventy-seventh General Assembly, 1997 Session:*

..... $ 97,288,698

2. For the job opportunities and basic skills (JOBS) program, and implementing family investment agreements, in accordance with chapter 249C, or chapter 239B, as created in Senate File 516, if enacted by the Seventy-seventh General Assembly, 1997 Session:*

..... $ 18,038,404

3. For field operations:

..... $ 5,756,227

4. For general administration:

..... $ 2,573,844

5. For local administrative costs:

..... $ 1,732,617

6. For replacement of reductions in the federal social services block grant with federal TANF block grant funds, except for the allocation to child care:

..... $ 4,546,031

7. For state child care assistance:

..... $ 1,214,089

8. For emergency assistance:

..... $ 375,049

Notwithstanding section 8.33, moneys appropriated in this section of this Act which remain unencumbered or unobligated at the close of the fiscal year shall not revert from the fund from which appropriated but shall remain available for allocation under law in the succeeding fiscal year.

Sec. 3. FAMILY INVESTMENT PROGRAM ACCOUNT.

1. Moneys credited to the family investment program account for the fiscal year beginning July 1, 1997, and ending June 30, 1998, shall be used in accordance with the following requirements:

a. The department shall provide assistance in accordance with chapters 239 and 249C or in accordance with chapter 239B, as created in Senate File 516, if enacted by the Seventy-seventh General Assembly, 1997 Session.*

b. The department shall continue the special needs program under the family investment program.

c. The department shall implement federal welfare reform data requirements pursuant to the appropriations made for that purpose.

d. The department shall continue expansion of the electronic benefit transfer program as necessary to comply with federal requirements. The target date for statewide implementation of the program is July 1, 1999.

e. The department shall conduct an evaluation of the welfare reform program and child well-being provisions to measure the program's effectiveness, impacts on children and families, and impacts across programs, and to identify effective strategies.

f. The department shall continue to contract for services in developing and monitoring an entrepreneurial training program to provide technical assistance to families which receive assistance under the family investment program.

* Chapter 41 herein

g. For family investment agreements developed beginning July 1, 1997, the maximum allowable time period for postsecondary education is limited to twenty-four months.

2. The department may transfer funds in accordance with section 8.39, either federal or state, to or from the child day care appropriations made for the fiscal year beginning July 1, 1997, if the department deems this would be a more effective method of paying for JOBS program child care, to maximize federal funding, or to meet federal maintenance of effort requirements.

3. Moneys appropriated in this Act and credited to the family investment program account for the fiscal year beginning July 1, 1997, and ending June 30, 1998, are allocated as follows:

a. For the food stamp employment and training program:

..... $ 129,985

b. For the family development and self-sufficiency grant program as provided under section 217.12:

..... $ 2,328,805

(1) Of the funds allocated for the family development and self-sufficiency grant program in this lettered paragraph, not more than 5 percent of the funds shall be used for the administration of the grant program.

(2) Based upon the annual evaluation report concerning each grantee funded by previously appropriated funds and through the solicitation of additional grant proposals, the family development and self-sufficiency council may use the allocated funds to renew or expand existing grants or award new grants. In utilizing the increased funding to expand the program, the council shall give consideration, in addition to other criteria established by the council, to a grant proposal's intended use of local funds with a grant and to whether a grant proposal would expand the availability of the program's services to a wider geographic area.

(3) Family development and self-sufficiency grantees shall not supplant previous local funding with state or federal funds.

c. For increasing participation in vocational and postsecondary training which lasts not more than twelve months:

..... $ 998,400

d. For replacing reductions in the federal social services block grant with federal TANF block grant funds, except for the allocation to child care:

..... $ 4,546,031

e. For child day care in place of funds previously allocated from the federal social services block grant to child care:

..... $ 1,214,089

The department may transfer the allocation made in this paragraph directly into the appropriation made in this Act for child day care.

f. If an enactment of the Seventy-seventh General Assembly, 1997 Session, establishes a new Code chapter 239B, as created in Senate File 516,* and provides for the elimination of the work transition period under the family investment program, the following allocations shall apply:

(1) For the diversion subaccount of the family investment program account:

..... $ 500,000

Moneys allocated to the diversion subaccount shall be used for a pilot initiative of providing incentives to assist families who would otherwise be eligible for the family investment program in obtaining or retaining employment and to assist participant families in overcoming barriers to obtaining employment. Incentives may be provided in the form of payment or services. The department may limit the availability of the pilot initiative on the basis of geographic area or numbers of individuals provided with incentives. The department shall make recommendations on or before January 15, 1998, regarding the potential benefits of expanding the initiative. The department may adopt emergency administrative

* Chapter 41 herein

rules in order to implement the provisions of this subparagraph.

(2) For incentive grants of not more than $5,000 per grant to community organizations serving as an operating organization for administration of individual development accounts in accordance with chapter 541A:

..... $ 50,000

(3) For assistance associated with elimination of the employment earnings disregard period when determining the effective date of assistance for unemployed parent families:

..... $ 150,000

4. Of the child support collections assigned under the family investment program, an amount equal to the federal share of support collections shall be deposited in the child support recovery appropriation. The remainder of the assigned child support collections and the state share of incentives received by the child support recovery unit shall be deposited in the family investment program account.

5. The department shall discontinue payment of the first $50 of the assigned child support collected by the department in any given month to an applicant for family investment program assistance approved for assistance on or after the effective date of this Act. A recipient who is approved to receive assistance prior to the effective date of this Act shall continue to be eligible to receive the payment until the recipient is no longer eligible for the family investment program, but shall not be eligible to receive the payment upon reapplication and subsequent receipt of family investment program assistance. The department may adopt emergency rules to implement this subsection.

6. The department may adopt emergency administrative rules for the family investment, food stamp, and medical assistance programs, if necessary, to comply with federal requirements. Prior to adoption of the rules, the department shall consult with the welfare reform council, members of the public involved in development of welfare reform policy established in the 1993 legislative session, and the chairpersons and ranking members of the joint appropriations subcommittee on human services.

7. Moneys appropriated for the job opportunities and basic skills (JOBS) program in 1996 Iowa Acts, chapter 1213, section 7, which remain unobligated or unexpended at the close of the fiscal year beginning July 1, 1996, as provided in that Act, shall be used for the JOBS program in the fiscal year beginning July 1, 1997.

8. Not more than the following amounts of the moneys received under the temporary assistance for needy families block grant and appropriated to the department pursuant to 1997 Iowa Acts, House File 125,* section 1, which remain unobligated or unexpended at the close of the fiscal year beginning July 1, 1996, as provided in that Act, shall be used for the following purposes in the fiscal year beginning July 1, 1997, in the order designated:

a. For emergency assistance:

..... $ 224,951

b. For the JOBS program:

..... $ 300,000

c. For family support community-based grants:

..... $ 200,000

d. For pregnancy prevention grants:

..... $ 250,000

e. For technology needs and other resources necessary to meet federal welfare reform reporting, tracking, and case management requirements:

..... $ 2,950,000

9. Notwithstanding 1995 Iowa Acts, chapter 220, section 11, moneys appropriated to the department of human services for purposes of costs associated with the development of the X-pert computer system shall not revert on August 31, 1997, but shall remain available for the purpose designated until the close of the fiscal year beginning July 1, 1997.

Sec. 4. 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, 1997, and

* Chapter 199 herein

ending June 30, 1998, 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:

..... $ 1,967,000

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, 1997, the department shall continue the 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.

3. Of the funds appropriated in this section, $10,000 is allocated to the community voice mail program to continue the existing program. The funds shall be made available beginning July 1, 1997.

Sec. 5. 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, 1997, and ending June 30, 1998, 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:

..... $ 381,789,000

1. Medically necessary abortions are those performed under any of the following conditions:

a. The attending physician certifies that continuing the pregnancy would endanger the life of the pregnant woman.

b. The attending physician certifies that the fetus is physically deformed, mentally deficient, or afflicted with a congenital illness.

c. The pregnancy is the result of a rape which is reported within 45 days of the incident to a law enforcement agency or public or private health agency which may include a family physician.

d. The pregnancy is the result of incest which is reported within 150 days of the incident to a law enforcement agency or public or private health agency which may include a family physician.

e. Any spontaneous abortion, commonly known as a miscarriage, if not all of the products of conception are expelled.

2. Notwithstanding section 8.39, the department may transfer funds appropriated in this section to a separate account established in the department's case management unit for expenditures required to provide case management services for mental health, mental retardation, and developmental disabilities services under medical assistance which are jointly funded by the state and county, pending final settlement of the expenditures. Funds received by the case management unit in settlement of the expenditures shall be used to replace the transferred funds and are available for the purposes for which the funds were appropriated in this section.

3. a. 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 persons with mental retardation, 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 costs 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.

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. When paying the necessary and legal expenses of intermediate care facilities for persons with mental retardation (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.

4. 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 3, 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.

5. 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 $5,000 may be expended for administrative purposes.

6. Of the funds appropriated to the Iowa department of health for substance abuse grants, $950,000 for the fiscal year beginning July 1, 1997, shall be transferred to the department of human services for an integrated substance abuse managed care system.

7. The department of human services, in cooperation with the Iowa department of public health and in consultation with county representatives and affected providers, shall review

potential funding streams, treatment methods, and provider options for expansion of dual diagnosis services, providing both mental health and substance abuse services, and shall report the findings of the review and recommendations to the joint appropriations subcommittee on human services on or before January 1, 1998.

8. The department shall continue the medical assistance 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 funding for assistance provided to an individual served under the waiver. The waiver shall be limited in application to persons with physical disabilities who reside in a medical institution at the time of applying for assistance and who have been residents of a medical institution for a minimum of thirty consecutive days.

9. The department shall not expand the requirement of drug prior authorization without prior approval of the general assembly except to require prior authorization of an equivalent of a prescription drug which is subject to prior authorization as of June 30, 1997. The department shall adopt administrative rules to implement this provision.

10. The department of human services, in consultation with the Iowa department of public health and the department of education, shall continue the program to utilize the early and periodic screening, diagnosis, and treatment (EPSDT) funding under medical assistance, to the extent possible, to implement the screening component of the EPSDT program through the school system. The department may enter into contracts to utilize maternal and child health centers, the public health nursing program, or school nurses in implementing this provision.

11. The department shall continue the case study for outcome-based performance standards for programs serving persons with mental retardation or other developmental disabilities proposed pursuant to 1994 Iowa Acts, chapter 1170, section 56. The department shall adopt rules applicable to the programs included in the case study, request a waiver of applicable federal requirements, and take other actions deemed necessary by the department to continue the case study.

12. The department shall develop methodologies to directly reimburse hospitals with medical assistance-approved graduate medical education programs for the direct and indirect costs of medical education programs at those hospitals and for a disproportionate share payment as allowed by the federal cap at those hospitals with qualifying programs. The level of this reimbursement shall be equal to the amount of managed care capitation payments attributable to direct medical education plus indirect medical education add-on components included as part of the capitated rate setting methodology and to the amounts paid through the fee-for-service inpatient diagnostic-related groups and outpatient ambulatory patient groups hospital reimbursement systems for state fiscal year 1994-1995, with an adjustment, if the federal upper limits test has not been exceeded, to allow an increase for state fiscal year 1996-1997 costs. This subsection shall only apply to any capitated payment contracts entered into after June 30, 1997. The department may adopt emergency rules to implement this subsection.

13. The department, in consultation with the Iowa department of public health, the department of elder affairs, home and community-based service providers, consumers, and members of the joint appropriations subcommittee on human services, shall evaluate the feasibility of improving access and delivery of services to consumers and of improving cost-effectiveness by incorporating the personal care services option into the medical assistance program.

Sec. 6. HEALTH INSURANCE PREMIUM PAYMENT PROGRAM. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1997, and ending June 30, 1998, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For administration of the health insurance premium payment program, including salaries, support, maintenance, and miscellaneous purposes:

.....	$	390,000
.....	FTEs	17.00

Sec. 7. 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, 1997, and ending June 30, 1998, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For medical contracts:

.....	$	7,700,000

1. a. The department shall continue prospective drug utilization review and may establish drug surveillance prior authorization under the medical assistance program.

b. The department shall develop and implement an individual patient tracking system to assess the effectiveness of the drug prior authorization program. The system shall include patient specific elements including, at a minimum, the drug prescribed or requested, the alternative drug dispensed, the quantity requested, the quantity dispensed, and the drugs dispensed during required trials.

c. The department shall conduct a prior authorization cost-effectiveness study, at no cost to the state, and shall not use any entity or individual currently or previously utilized by the department to perform the study.

d. The prospective drug utilization review and prior authorization cost-effectiveness studies shall include, but are not limited to, all of the following:

(1) The net cost of the substitution of brand name drugs for which alternatives are required, including the drug rebates, if applicable, under the Iowa prior authorization regimen.

(2) The costs attributable to the ambulatory treatment of iatrogenic, unexpected conditions which result when the prescribed drug is not authorized and a substitution is made under the Iowa prior authorization regimen, when it is possible to determine that the conditions resulted from the substitution of the alternative medication for the prescribed medication.

(3) The costs attributable to institutionalization and treatment for iatrogenic, unexpected conditions which result when the prescribed drug is not authorized and a substitution is made under the Iowa prior authorization regimen when it is possible to determine that the condition resulted from the substitution of the alternative medication for the prescribed medication.

(4) The costs of prescribing mandates, such as requiring two failures of generic drug treatment before allowing the prescribing of a brand name alternative.

(5) The measurement of the cost-effectiveness of patient outcomes under prior authorization compared to the patient outcomes under prospective drug utilization review.

(6) The comparison of administrative costs for prior authorization review and prospective drug utilization review.

The department shall review the methodology for calculating and projecting costs savings and shall update the methodology, if necessary.

The costs identified under the studies performed shall be netted against the cost savings projected by the department to accurately determine and report cost savings for the drug prior authorization program.

The department shall submit a report of the studies to the general assembly on or before March 1, 1998, for review. Subsequent to that date, the general assembly may direct the department to remove from the categories of prescription drugs for which prior authorization is currently required, all of the drugs for which the comparative studies establish that prospective drug utilization review is at least as cost-effective in patient outcomes as prior authorization.

2. a. In any managed care contract for mental health or substance abuse services entered into by the department on or after July 1, 1997, the request for proposals shall allow for

coverage by the contractor on a regional or statewide basis. The department shall consult with the chairpersons and ranking members of the joint appropriations subcommittee on human services in developing the request for proposals and in evaluating the responses. In determining whether a contract shall be entered into to provide regional or statewide coverage, the department shall consider the most effective means of providing access to and delivery of services to recipients of services and shall consider the cost-effectiveness of the particular proposal.

b. The department, in consultation with the Iowa department of public health, shall evaluate the feasibility of combining coverage for mental health and substance abuse services in any managed care contract entered into for these services.

3. The department shall implement the plan, as submitted to the general assembly on or before January 1, 1996, to administratively pursue reimbursement for pharmacy services for which a recipient of medical assistance also has third-party coverage. The department may use increased collections of pharmaceutical rebates or existing funds to implement this subsection.

Sec. 8. 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, 1997, and ending June 30, 1998, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For state supplementary assistance, funeral assistance, and the medical assistance waiver for persons with mental retardation rent subsidy program:

..... $ 19,190,000

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, 1997, 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, 1997, 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.

3. The department may use up to $75,000 of the funds appropriated in this section for a rent subsidy program for adult persons to whom all of the following apply:

a. Are receiving assistance under the medical assistance home and community-based services for persons with mental retardation (HCBS/MR) program.

b. Were discharged from an intermediate care facility for persons with mental retardation (ICFMR) immediately prior to receiving HCBS/MR services.

The goal of the subsidy program shall be to encourage and assist in enabling persons who currently reside in an ICFMR to move to a community living arrangement. An eligible person may receive assistance in meeting their rental expense and, in the initial two months of eligibility, in purchasing necessary household furnishings and supplies. The program shall be implemented so that it does not meet the federal definition of state supplementary

assistance and will not impact 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.

Sec. 9. 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, 1997, and ending June 30, 1998, 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:

..... $ 13,740,000

1. Of the funds appropriated in this section, $3,696,286 shall be used for protective child day care assistance.

2. Of the funds appropriated in this section, $8,215,889 shall be used for state child care assistance.

3. For the purposes of this subsection, the term "poverty level" means the poverty level defined by the poverty income guidelines published by the United States department of health and human services. Effective October 1, 1997, the department shall increase to 125 percent the maximum federal poverty level used to determine eligibility for state child care assistance. 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 with an income at or below 100 percent of the federal poverty level whose members are employed at least 30 hours per week, and parents with a family income at or below 100 percent of the federal poverty level who are under the age of 21 and are participating in an educational program leading to a high school diploma or equivalent.

b. Parents with a family income at or below 100 percent of the federal poverty level who are under the age of 21 and are participating, at a satisfactory level, in an approved training program or in an educational program.

c. Families with an income of more than 100 percent but not more than 125 percent of the federal poverty level whose members are employed at least 30 hours per week. Assistance provided to families pursuant to this paragraph shall be provided in accordance with a sliding fee scale developed by the department.

d. Families with an income at or below 155 percent of the federal poverty level with a special needs child as a member of the family.

e. Families with an income at or below 100 percent of the federal poverty level whose members are employed part-time at least 20 hours per week.

The department may adopt emergency rules to implement the provisions of this subsection.

4. Migrant seasonal farm worker families whose family income is equal to or less than 110 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.

5. 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.

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. For the purpose of expenditures of state and federal child day care funding, funds shall be considered obligated at the time expenditures are projected or are allocated to the department's regions. Projections shall be based on current and projected caseload growth, current and

projected provider rates, staffing requirements for eligibility determination and management of program requirements including data systems management, staffing requirements for administration of the program, contractual and grant obligations and any transfers to other state agencies, and obligations for decategorization or innovation projects.

8. Of the funds appropriated in this section, $1,191,184 is allocated for transitional child care assistance.

9. During the 1997-1998 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 allocated for that purpose in this section.

10. The department shall assist the Hispanic educational resource center in Des Moines in identifying or providing replacement funding if the elimination of previous allocations made to the center under this section results in a negative impact to the center in providing child day care services. If replacement funding is not identified, the department shall replace the funding with federal child care and development block grant moneys.

11. The department shall consult with service providers in evaluating the practice of requiring recipients of state child care assistance to make a co-payment to service providers. The evaluation shall consider the impact on system administration, service providers, and others. The department shall report the evaluation results to the governor and general assembly on or before December 15, 1997.

Sec. 10. 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, 1997, and ending June 30, 1998, 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:

.....	$	6,605,000
.....	FTEs	226.22

1. The director of human services, within the limitations of the moneys appropriated in this section, or moneys transferred from the family investment program appropriation 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 fees, federal tax refund offset fees, and other user fees received by the child support recovery unit are appropriated and shall be used for the purposes of the child support recovery program. The director of human services may add positions within the limitations of the amount appropriated for 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 or contract for delivery of services 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 or contract, the positions or contract are necessary to

ensure continued federal funding of the program, or the new positions or contract can reasonably be expected to recover at least twice the amount of money necessary to pay the salaries and support for the new positions or the contract will generate at least 200 percent of the cost of the contract.

5. If initiated by the judicial department, the child support recovery unit shall continue to work with the judicial department to determine the feasibility of implementing 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 expend up to $50,000, including federal financial participation, for the fiscal year beginning July 1, 1997, for a child support public awareness campaign. The department and the office of the attorney general shall cooperate in continuation of the campaign. The public awareness campaign shall emphasize, through a variety of media activities, the importance of maximum involvement of both parents in the lives of their children as well as the importance of payment of child support obligations.

7. The department shall continue the 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. Surcharges paid by obligors and received by the unit as a result of the referral of support delinquency by the child support recovery unit to any private collection agency are appropriated to the department and shall be used to pay the costs of any contracts with the collection agencies.

10. The child support recovery unit shall initiate a process to evaluate the satisfaction of consumers, including both obligors and obligees, with the child support recovery unit. The unit shall submit a report of the findings of the evaluation to the joint appropriations subcommittee on human services on or before December 15, 1997.

Sec. 11. 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, 1997, and ending June 30, 1998, 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:

..... $ 13,869,000

..... 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:

..... $ 5,147,000

..... 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:

..... $ 8,722,000

..... FTEs 202.23

3. During the fiscal year beginning July 1, 1997, the population levels at the state juvenile institutions shall not exceed the population guidelines established under 1990 Iowa Acts, chapter 1239, section 21.

4. Of the funds appropriated in this section, $10,000 shall be used by the state training school and $8,000 by the Iowa juvenile home for grants for adolescent pregnancy prevention activities at the institutions in the fiscal year beginning July 1, 1997.

5. Within the amount 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. 12. 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, 1997, and ending June 30, 1998, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For child and family services:

..... $ 111,084,000

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 $29,153,146 is allocated as the statewide expenditure target under section 232.143 for group foster care maintenance and services.

b. The department shall report quarterly to the legislative fiscal bureau concerning the status of each region's efforts to contain expenditures for group foster care placements in accordance with the regional plan established pursuant to section 232.143.

c. 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.

d. (1) Of the funds appropriated in this section, not more than $5,690,600 is allocated as the state match funding for psychiatric medical institutions for children.

*(2) *The department may transfer all or a portion of the funds allocated in this paragraph for psychiatric medical institutions for children (PMICs) to the appropriation in this Act for medical assistance and shall not amend the managed mental health care contract to include PMICs.*

e. Of the funds allocated in this subsection, $1,419,005 is allocated as the state match funding for 50 highly structured juvenile program beds. If the number of beds provided for in this paragraph is not utilized, the remaining funds allocated may be used for group foster care.

f. It is the intent of the general assembly that of the statewide expenditure target established in this subsection, the moneys allocated in accordance with section 232.143 as the budget target to each of the department's regions shall constitute the region's annual budget for group foster care. The representatives appointed by the department of human services and the juvenile court to establish the plan to contain expenditures for children placed in group foster care ordered by the court within the budget target allocated to the region shall establish the plan in a manner so as to ensure the moneys allocated to the region under section 232.141 shall last the entire fiscal year.

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. The provisions of section 232.142, subsection 3, requiring financial aid to be paid by the state for the establishment, improvements, operation, and maintenance of county or

* Item veto; see message at end of the Act

multicounty juvenile detention homes shall not apply for the fiscal year beginning July 1, 1997. Section 25B.2, subsection 3, shall not apply to this subsection.

6. 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 $200,000 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. The department may extend the contract for an additional two years. 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 the case of a child in the custody of juvenile court services, the state court administrator or administrator's designee acting 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.

7. 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.

8. Notwithstanding section 234.35, subsection 1, for the fiscal year beginning July 1, 1997, state funding for shelter care paid pursuant to section 234.35, subsection 1, paragraph "h", shall be limited to $7,403,905. The department shall develop a formula, in consultation with the shelter care committee and the judicial department, to allocate shelter care funds to the department's regions. The department may adopt emergency rules to implement this subsection.

9. Of the funds appropriated in this section, not more than $577,128 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.

10. Of the funds appropriated in this section, up to $777,632 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.

11. The department may adopt administrative rules following consultation with child welfare services providers 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.

12. Of the funds appropriated in this section, up to $200,000 may be used to develop, in cooperation with providers of children and family services, juvenile court, and other interested parties, an outcomes-based approach for family-centered, family preservation, family-community-based support, and wrap-around services to evaluate and improve out-

comes for children and families. The department shall submit an outcomes-based budget for these programs and shall submit the budget with other budget documents required pursuant to section 8.23. The department may adopt administrative rules to implement this subsection.

13. 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.

14. Federal funds received by the state during the fiscal year beginning July 1, 1997, as the result of the expenditure of state funds appropriated during a previous state fiscal year for a service or activity funded under this section, shall be used as additional funding for services provided under this section. Moneys received by the department in accordance with the provisions of this subsection shall remain available for the purposes designated until June 30, 1999.

15. In each fiscal year, if the department determines that sufficient funds are available under the appropriation in this section, the department may transfer up to $135,136 to the appropriation in this Act for field operations to fund up to an additional 5.00 FTEs beyond the authorized limit to respond to increased applications resulting from recruitment efforts in order to increase the number of adoptions of children with special needs.

16. In addition to the report for group foster care placements, the department shall report quarterly to the legislative fiscal bureau concerning the status of each region's funding expenditures compared with allocations in the regional plan for services provided under this section.

17. The department and juvenile court services shall develop criteria for the department regional administrator and chief juvenile court officer to grant exceptions to extend eligibility, within the funds allocated, for intensive tracking and supervision and for supervised community treatment to delinquent youth beyond age 18 who are subject to release from the state training school, a highly structured juvenile program, or group care. The department shall report the number of such exceptions granted and the related expenditures to the joint appropriations subcommittee on human services on or before January 1, 1998. The department may adopt emergency administrative rules to implement this subsection.

18. Of the moneys appropriated in this section, not more than $900,000 is allocated to provide clinical assessment services as necessary to continue funding of children's rehabilitation services under medical assistance in accordance with federal law and requirements. The funding allocated is the amount projected to be necessary for providing the clinical assessment services. The department shall submit a report to the general assembly on or before January 1, 1998, regarding the development of a new model for determining rehabilitative needs in place of clinical assessment and treatment* teams. The department shall implement the new model on or before June 30, 1998, in a manner so as to reduce paperwork and other information requirements to the minimum level necessary for compliance with the federal requirements for the clinical assessment services.

19. The department shall adopt and implement emergency rules to provide for user fees for international and private adoptions. The fees collected shall be deposited in the adoption administrative fund and shall be used to provide these services.

Sec. 13. CONNER DECREE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1997, and ending June 30, 1998, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For providing training in accordance with the consent decree of Conner v. Branstad, No. 4-86-CU-30871 (S.D. Iowa, July 14, 1994):

..... $ 46,000

Sec. 14. COMMUNITY-BASED PROGRAMS — ADOLESCENT PREGNANCY PREVENTION. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1997, and ending June 30, 1998, the following

* The word "consultation" probably intended

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:

..... $ 2,270,000
..... FTEs 1.00

1. Of the funds appropriated in this section, $486,146 shall be used for adolescent pregnancy prevention grants, including not more than $156,048 for programs to prevent pregnancies during the adolescent years and to provide support services for pregnant or parenting adolescents. It is the intent of the general assembly that by July 1, 1999, grants awarded under this subsection be required to meet the criteria under subsection 2 including the provision of community-wide services within the proximity of a community or region. In addition to the awarding of grants, funds may also be used for grant evaluation and for a statewide media campaign.

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.

3. It is the intent of the general assembly that the department of human services and the Iowa department of public health shall identify existing abstinence education or community-based programs which comply with the requirements established in section 912, subchapter V, of the federal Social Security Act, as codified in 42 U.S.C. § 701 et seq. for matching of federal funds to be received on or after October 1, 1997.

4. Of the funds appropriated in this section, $731,014 shall be used by the department for child abuse prevention grants.

Sec. 15. 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, 1997, and ending June 30, 1998, 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:

..... $ 3,290,000

1. Notwithstanding section 232.141 or any other provision of law, the funds appropriated in this section shall be allocated to the judicial districts as determined by the state court administrator. The state court administrator shall make the determination on the allocations on or before June 15.

2. a. Each judicial district shall continue the planning group for the court-ordered services for juveniles provided in that district which was established pursuant to 1991 Iowa Acts, chapter 267, section 119. A planning group shall continue to perform its duties as specified in that law. Reimbursement rates for providers of court-ordered evaluation and treatment services paid under section 232.141, subsection 4, shall be negotiated with providers by each judicial district's planning group.

b. Each district planning group shall submit an annual report in January to the state court administrator and the department of human services. The report shall cover the preceding fiscal year and shall include a preliminary report on the current fiscal year. The administrator and the department shall compile these reports and submit the reports to the chairpersons and ranking members of the joint appropriations subcommittee on human services and the legislative fiscal bureau.

3. The department of human services shall develop policies and procedures to ensure that the funds appropriated in this section are spent only after all other reasonable actions have been taken to utilize other funding sources and community-based services. The policies and procedures shall be designed to achieve the following objectives relating to services provided under chapter 232:

a. Maximize the utilization of funds which may be available from the medical assistance program including usage of the early and periodic screening, diagnosis, and treatment (EPSDT) program.

b. Recover payments from any third-party insurance carrier which is liable for coverage of the services, including health insurance coverage.

c. Pursue development of agreements with regularly utilized out-of-state service providers which are intended to reduce per diem costs paid to those providers.

4. The department of human services, in consultation with the state court administrator and the judicial district planning groups, shall compile a monthly report describing spending in the districts for court-ordered services for juveniles, including the utilization of the medical assistance program. The reports shall be submitted on or before the twentieth day of each month to the chairpersons and ranking members of the joint appropriations subcommittee on human services and the legislative fiscal bureau.

5. Notwithstanding chapter 232 or any other provision of law, a district or juvenile court in a department of human services district shall not order any service which is a charge upon the state pursuant to section 232.141 if there are insufficient court-ordered services funds available in the district allocation to pay for the service. The chief juvenile court officer shall work with the judicial district planning group to encourage use of the funds appropriated in this section such that there are sufficient funds to pay for all court-related services during the entire year. The eight chief juvenile court officers shall attempt to anticipate potential surpluses and shortfalls in the allocations and shall cooperatively request the state court administrator to transfer funds between the districts' allocations as prudent.

6. Notwithstanding any provision of law to the contrary, a district or juvenile court shall not order a county to pay for any service provided to a juvenile pursuant to an order entered under chapter 232 which is a charge upon the state under section 232.141, subsection 4.

7. Of the funds appropriated in this section, not more than $100,000 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 $580,000 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. 16. 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, 1997, and ending June 30, 1998, 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:

.....	$	41,480,900
.....	FTEs	888.10

1. The funds appropriated and full-time equivalent positions authorized in this section are allocated as follows:

a. State mental health institute at Cherokee:

.....	$	13,199,400
.....	FTEs	296.98

b. State mental health institute at Clarinda:

.....	$	6,324,400
.....	FTEs	136.82

c. State mental health institute at Independence:

.....	$	17,133,200
.....	FTEs	366.82

For the fiscal year beginning July 1, 1997, the state mental health institute at Independence shall implement a pilot project accounting test of managing revenues and expenditures attributable to the mental health institute in a manner that permits the net state expenditure amount to be determined. The mental health institute shall submit a preliminary report in January 1998, and a status report in October 1998, to the governor and the joint appropriations subcommittee on human services concerning the pilot project. The reports shall identify advantages and disadvantages of utilizing the pilot project approach and any changes in policy or statute identified to improve an implementation of the pilot project approach.

d. State mental health institute at Mount Pleasant:

.....	$	4,823,900
.....	FTEs	87.48

The department shall develop a plan for implementing a dual diagnosis program at the state mental institute at Mount Pleasant to commence July 1, 1998. The department shall submit the plan to the governor and the general assembly on or before January 2, 1998.

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. 17. 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, 1997, and ending June 30, 1998, 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:

.....	$	28,613,376
.....	FTEs	1508.00

1. The funds appropriated and full-time equivalent positions authorized in this section are allocated as follows:

a. State hospital-school at Glenwood:

.....	$	2,108,276
.....	FTEs	872.50

(1) The department shall implement a pilot project of operating the hospital-school with a net general fund appropriation. The amount allocated in this paragraph is the net state appropriation amount projected to be needed for the state hospital-school at Glenwood. Purposes of the pilot project are to encourage the hospital-school to operate with increased self-sufficiency, to improve quality and efficiency, and to support collaborative efforts between the hospital-school and counties and other funders of services available from the hospital-school. The pilot project shall not be implemented in a manner which results in a cost increase to the state or cost shifting between the state, the medical assistance program, counties, or other sources of funding for the state hospital-school. Moneys allocated in this paragraph may be used throughout the fiscal year in the manner necessary for purposes of cash flow management, and for purposes of cash flow management the hospital-school may temporarily draw more than the amount allocated, provided the amount allocated is not exceeded at the close of the fiscal year.

(2) In implementing the pilot project, subject to the approval of the department, except for revenues under section 249A.11, revenues attributable to the state hospital-school for the fiscal year beginning July 1, 1997, shall be deposited into the hospital-school's account, including but not limited to all of the following:

(a) Moneys received by the state from billings to counties under section 222.73.

(b) The federal share of medical assistance revenue received under chapter 249A.

(c) Federal Medicare program payments.

(d) Moneys received from client financial participation.

(e) Other revenues generated from current, new, or expanded services which the state hospital-school is authorized to provide.

(3) For the initial year of the pilot project, the institution shall develop a report detailing the items for which depreciation reimbursement funds would have been utilized if the depreciation reimbursement had been retained by the institution. This report shall be included with the preliminary report submitted pursuant to subparagraph (5) in January 1998.

(4) For the purposes of allocating the salary adjustment fund moneys appropriated in another Act, the state hospital-school at Glenwood shall be considered to be funded entirely with state moneys.

(5) The state hospital-school and the department shall submit a preliminary report in January 1998, and a status report in October 1998, to the governor and the joint appropriations subcommittee on human services concerning the pilot project.

b. State hospital-school at Woodward:

..... $ 26,505,100

..... FTEs 635.50

2. Within the funds appropriated in this section, the department may reallocate funds as necessary to best fulfill the needs of the institutions provided for in the appropriation.

3. The department may implement a pilot project to bill for state hospital-school services utilizing a scope of services used for private providers of intermediate care facilities for persons with mental retardation services in a manner which does not shift costs between the medical assistance program, counties, or other sources of funding for the state-hospital schools.

Sec. 18. 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, 1997, and ending June 30, 1998, 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. Programs or areas which have previously received funding shall be eligible for additional funding under this appropriation.

Sec. 19. 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, 1997, and ending June 30, 1998, the following amount, or so much thereof as is necessary, to be used by the division of children and family services for the purpose designated:

For the family support subsidy program:

..... $ 1,670,000

The department may use up to $200,000 of the moneys appropriated in this section to continue the children-at-home program, of which not more than $30,000 shall be used for administrative costs.

Sec. 20. 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, 1997, and ending June 30, 1998, 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. 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. 21. 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, 1997, and ending June 30, 1998, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For purchase of local services for persons with mental illness, mental retardation, and developmental disabilities where the client has no established county of legal settlement:

..... $ 6,910,000

If a county has a county management plan which is approved by the director of human services pursuant to section 331.439, the services paid for under this section are exempt from the department's purchase of service system requirements. The department shall adopt rules to implement the provisions of this paragraph.

Sec. 22. 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, 1997, and ending June 30, 1998, 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:

..... $ 17,400,000

1. Of the funds appropriated in this section, $17,121,138 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, as described in rules adopted by the department.

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. 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, 1997.

6. a. Funding appropriated for purposes of the federal social services block grant 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 of 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. The moneys provided under this subsection do not establish an entitlement to the services funded under this subsection.

7. If a county has a county management plan which is approved by the director of human services pursuant to section 331.439, the county shall be considered to have met the requirements of subsection 2, and subsection 6, paragraphs "b", "c", "d", "e", and "g". The department shall adopt rules to implement the provisions of this subsection.

8. It is the intent of the general assembly that to the extent possible, public funding for mental retardation and developmental disabilities services should be used in a flexible manner to reduce reliance on institutional-based services. To this end, a county may amend the county's service management plans for mental retardation and developmental disabilities services submitted for the fiscal year beginning July 1, 1997, under section 331.439, as necessary for the county to provide appropriate assistance in lieu of placement of an individual in an intermediate care facility for persons with mental retardation or other institutional placement. The appropriate assistance may be modeled on the personal assistance and family support subsidy programs under chapter 225C.

Sec. 23. PROVIDER REIMBURSEMENT — SHELTERED WORKSHOPS — WORK ACTIVITY SERVICES. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1997, and ending June 30, 1998, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For payment of an increased provider reimbursement for sheltered workshops and work activity services:

..... $ 160,000

The moneys appropriated in this section shall be allocated to counties in accordance with the methodology for distribution of local purchase of services moneys in section 22, subsection 6, paragraph "f", of this Act. The moneys provided pursuant to this section shall be used to pay the increase in reimbursement rates by one percent over the reimbursement rate provided on June 30, 1997, for sheltered workshops and work activity services.

Sec. 24. PERSONAL ASSISTANCE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1997, and ending June 30, 1998, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For continuation of a pilot project for the personal assistance services program in accordance with this section:

..... $ 364,000

The funds appropriated in this section shall be used to continue the pilot project for the personal assistance services program under section 225C.46 in an urban and a rural area. Not more than $36,400 shall be used for administrative costs. The pilot project and any federal home and community-based waiver developed under the medical assistance program shall not be implemented in a manner which would require additional county or state costs for assistance provided to an individual served under the pilot project or the waiver.

It is the intent of the general assembly that for any new applicants for personal assistance, priority shall be given to providing assistance to individuals for education, job train-

ing, and other forms of employment support. It is also the intent of the general assembly that if other programs become available which provide similar services, current recipients of personal assistance for whom these similar services are appropriate shall be assisted in attaining eligibility for these programs.

Sec. 25. 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, 1997, and ending June 30, 1998, 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:

.....	$	47,500,000
.....	FTEs	2,047.00

Of the full-time equivalent positions authorized in this section, there are additional positions in excess of the number authorized for the previous fiscal year. It is the intent of the general assembly that of the additional positions, up to 20 FTEs may be utilized for incremental expansion of the assessment-based approach for responding to reports of child abuse.

Sec. 26. 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, 1997, and ending June 30, 1998, 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:

.....	$	14,100,000
.....	FTEs	383.00

Of the funds appropriated in this section, $57,090 is allocated for the prevention of disabilities policy council established in section 225B.3.

If an expenditure reduction or other cost-saving measure is deemed necessary to maintain expenditures within the amount appropriated to the department in this section, the department shall not implement the reduction or other measure in a manner which reduces service funding for disability rehabilitation programs, including but not limited to, statewide supported employment programs or reduces the drawdown of federal funding.

Sec. 27. VOLUNTEERS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1997, and ending June 30, 1998, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For development and coordination of volunteer services:

.....	$	98,900

Sec. 28. 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, 1997, the rate for skilled nursing facilities shall be increased by 3.3 percent over the rates in effect on June 30, 1997.

b. For the fiscal year beginning July 1, 1997, the dispensing fee for pharmacists shall remain at the rate in effect on June 30, 1997. The reimbursement policy for drug product costs shall be in accordance with federal requirements.

c. For the fiscal year beginning July 1, 1997, reimbursement rates for inpatient and outpatient hospital services shall be increased by 2.8 percent over the rates in effect on June 30, 1997. 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 if made pursuant to the prospective payment methodology developed by the department for the payment of outpatient services provided under the medical assistance program.

d. Reimbursement rates for rural health clinics shall be increased in accordance with increases under the federal Medicare program.

e. 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.

f. 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, 1997, 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 for fiscal year beginning July 1, 1997, and within the appropriation for medical assistance as a whole for fiscal year beginning July 1, 1997, the department shall adjust the maximum medical assistance reimbursement for nursing facilities to the 70th percentile, as calculated on December 31, 1997, unaudited compilation of cost and statistical data and the adjustment shall take effect January 1, 1998.

g. Federally qualified health centers shall be reimbursed at 100 percent of reasonable costs as determined by the department in accordance with federal requirements.

h. The reimbursement for dental services shall remain at the rates in effect on June 30, 1997.

2. For the fiscal year beginning July 1, 1997, the maximum cost reimbursement rate for residential care facilities reimbursed by the department shall not be less than $22.20 per day. The flat reimbursement rate for facilities electing not to file semiannual cost reports shall not be less than $15.88 per day. For the fiscal year beginning July 1, 1997, the maximum reimbursement rate for providers reimbursed under the in-home health-related care program shall not be less than $426.78 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, 1996.

4. Notwithstanding section 234.38, in the fiscal year beginning July 1, 1997, the foster family basic daily maintenance rate and the maximum adoption subsidy rate for children ages 0 through 5 years shall be $13.01, the rate for children ages 6 through 11 years shall be $13.77, the rate for children ages 12 through 15 years shall be $15.48, and the rate for children ages 16 and older shall be $15.47.

5. For the fiscal year beginning July 1, 1997, the maximum reimbursement rates for nonrehabilitative treatment and supportive services and for social service providers shall be the same as the rates in effect on June 30, 1997, except under any of the following circumstances:

a. If a new service was added after June 30, 1997, 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 as part of the changes in the mental health and developmental disabilities services system initiated pursuant to 1995 Iowa Acts, chapter 206, and associated legislation.

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, 1997, 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.

8. For the fiscal year beginning July 1, 1997, the department shall calculate reimbursement rates for intermediate care facilities for persons with mental retardation at the 80th percentile.

9. For the fiscal year beginning July 1, 1997, for child day care providers, the department shall set provider reimbursement rates based on the rate reimbursement survey completed in December 1996. The department shall set rates in a manner so as to provide incentives for a nonregistered provider to become registered. The department shall review the effects of providing a rate reimbursement incentive on child day care availability including but not limited to any change in the number of providers who are registered and the effect on access to providers in rural and urban areas. The department shall report the findings of the review to the general assembly on or before January 2, 1998.

10. The department may, at no cost to the state, implement a pilot project to examine use of a payment system for pharmaceutical care services provided by pharmacists under the medical assistance program.

11. The department of human services shall revise the financial and statistical report form applicable to nursing facilities to incorporate the recommendations made as the result of the directive relating to nursing facilities in accordance with 1996 Iowa Acts, chapter 1213, section 25, subsection 12. The revisions shall include, but are not limited to, the addition of a category labeled "Patient Care Services" which shall be subdivided into the subcategories of "Direct Patient Care Costs" and "Support Care Costs". Costs associated with food and dietary wages shall be included in the "Support Care Costs" subcategory. The department may adopt emergency rules to implement this subsection.

12. For the fiscal year beginning July 1, 1997, the reimbursement rate for psychiatric medical institutions for children shall be increased by 3 percent over the rates in effect on June 30, 1997.

13. The department may adopt emergency rules to implement the provisions of this section.

Sec. 29. STATE INSTITUTIONS — CLOSINGS AND REDUCTIONS.

1. 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 any closed unit or other facilities and services of an institution, including but not limited to assisting public or private organizations in utilizing the services and facilities. The actions may also include assisting an organization with remodeling and lease costs by forgiving future rental or lease payments to the extent necessary for a period not to exceed five years. The department of human services and the department of economic development shall submit a joint report to the chairpersons and ranking members of the joint appropriations subcommittee on human services on or before January 2, 1998, regarding any efforts made pursuant to this subsection.

2. For purposes of this section, "state institution" means a state mental health institute, a state hospital-school, the state training school, and the Iowa juvenile home under the authority of the department of human services listed in section 218.1. **If excess capacity exists at a state institution beyond the capacity required for placements at the institution under law,*

* Item veto; see message at end of the Act

*the department of human services may enter into a contract with a managed care provider or an organized delivery system for health care, to provide services during the fiscal year beginning July 1, 1997, at the institution for the plan or system without use of county funds.**

Sec. 30. PROGRAM SIMPLIFICATION — PAPERWORK REDUCTION. The department of human services shall consult with providers of services relating to child and family services and personal assistance to review provider reporting requirements, applicant and recipient process and documentation requirements, and other paperwork and process requirements. Following the review and no later than January 1, 1999, the department shall implement a process which provides, at a minimum, for a simplified means of demonstrating compliance of providers, applicants, and recipients with document and process requirements which shall include consolidation of reports and forms and which may provide for submission of reports and forms in an electronic format.

Sec. 31. JUVENILE JUSTICE ISSUES. The legislative council is requested to establish a juvenile justice issues oversight task force. If established, the task force should be directed to consider the impact of juvenile problems, duplication in intervention services, and gaps in service provision. The membership of the task force should include interested members of the joint appropriations subcommittees on human services, health and human rights, justice system, and education and of the standing committees for these subject areas.

Sec. 32. SERVICES RESTRUCTURING TASK FORCE.

1. The legislative council is requested to continue the task force established for the 1996 interim of the general assembly in order to develop a comprehensive proposal to accomplish all of the following:

a. Devolution of the control of service delivery to the local level.

b. Elimination of program duplication within the department of human services and between the department of human services and other departments including but not limited to the Iowa department of public health, the department of education, and the judicial department.

c. Reduction of paperwork, red-tape, and bureaucracy to improve the quality of services delivery and consumer satisfaction.

d. Evaluation of the adherence of the department of human services to the department's mission statement.

2. In addition, the task force may address the following topics: granting local authority to deliver public services, use of public institutions and facilities, the possibility of creating an agency for disability and rehabilitation services, and development of a "seamless" system for referral of families to child day care resources and public financial assistance and collaborative programs.

Sec. 33. CHILDREN WITH MENTAL RETARDATION. It is the intent of the general assembly to appropriate funding of services to children with mental retardation in a manner so that beginning July 1, 1998, separate funding categories for the services will be pooled. The tentative name for the combined funding pool is "Mental Retardation — Most Appropriate Groupcare Initiative for Children" or "MR — MAGIC". The service funding streams to be considered for the funding pool shall include but are not limited to the following services or programs to support children with mental retardation and their families: family support subsidy, intermediate care facility for persons with mental retardation, medical assistance home and community-based waiver services, group foster care, in-home services and other support, state hospital-schools, and state cases. The department of human services shall convene a work group to make recommendations for implementation of the MR — MAGIC funding pool. The work group shall include representatives of the department, the personal assistance and family support services council, service providers, families, and advocates.

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* Item veto; see message at end of the Act

The recommendations shall be submitted to the governor and general assembly on or before October 15, 1997.

Sec. 34. MENTAL HEALTH — CHILDREN. The mental health and developmental disabilities commission, the council on human services, and the state-county management committee, shall review mental health services for children with the goal of assuring coordination, financing, and provision of effective services. The commission, council, and committee shall submit a report of findings and recommendations, which shall include recommendations for proposed legislation, to the general assembly on or before December 15, 1997.

Sec. 35. TRANSFER AUTHORITY. Subject to the provisions of section 8.39, for the fiscal year beginning July 1, 1997, if necessary to meet federal maintenance of effort requirements or to transfer federal temporary assistance for needy families block grant funding to be used for purposes of the federal social services block grant, the department of human services may transfer between any of the appropriations made in this Act to the department for the following purposes, provided that the combined amount of state and federal temporary assistance for needy families block grant funding for each appropriation remains the same before and after the transfer:

1. For the family investment program.
2. For emergency assistance.
3. For child day care assistance.
4. For child and family services.
5. For field operations.
6. For general administration.

This section shall not be construed to prohibit existing state transfer authority for other purposes.

Sec. 36. YOUTH SERVICES DEPARTMENT — STUDY. The legislative council is requested to establish an interim study committee consisting of members of both political parties from both houses of the general assembly to consider whether a separate state department for youth services should be established. The study may include, but is not limited to, a review of existing programs and services provided to juveniles in this state and the funding mechanisms for those programs and services; identifying the various agencies currently involved in the delivery of those programs and services to juveniles; identifying areas in which programs and services overlap; reviewing the approaches used and experiences of other states in delivering juvenile services; and receiving testimony from agency staff, service providers, and youth services advocates on issues deemed relevant to the delivery of juvenile services in this state. The committee may be authorized to hire a consultant to provide the background information requested by the committee. The committee should be directed to submit its findings, together with any recommendations, in a report to the general assembly session which convenes in January 1998.

Sec. 37. 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 the effective date is delayed by the administrative rules review committee, notwithstanding section 17A.4, subsection 5, and section 17A.8, subsection 9, or a later effective date is specified in the rules. Any rules adopted in accordance with this section shall not take effect before the rules are reviewed by the administrative rules review committee. 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. 38. REPORTS. Any reports or information required to be compiled and submitted under this Act shall be submitted to the chairpersons and ranking members of the joint

appropriations subcommittee on human services, the legislative fiscal bureau, the legislative service bureau, and to the caucus staffs on or before the dates specified for submission of the reports or information.

Sec. 39. EFFECTIVE DATE. Section 15, subsection 1, of this division of this Act, relating to determining allocation of court-ordered services funding, and section 3, subsection 8,* relating to remaining unobligated or unexpended funds for the JOBS program, being deemed of immediate importance, take effect upon enactment.

DIVISION II
CODIFIED PROVISIONS

Sec. 40. Section 232.52, subsection 2, paragraph e, subparagraph (4), Code 1997, is amended to read as follows:

(4) The child has previously been placed in a treatment facility outside the child's home or in a supervised community treatment program established pursuant to section 232.191, subsection 4, as a result of a prior delinquency adjudication.

Approved May 19, 1997, except the items which I hereby disapprove and which are designated as that portion of Section 1, subsection 1 which is herein bracketed in ink and initialed by me; Section 12, subsection 2, paragraph d, subparagraph 2 in its entirety; and that portion of Section 29, subsection 2 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 715, 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.

House File 715 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. This item would limit the Department of Human Services in selecting only existing community collaboratives to provide support services to participants in the Family Investment program. The criteria proposed in the bill would be useful in making decisions relating to existing collaboratives, however, it should not be used to preclude the selection of a new collaborative.

I am unable to approve the item designated as section 12, subsection 2, paragraph d, subparagraph 2, in its entirety. This item may prohibit the inclusion of psychiatric medical institutions for children (PMICs) in the managed mental health care contract. I have been assured that the department will not amend the existing managed mental health contract to include PMICs. Future decisions to include PMICs in the mental health contract should not be prohibited but should be considered in the context of what will provide the best quality of care for children covered by the Medicaid program, in a manner that is cost effective for Iowa taxpayers. The department will be working with the provider community, including PMIC providers, in the development of the new request for proposals (RFP) for the managed mental health contract to be implemented in July of 1998.

* Subsection 7 probably intended

I am unable to approve the designated portion of section 29, subsection 2. This item would prohibit a state institution with excess capacity from entering into a contract to provide services to a county under an approved county management plan. The opportunity to contract with a state institution should remain as an option available to counties operating as their own managed care providers.

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 715 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 209

SUPPLEMENTAL AND OTHER APPROPRIATIONS AND MISCELLANEOUS PROVISIONS

S.F. 542

AN ACT relating to and making supplemental and other appropriations for the fiscal year beginning July 1, 1996, and subsequent fiscal years, reestablishing a domestic abuse services income tax checkoff, including retroactive applicability provisions, and providing effective dates.

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

DIVISION I

Section 1. DEPARTMENT OF GENERAL SERVICES. There is appropriated from the general fund of the state to the department of general services for the fiscal year beginning July 1, 1996, and ending June 30, 1997, to supplement the appropriations made in 1996 Iowa Acts, chapter 1211, section 5, subsection 6, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For utility costs:

..... $ 234,591

Sec. 2. DEPARTMENT OF GENERAL SERVICES — CENTURY DATE CHANGE. There is appropriated from the general fund of the state to the department of general services for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For state acquisition in accordance with the competitive bidding requirements of this section and as a condition of the appropriation made in this subsection of new information technology hardware and software which already includes the century date change programming and which achieves additional purposes in replacing state hardware and software for which the century date change programming is required:

..... $ 2,000,000

Moneys appropriated in this subsection shall be used for the purpose designated and notwithstanding section 8.39 are not subject to transfer or use for any other purpose.

2. For the costs of century date change programming in existing state information technology software when state acquisition of new information technology hardware and software which already includes the century date change programming and which achieves

additional purposes to incorporate the century date change, is not cost effective, provided the programming is acquired in accordance with the competitive bidding requirements of this section and as a condition of the appropriation made in this subsection:

..... $ 3,000,000

Moneys appropriated in this subsection shall be used for the purpose designated and notwithstanding section 8.39 are not subject to transfer or use except for the purposes of additional acquisitions under subsection 1.

The department shall not enter into a contract or any other obligation for the purpose of addressing the need for century date programming which would require the need for funding in excess of the amount appropriated in this section. The department shall utilize, to the greatest extent possible, students and other knowledgeable persons connected with Iowa's colleges and universities in developing or acquiring hardware, software, and programming funded under this section. Otherwise, any acquisition for the purposes described in this section is subject to competitive bidding requirements in rule adopted under law and in accordance with the requirements of this section. In order to maintain maximum open and free competition among bidders, an eligible bidder shall have been organized or doing business prior to January 1, 1997. In addition, an eligible bidder shall not have a relationship with the state for assessment of bids or for preparation of a request for proposals under this section. A bidder with an actual or organizational conflict of interest shall be disqualified. A bidder shall be considered to have a conflict of interest if the organization, or a parent, subsidiary, or affiliated organization, of which the bidder is a shareholder, partner, limited partner, or member, has a conflict of interest. A bidder shall provide assurances of compliance with the requirements of this paragraph at the time of submitting a bid or proposal for any acquisition for the purposes described in this section.

Notwithstanding section 8.33, moneys appropriated in this section which remain unexpended or unencumbered at the close of the fiscal year shall not revert to the general fund of the state but shall remain available to be used for the purposes designated until the close of the fiscal year beginning July 1, 1999.

Sec. 3. SOCIAL SERVICES BLOCK GRANT — APPROPRIATION. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1996, and ending June 30, 1997, to supplement the appropriation and allocation made in 1996 Iowa Acts, chapter 1210, section 10, subsection 3, paragraph "g", the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For MH/MR/DD/BI community service (local purchase) to be distributed and used in accordance with 1996 Iowa Acts, chapter 1213, section 19, subsection 6:

..... $ 194,057

Sec. 4. SOCIAL SERVICES BLOCK GRANT — TRANSFER. It is the intent of the general assembly that the department of human services transfer not more than $2,186,995 from the appropriation to the department in 1996 Iowa Acts, chapter 1213, section 3, for the fiscal year beginning July 1, 1996, and ending June 30, 1997, to supplement the federal social services block grant appropriation in 1996 Iowa Acts, chapter 1210, section 10, for distribution among the allocations in that block grant appropriation as follows:

a. General administration:

..... $ 309,399

b. Field operations:

..... $ 1,617,370

c. Child and family services:

..... $ 214,578

d. Child care assistance:

..... $ 41,736

e. Volunteers:

..... $ 3,912

For purposes of section 8.62, moneys transferred under this section shall not be considered transferred pursuant to section 8.39 and the transferred moneys which remain unexpended or unencumbered at the close of the fiscal year may be encumbered and used by the department of human services as provided in section 8.62.

Sec. 5. 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, 1996, and ending June 30, 1997, to supplement the appropriations made in 1996 Iowa Acts, chapter 1211, section 9, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For regulation of pari-mutuel racetrack operations:

..... $ 98,695

Sec. 6. DEPARTMENT OF NATURAL RESOURCES — BROWNFIELDS. There is appropriated from the general fund of the state to the department of natural resources for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For support of the land recycling program and the technical advisory committee established in 1997 Iowa Acts, Senate File 528, if enacted by the Seventy-seventh General Assembly, 1997 Session:*

..... $ 65,000

Moneys appropriated in this section which remain unexpended or unencumbered at the close of the fiscal year shall not revert to the general fund of the state but shall remain available for expenditure in the succeeding fiscal year.

Sec. 7. SNOW DISASTER EMERGENCY GRANTS TO COUNTIES. There is appropriated from the general fund of the state to the department of public defense for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For distribution by the emergency management division to assist those counties proclaimed by the governor to be in a state of disaster emergency as the result of a severe winter storm:

..... $ 100,000

Funding distributed to a county eligible for assistance under this section shall not exceed the amount the county expended in excess of the county's approved budget amount for snow removal. If the total amount of excess expenditures by all counties eligible for assistance exceeds the amount appropriated, the amounts distributed shall be prorated based upon a county's share of the total amount of excess expenditures by all counties. If the total amount of excess expenditures is less than the amount appropriated, the remainder of the appropriation shall revert to the general fund of the state.

Sec. 8. 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, 1996, and ending June 30, 1997, to supplement the appropriations made in 1996 Iowa Acts, chapter 1216, section 21, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For riverboat enforcement due to expanded operational hours:

..... $ 71,114

Sec. 9. STATE BOARD OF REGENTS. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 1996, and ending June 30, 1997, to supplement the appropriations made in 1996 Iowa Acts, chapter 1215, section 12, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For salaries:

..... $ 2,325,940

* Chapter 127 herein

DIVISION II

Sec. 10. EXCESS LOTTERY REVENUES — FY 1994-1995. Of the lottery revenues received during the fiscal year beginning July 1, 1994, which remain in the lottery fund following transfers made pursuant to 1995 Iowa Acts, chapter 220, section 16, and 1996 Iowa Acts, chapter 1219, section 14, the following amounts are appropriated, on the condition that each appropriation made in this section is contingent on all other appropriations made in this section and that any veto of a single appropriation in this section shall constitute a veto of all appropriations in this section, for use during the fiscal year beginning July 1, 1996, and ending June 30, 1997, to be used for the purposes designated:

1. To the state board of regents for Iowa state university of science and technology for support of Iowa's participation in the funding of the world food prize:

..... $ 300,000

2. To the department of cultural affairs for a grant to be combined with local match funding of two dollars for every one state dollar to be used for costs associated with establishment of the Iowa fire fighters memorial:

..... $ 50,000

3. To the department of general services for construction of a World War II veterans memorial:

..... $ 50,000

4. To the department of education for purposes of the educational excellence commission:

..... $ 250,000

5. To the department of commerce for the insurance division for the community health management information system:

..... $ 200,000

Notwithstanding section 144C.8, subsection 1, the implementation of phase I of the system may be delayed until July 1, 1998. The funds appropriated in this subsection shall be distributed to the system for the collection of data necessary to implement section 144C.8, subsection 1, and the data collected shall be verified for accuracy. It is the intent of the general assembly that no additional appropriation will be made for purposes of the community health management information system.

6. To the department of human services for administration of a telemedicine services pilot project under the medical assistance program:

..... $ 60,000

The department shall utilize the moneys appropriated in this subsection for administration of a telemedicine pilot project and for medical assistance payment for teleconsultive services to eligible providers who are participating in a federally funded telemedicine program. The department shall evaluate the pilot project and report on savings realized through the use of teleconsultive services under the medical assistance program. The department shall adopt emergency rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of this subsection and the rules shall become effective immediately upon filing unless the effective date is delayed by the administrative rules review committee, notwithstanding section 17A.4, subsection 5, and section 17A.8, subsection 9, or a later date is specified in the rules. Any rules adopted in accordance with this subsection shall not take effect before the rules are reviewed by the administrative rules review committee. Any rules adopted in accordance with this section shall also be published as a notice of intended action as provided in section 17A.4.

7. To the Iowa department of public health for implementation of the provisions of 1997 Iowa Acts, Senate File 128:*

..... $ 40,000

8. To the department of human services to be used for implementation of child support enforcement changes necessitated by federal welfare reform legislation, provided that none of the moneys shall be used to fill new full-time equivalent positions:

..... $ 300,000

* Chapter 172 herein

9. To the commission of veterans affairs to be used for CD-ROM conversion:
..... $ 229,317

Notwithstanding section 8.33, moneys appropriated in this subsection shall not revert at the close of the fiscal year but shall remain available for the purpose designated until the close of the fiscal year beginning July 1, 1999.

10. To the department of natural resources for allocation to the United States department of agriculture, animal and plant health inspection service, to be used for animal damage control in this state:
..... $ 50,000

11. To the department of education to develop an initiative to improve access to education through distance learning in postsecondary institutions:
..... $ 50,000

Notwithstanding section 8.33, unless otherwise provided in this section, moneys appropriated in this section which remain unobligated or unexpended for the purpose designated shall revert at the close of the fiscal year beginning July 1, 1997, and ending June 30, 1998.

Sec. 11. FISCAL YEAR 1997-1998 LOTTERY TRANSFER. Notwithstanding the requirement in section 99E.10, subsection 1, to transfer lottery revenue remaining after expenses are deducted, notwithstanding the requirement under section 99E.20, subsection 2, for the commissioner to certify and transfer a portion of the lottery fund to the CLEAN fund, and notwithstanding the appropriations and allocations in section 99E.34, all lottery revenues received during the fiscal year beginning July 1, 1997, and ending June 30, 1998, after deductions as provided in section 99E.10, subsection 1, and as appropriated under any Act of the Seventy-seventh General Assembly, 1997 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.

DIVISION III

Sec. 12. NEW SECTION. 236.15B INCOME TAX CHECKOFF FOR DOMESTIC ABUSE SERVICES.

A person who files an individual or a joint income tax return with the department of revenue and finance under section 422.13 may designate any amount to be paid to the general fund of the state and used for the purposes of providing emergency shelter services, support services, and other services to victims of domestic abuse or sexual assault. If the refund due on the return or the payment remitted with the return is insufficient to pay the additional amount designated by the taxpayer to be used for the purposes of providing services to victims of domestic abuse or sexual assault, the amount designated shall be reduced to the remaining amount of refund or the remaining amount remitted with the return.

It is the intent of the general assembly that the funds generated from the checkoff be appropriated and used for the purposes of providing services to victims of domestic abuse or sexual assault.

The director of revenue and finance shall draft the income tax form to allow the designation of contributions to be used for the purposes of providing services to victims of domestic abuse or sexual assault on the tax return.

The department of revenue and finance on or before January 31 of the calendar year following the calendar year in which the tax returns were filed shall certify the total amount designated on the tax return forms due in the preceding calendar year and shall report the amount to the treasurer of state.

The department of revenue and finance shall consult the crime victim assistance board concerning the adoption of rules to implement this section. However, before a checkoff pursuant to this section shall be permitted, all liabilities on the books of the department of revenue and finance and accounts identified as owing under section 421.17 and the political contribution allowed under section 56.18 shall be satisfied.

Sec. 13. Section 236.15A, Code 1997, is repealed.

Sec. 14. APPROPRIATION. There is appropriated from the general fund of the state to the department of justice for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To fund domestic abuse and sexual assault grants administered by the crime victim assistance division of the department of justice for the purposes of providing emergency shelter services, support services, and other services to victims of domestic abuse or sexual assault:
..... $ 75,000

Notwithstanding section 8.33, moneys appropriated in this section shall not revert but shall remain available for the purposes designated until the close of the fiscal year ending June 30, 1999.

Sec. 15. RETROACTIVE APPLICABILITY. Section 12 of this division of this Act applies retroactively to January 1, 1997, for tax years beginning on or after that date. Section 13 of this division of this Act applies retroactively to January 1, 1996, for tax years beginning on or after that date.

DIVISION IV

Sec. 16. VALUE-ADDED PRODUCTION ASSISTANCE.

1. It is the intent of the general assembly to support the creation of an ag-initiative 2000 subaccount in the community economic betterment program account as provided in and for the purposes stated in the Senate amendment, H-1975, to House File 731.* As evidence of this support, the general assembly directs the department of economic development to use resources under existing financial assistance programs to support the organization of innovative ownership and management entities involving valued-added agricultural processes. The department shall explore all capital assistance opportunities and may consider proposals from and negotiate with potential entities.

2. The legislative council shall create a four-member task force consisting of one senator of each party and one representative of each party designated by their respective leadership which shall assist the department of economic development and the office of the governor in any negotiations.

3. Proposals developed in conjunction with the department, the governor, and the task force for providing capital incentives or capital assistance presently not available shall be presented to the general assembly for its approval.

4. The department of economic development shall report to the task force and the office of the governor on its activities pursuant to this section.

DIVISION V

Sec. 17. Section 279.51, subsection 1, unnumbered paragraph 1, Code 1997, 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, ~~1996~~ 1997, and each succeeding fiscal year, the sum of ~~fourteen~~ fifteen million ~~five~~ one hundred ~~twenty~~ seventy thousand dollars.

Sec. 18. Section 279.51, subsection 1, paragraph b, Code 1997, is amended to read as follows:

b. For the fiscal year beginning July 1, ~~1996~~ 1997, and for each succeeding fiscal year, ~~seven~~ eight million ~~six~~ three hundred ~~seventy~~ twenty thousand dollars of the funds appropriated shall be allocated to the child development coordinating council established in chapter 256A for the purposes set out in subsection 2 of this section and section 256A.3.

* House File 731 not enacted

DIVISION VI

Sec. 19. NEW SECTION. 12C.26 TOBACCO SETTLEMENT FUND.

A tobacco settlement fund is created in the office of the treasurer of state. After payment of litigation costs, the state portion of any moneys paid to the state by tobacco companies in settlement of the state's lawsuit for recovery of public expenditures associated with tobacco use shall be deposited in the tobacco settlement fund. Moneys deposited in the fund shall be used only as provided in appropriations from the fund to the department of human services for the medical assistance program and to the Iowa department of public health for programs to reduce smoking by teenage youth. For purposes of this section, "litigation costs" are those costs itemized by the attorney general and submitted to and approved by the general assembly.

Sec. 20. 1997 Iowa Acts, House File 715, section 9, subsection 3, unnumbered paragraph 1, if enacted,* is amended to read as follows:

For the purposes of this subsection, the term "poverty level" means the poverty level defined by the poverty income guidelines published by the United States department of health and human services. Effective ~~October~~ July 1, 1997, the department shall increase to 125 percent the maximum federal poverty level used to determine eligibility for state child care assistance. 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:

Sec. 21. 1997 Iowa Acts, Senate File 131, section 1, amending section 239.14, if enacted,** is repealed.

Sec. 22. 1997 Iowa Acts, Senate File 131, section 2, amending section 239.17, if enacted,** is repealed.

DIVISION VII

Sec. 23. BUDGETING FOR RESULTS.

1. For the purposes of this section, unless the context otherwise requires, the term "budgeting for results" for a department or establishment as defined in chapter 8 means the budgeting process which includes steps for identifying and measuring desired results by use of results-oriented performance measures. Under budgeting for results the performance measures are developed by a department or establishment in collaboration with the department of management and the legislative fiscal bureau for a program administered by the department or establishment.

2. If a new program commences on or after July 1, 1997, under a department or establishment or the source of funding for a program administered by a department or establishment is changed by law from the source of funding used in the previous fiscal year, the program may be included in budgeting for results for the fiscal years beginning July 1, 1997, and July 1, 1998.

3. It is the intent of the general assembly to consider requiring that all programs administered by departments and establishments will be included in budgeting for results.

4. The departments and establishments utilizing budgeting for results, shall collect data as determined by the department of management in collaboration with the legislative fiscal bureau, for use in evaluating the programs included in budgeting for results. The data shall measure the effectiveness of a program in achieving the stated desired results. Analysis of the data and evaluations of the effectiveness of a program in achieving the desired results shall be submitted by the departments and establishments to the governor and general assembly for use in making budgetary and policy decisions.

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* Chapter 208 herein

** Chapter 56 herein

DIVISION VIII

Sec. 24. NEW SECTION. 692.2A CRIMINAL HISTORY DATA CHECK PREPAYMENT FUND.

1. A criminal history data check prepayment fund is created in the state treasury under the control of the department for the purpose of allowing any nonlaw enforcement agency or person to deposit moneys as an advance on fees required to conduct criminal history data checks as provided in section 692.2.

2. The department shall adopt rules governing the fund, including the crediting of deposits made to the fund. Prepaid fees deposited in the fund are appropriated to the department for use as provided in section 692.2.

3. Interest or earnings on moneys deposited in the fund shall not be credited to the fund or to the agency or person who deposited the money but shall be deposited in the general fund of the state as provided in section 12C.7. Notwithstanding section 8.33, moneys remaining in the criminal history data check prepayment fund at the end of a fiscal year shall not revert to the general fund of the state.

Sec. 25. DIRECTOR OF DEPARTMENT OF COMMERCE. Notwithstanding section 546.2, subsection 2, the governor may reappoint the commissioner of insurance to be the director of the department of commerce for a second year beginning July 1, 1997.

Sec. 26. 1996 Iowa Acts, chapter 1218, section 10, unnumbered paragraph 3, is amended to read as follows:

Of the appropriation in this section, $50,000 shall be used for costs associated with the renovation and repair of the Allison monument located on the state capitol complex. ~~An effort shall be made by the department of education to match this appropriation from the citizens and the school children of Iowa as occurred when the monument was initially built.~~

Sec. 27. HOUSE FILE 453 — EFFECTIVE DATE. 1997 Iowa Acts, House File 453, if enacted,* being deemed of immediate importance, takes effect upon enactment of this Act.

Sec. 28. FEDERAL WELFARE REFORM COMPLIANCE — CHILD SUPPORT ENFORCEMENT. For the fiscal year beginning July 1, 1996, and ending June 30, 1997, after $36,370,000 of child support revenue has been collected by the department of human services and deposited in the family investment program account established in section 239B.11, notwithstanding section 8.33, not more than $1,000,000 of the remaining child support revenue collected and deposited in the account which remains unobligated or unexpended at the close of the fiscal year ending June 30, 1996,** shall not revert to the general fund of the state, but shall remain available and is appropriated to the department for use in the succeeding fiscal year for the purpose of implementing child support enforcement changes necessitated by federal welfare reform legislation.

Sec. 29. EFFECTIVE DATE. Section 28 of this division of this Act, relating to federal welfare reform compliance, being deemed of immediate importance, takes effect upon enactment.

DIVISION IX

Sec. 30. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 23, 1997

* Chapter 161 herein

** June 30, 1997, probably intended

CHAPTER 210

APPROPRIATIONS — STATE GOVERNMENT TECHNOLOGY AND OPERATIONS

H.F. 730

AN ACT relating to state government technology and operations, by making and relating to appropriations to the Iowa communications network for the connection and support of certain Part III users, making appropriations to various entities for other technology-related purposes, providing for the procurement of information technology, and providing effective dates.

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

DIVISION I
ICN APPROPRIATIONS

Section 1. TREASURER OF STATE. There is appropriated from the general fund of the state to the office of treasurer of state for the fiscal year beginning July 1, 1997, and ending June 30, 1998, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For debt service:

..... $ 12,514,756

Funds appropriated in this section shall be deposited in 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.

Sec. 2. PART III RELATED APPROPRIATIONS.

1. PART III AUTHORIZED USERS.

a. There is appropriated from the rebuild Iowa infrastructure fund created in section 8.57, subsection 5, to the Iowa communications network fund under the control of the Iowa telecommunications and technology commission for the fiscal year beginning July 1, 1997, and ending June 30, 1998, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the connection of a minimum of 110 Part III authorized users as determined by the commission and communicated to the general assembly:

..... $ 22,640,000
..... FTEs 83.00

b. There is appropriated from the rebuild Iowa infrastructure fund created in section 8.57, subsection 5, to the Iowa communications network fund under the control of the Iowa telecommunications and technology commission for the fiscal year beginning July 1, 1998, and ending June 30, 1999, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the connection of Part III authorized users as determined by the commission and communicated to the general assembly:

..... $ 17,704,000

c. It is the intent of the general assembly that the connection of the authorized user sites pursuant to this subsection be awarded based upon the Part III contracts executed in 1995.

d. Notwithstanding the fact that funds appropriated pursuant to this subsection will not be made available prior to July 1, 1997, the Iowa telecommunications and technology commission is authorized to negotiate and enter into contracts for ordering necessary equipment related to the completion of the connections authorized in paragraph "a" as deemed appropriate by the commission upon the effective date of this paragraph.

e. It is the intent of the general assembly that the Iowa telecommunications and technology commission review and establish hourly rates, as provided in section 8D.3, subsection 3, paragraph "i", consistent with this paragraph. The general assembly declares its support for, and that it is the intent of the general assembly to continue, subsidization of video rates charged to public or nonpublic schools for grades kindergarten through twelve. Notwithstanding rules adopted by the commission, the general assembly expects that the commission shall annually review the rates charged and the revenue generated. The commission shall annually provide a written report to the general assembly by January 15 regarding whether funding available to subsidize rates, as permitted, is sufficient and an explanation as to why funding was sufficient or insufficient, for the immediately preceding fiscal year. If funding is insufficient, the commission shall refer to section 8D.3, subsection 3, paragraph "i", for possible guidance in eliminating any deficit associated with the subsidization of rates. The elimination of the deficit should not, to the extent practicable, affect the rates charged to public or nonpublic schools for grades kindergarten through twelve.

f. The Iowa telecommunications and technology commission shall review and determine the level of subsidization for courses offered through the use of the network which are noncredit customized courses. The commission shall evaluate the need for the subsidization of such courses. The commission shall provide a written report to the general assembly by January 1, 1998, which shall include the findings of the commission and any recommendations related to the issues reviewed.

2. PART III NETWORK COSTS — SUBSIDIZATION FUND. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 1997, and ending June 30, 1998, the following amount, or so much thereof as is necessary, to be used for the purposes designated in this subsection:

a. For the subsidization of video rates for authorized users as provided in this subsection, and consistent with chapter 8D, excluding the purposes provided for in paragraph "b":

..... $ 2,510,000

The department of education shall establish by rule a procedure for the commission to be reimbursed for that portion of the cost of providing interactive video service to nonpublic and public schools for grades kindergarten through twelve and community colleges which is not included in the rates charged to such users for such service. The Iowa telecommunications and technology commission may submit recommendations concerning the procedure to the department.

Notwithstanding section 8.33 or 8.39, any balance remaining from the appropriation in this paragraph 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. The department shall not be liable for reimbursing any amounts which are in excess of the appropriation made in this subsection.

b. For expansion of the Iowa communications network backbone and for the replacement of obsolete equipment:

..... $ 500,000

Sec. 3. PUBLIC BROADCASTING. There is appropriated from the general fund of the state to the public broadcasting division of the department of education for the fiscal year beginning July 1, 1997, and ending June 30, 1998, the following amount, or so much thereof as is necessary, to be used for the purposes designated in subsections 1 and 2:

..... $ 2,200,000

1. Of the amount appropriated, $450,000 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; development of distance learning applications; development of a central information source on the Internet relating to educational uses of the network; second-line technical support for network sites; testing and initializing sites onto the network; and coordinating the work of the education telecommunications council.

2. Of the amount appropriated, $1,750,000 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 shall use the funds to provide technical assistance for network classrooms, planning and troubleshooting for local area networks, scheduling of video sites, and other related support activities.

Sec. 4. As a condition of the appropriations made to the Iowa telecommunications and technology commission in section 2, subsection 2 of this Act, and to the public broadcasting division in section 3, of this Act, the commission and the division, in consultation with the legislative fiscal bureau, shall jointly collect information and prepare a report including the number of sites, number of programs offered at each site by type of program, and the estimated number of participants involved. The estimated number of participants will be based on the number of expected participants at each site provided by the authorized user on the request for the use of the network. The information collected and reported shall be for all video uses of the network. Copies of the report shall be provided to the chairpersons and ranking members of the subcommittee on oversight and communications, and to the legislative fiscal bureau. The report shall be provided biannually with one report provided no later than January 15 for the immediately preceding six-month period beginning July 1 and ending December 31; and an annual report to be provided no later than July 15 containing information for the immediately preceding six-month period beginning January 1 and ending June 30, and also a summary of the information for the immediately preceding fiscal year.

Sec. 5. It is the intent of the general assembly that the Iowa telecommunications and technology commission, local exchange carriers in this state, long distance carriers providing telecommunications services in this state, internet service providers, and the Iowa utilities board establish a partnership to develop and establish a plan to provide nontoll dial-up internet access to areas of the state which currently are not served by an internet provider offering such nontoll access. The utilities board shall initiate and coordinate the establishment of the partnership and provide staffing assistance to the partnership. The utilities board shall provide a written report to the general assembly no later than January 1, 1998.

Sec. 6. INFORMATION TECHNOLOGY SERVICES. There is appropriated from the general fund of the state to the department of general services for the fiscal year beginning July 1, 1997, and ending June 30, 1998, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the purpose of providing information technology services to state agencies:

..... $ 4,704,962

..... FTEs 158.00

Sec. 7. CONVERSION OF LEASED ANALOG CIRCUITS. Notwithstanding section 8.57, subsection 5, paragraph "c", there is appropriated from the rebuild Iowa infrastructure fund created in section 8.57, subsection 5, to the Iowa communications network fund created in section 8D.14 for the fiscal year beginning July 1, 1997, and ending June 30, 1998, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the leasing of T-1 circuits for current Part III analog technology sites until an upgrade to DS-3 circuit connections can be made:

..... $ 61,016

The telecommunications and technology commission is authorized to use Part III funding to convert any leased analog circuit to a leased DS-3 circuit for a Part III site when the existing contract vendor agrees to upgrade the service.

Sec. 8. TECHNOLOGY PROJECTS.

1. Notwithstanding section 8.57, subsection 5, paragraph "c", there is appropriated from the rebuild Iowa infrastructure fund created in section 8.57, subsection 5, to the department

of general services for the fiscal year beginning July 1, 1997, and ending June 30, 1998, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For purposes of implementing reengineering projects with an emphasis on technology:

..... $ 800,000

The projects identified for funding from the appropriation in this subsection shall be undertaken in consultation with the department of management.

2. Notwithstanding section 8.57, subsection 5, paragraph "c", there is appropriated from the rebuild Iowa infrastructure fund created in section 8.57, subsection 5, to the department of general services for the fiscal year beginning July 1, 1998, and ending June 30, 1999, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For purposes of implementing reengineering projects with an emphasis on technology:

..... $ 1,000,000

The projects identified for funding from the appropriation in this subsection shall be undertaken in consultation with the department of management.

3. Notwithstanding section 8.57, subsection 5, paragraph "c", there is appropriated from the rebuild Iowa infrastructure fund created in section 8.57, subsection 5, to the Iowa communications network fund under the control of the Iowa telecommunications and technology commission for the fiscal year beginning July 1, 1997, and ending June 30, 1998, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To match funds to make ICN connections at the Anamosa and Rockwell City institutions:

..... $ 350,000

Sec. 9. EFFECTIVE DATES. Section 2, subsection 1, paragraphs "d" and "e", of this division of this Act, which authorize the Iowa telecommunications and technology commission to begin negotiations for ordering necessary equipment prior to the availability of funding and direct the commission to increase rates charged for use of the network, being deemed of immediate importance, take effect upon enactment.

DIVISION II
CENTURY DATE CHANGE

Sec. 10. REVERSION INCENTIVE PROGRAM FUND.

1. The department of general services shall establish a reversion incentive program fund for purposes of supporting the implementation of century date change programming, and shall be funded as follows:

a. Notwithstanding the distribution formula contained in section 8.62 for an operational appropriation which remains unexpended or unencumbered for the fiscal year beginning July 1, 1996, 75 percent of the unexpended or unencumbered moneys subject to that section shall be appropriated to the reversion incentive program fund. The remaining 25 percent shall remain with the entity to which the appropriation was made. Notwithstanding section 8.33, for an appropriation other than an operational appropriation as provided in section 8.62 which remains unencumbered for the fiscal year beginning July 1, 1996, 100 percent of the unexpended or unencumbered moneys shall be appropriated to the reversion incentive program fund.

b. If the total of all moneys appropriated to the fund from unexpended or unencumbered moneys for the fiscal year beginning July 1, 1996, pursuant to paragraph "a" is less than $10 million, there is appropriated from the general fund of the state for the fiscal year beginning July 1, 1997, and ending June 30, 1998, to the reversion incentive program fund on October 1, 1997, an amount equal to the difference between $10 million and such total of all moneys appropriated to the fund pursuant to paragraph "a".

c. Notwithstanding the fact that the total amount of funds appropriated pursuant to paragraph "b" will not be made available prior to October 1, 1997, the department of general services is authorized to negotiate and enter into contracts as necessary to begin the implementation of century date change programming.

d. The appropriation of moneys to the fund made pursuant to this subsection shall terminate when the total amount of moneys appropriated to the fund from all sources provided in this subsection equals $15 million.

e. An agency expending moneys from the fund for implementing century date change programming and which receives moneys from another source, including but not limited to the United States government, for the same purpose shall deposit an amount equal to the amount received from the other source into the general fund of the state up to the amount expended from the fund.

f. The provisions of section 8.33 shall not apply to the moneys appropriated to the reversion incentive program fund provided in this subsection. Unencumbered or unobligated moneys remaining in the fund on June 30, 2001, shall revert to the general fund of the state on August 31, 2001.

2. The department shall not enter into a contract or any other obligation for the purpose of addressing the need for century date programming which would require the need for funding in excess of the amount appropriated in this section. The department shall utilize, to the greatest extent possible, students and other knowledgeable persons connected with Iowa's colleges and universities in developing or acquiring hardware, software, and programming funded under this section. Otherwise, any acquisition for the purposes described in this section is subject to competitive bidding requirements in rule adopted under law and in accordance with the requirements of this section. In order to maintain maximum open and free competition among bidders, an eligible bidder shall have been organized or doing business prior to January 1, 1997. In addition, an eligible bidder shall not have a relationship with the state for assessment of bids or for preparation of a request for proposals under this section. A bidder with an actual or organizational conflict of interest shall be disqualified. A bidder shall be considered to have a conflict of interest if the organization, or a parent, subsidiary, or affiliated organization, of which the bidder is a shareholder, partner, limited partner, or member, has a conflict of interest. A bidder shall provide assurances of compliance with the requirements of this paragraph at the time of submitting a bid or proposal for any acquisition for the purposes described in this section.

The department shall retain outside legal counsel for the purpose of reviewing all contracts or agreements entered into associated with implementation of century date change programming.

3. It is the intent of the general assembly that at least 50 percent of all resources committed to computing services and computer hardware and software for a department, including full-time equivalent positions, shall be used for implementing century date change programming within that department. The department of general services shall make a quarterly report concerning implementation of the century date change programming to the chairpersons and ranking members of the subcommittee on oversight and communications, and to the legislative fiscal bureau. The format for the report shall be developed in consultation with the legislative fiscal bureau. A report shall be made no later than October 15, January 15, April 15, and July 15, for the three-month period immediately preceding the month in which the report is to be made.

4. This section shall not apply to moneys otherwise specifically exempted from reversion by the general assembly; moneys subject to reversion under section 8.33, the reversion of which the general assembly has specifically provided for in another Act enacted during a previous legislative session, or another Act enacted during the 1997 regular session, whether or not such Act is effective before or after the effective date of this section; moneys deposited in a separate account or fund in the state treasury, the unencumbered amounts of which are to be retained in such account or fund as provided by the general assembly; and appropriations which are item vetoed by the governor.

Sec. 11. EFFECTIVE DATE. Section 10 of this division of this Act, being deemed of immediate importance, takes effect upon enactment.

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* Item veto; see message at end of the Act

DIVISION III
LEGISLATIVE OVERSIGHT

Sec. 12. LEGISLATIVE OVERSIGHT COMMITTEE.

1. COMMITTEE ESTABLISHED. It is the intent of the general assembly that the legislative council establish a legislative oversight committee which shall be composed of ten members, consisting of three members of the majority party in the senate appointed by the majority leader and two members of the minority party in the senate appointed by the minority leader, and three members of the majority party and two members of the minority party in the house of representatives appointed by the speaker of the house in consultation with the minority leader. The majority leader of the senate and the speaker of the house of representatives shall each designate a co-chairperson and co-vice chairperson, and the minority leader of the senate and of the house of representatives shall each designate a co-ranking member.

2. POWERS AND DUTIES OF COMMITTEE.

a. The purpose of the legislative oversight committee is to review and analyze the structure and operations of state government and the use of information technology in providing services and enhancing the ability of the public to interact with government.

b. The legislative oversight committee shall be staffed by the legislative fiscal bureau and the legislative service bureau.

c. The legislative oversight committee may, subject to the approval of the legislative council, conduct a review of one or more programs or regulations administered or enforced by state government.

d. The legislative oversight committee shall prepare a final report and a summary of the report for submission to the general assembly not later than the first day of each regular session of the general assembly as provided in section 2.1. The report shall contain findings and recommendations of the legislative oversight committee, which may include proposed bills or resolutions.

3. COMPENSATION AND EXPENSES. Members of the legislative oversight committee who are not members of the legislative council shall be entitled to receive the same expenses and compensation provided for the members of the legislative council.

Sec. 13. EFFECTIVE DATE. Section 12, as enacted in this division of this Act, being deemed of immediate importance, take effective upon enactment.

DIVISION IV
MISCELLANEOUS

Sec. 14. RESTRICTION ON TRANSFERS. Notwithstanding section 8.39, funds appropriated in this Act shall not be transferred or used for any other purposes than the purposes designated in this Act.

Sec. 15. INTERIM STUDY. The legislative council is requested to establish an interim study committee to study issues relating to privatizing the management of the Iowa communications network, and to report its findings and recommendations to the general assembly prior to the beginning of the 1998 legislative session.

Sec. 16. PRIVATE COLLEGE CERTIFICATION. Notwithstanding section 8D.9, the following private colleges which have requested certification for access to the Iowa communications network are authorized for connection and use of the network upon satisfying all mandates and conditions included in section 8D.9:

1. Coe College, Cedar Rapids.
2. Cornell College, Mt. Vernon.
3. Palmer Chiropractic College, Davenport.
4. Simpson College, Indianola.

Sec. 17. Section 8D.13, subsection 11, Code 1997, is amended to read as follows:

11. The fees charged for use of the network and state communications shall be based on the ongoing operational costs of the network and of providing state communications only. For the services rendered to state agencies by the commission, the commission shall prepare a statement of services rendered and the agencies shall pay in a manner consistent with procedures established by the department of revenue and finance.

Sec. 18. Section 18.8, unnumbered paragraph 1, Code 1997, is amended to read as follows:

The director shall provide necessary ~~voice or data communications, including telephone and telegraph~~ telecommunications cabling, lighting, fuel, and water services for the state buildings and grounds located at the seat of government, except the buildings and grounds referred to in section 216B.3, subsection 6.

Sec. 19. Section 29C.20, subsection 1, Code 1997, is amended to read as follows:

1. A contingent fund is created in the state treasury for the use of the executive council which may be expended for the purpose of paying the expenses of suppressing an insurrection or riot, actual or threatened, when state aid has been rendered by order of the governor, and for repairing, rebuilding, or restoring state property injured, destroyed, or lost by fire, storm, theft, or unavoidable cause, and for repairing, rebuilding, or restoring state property which is fiberoptic cable and which is injured or destroyed by a wild animal, and for aid to any governmental subdivision in an area declared by the governor to be a disaster area due to natural disasters or to expenditures necessitated by the governmental subdivision toward averting or lessening the impact of the potential disaster, where the effect of the disaster or action on the governmental subdivision is the immediate financial inability to meet the continuing requirements of local government. Upon application by a governmental subdivision in such an area, accompanied by a showing of obligations and expenditures necessitated by an actual or potential disaster in a form and with further information the executive council requires, the aid may be made in the discretion of the executive council and, if made, shall be in the nature of a loan up to a limit of seventy-five percent of the showing of obligations and expenditures. The loan, without interest, shall be repaid by the maximum annual emergency levy authorized by section 24.6, or by the appropriate levy authorized for a governmental subdivision not covered by section 24.6. The aggregate total of loans shall not exceed one million dollars during a fiscal year. A loan shall not be for an obligation or expenditure occurring more than two years previous to the application.

When a state department or agency requests that moneys from the contingent fund be expended to repair, rebuild, or restore state property injured, destroyed, or lost by fire, storm, theft, or unavoidable cause, or to repair, rebuild, or restore state property which is fiberoptic cable and which is injured or destroyed by a wild animal, the executive council shall consider the original source of the funds for acquisition of the property before authorizing the expenditure. If the original source was other than the general fund of the state, the department or agency shall be directed to utilize moneys from the original source if possible. The executive council shall not authorize the repairing, rebuilding, or restoring of the property from the disaster aid contingent fund if it determines that moneys from the original source are available to finance the project.

Approved May 23, 1997, except the items which I hereby disapprove and which are designated as Section 10, subsection 2, unnumbered and unlettered paragraph 2 in its entirety; and Section 10, subsection 3 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 730, an Act relating to state government technology and operations, by making and relating to appropriations to the Iowa communications network for the connection and support of certain Part III users, making appropriations to various entities for other technology-related purposes, providing for the procurement of information technology, and providing effective dates.

House File 730 is, therefore, approved on this date with the following exceptions, which I hereby disapprove.

I am unable to approve the item designated as section 10, subsection 2, unnumbered and unlettered paragraph 2, in its entirety. This item would require the Department of General Services to retain outside legal counsel to review agency agreements relating to Year 2000 compliance. Executive branch agencies enter into hundreds of technology agreements every year. Many of these agreements include programs that have a component related to Year 2000 compliance. Retaining outside legal counsel to review these agency agreements is unnecessary and would add significantly to the cost of technology products and services.

I am unable to approve the item designated as section 10, subsection 3, in its entirety. This item would require state agencies to use at least fifty percent of their resources committed to information technology to implement Year 2000 programming. All executive branch agencies are encouraged to maximize their resources to make the modifications required by the Year 2000. I am committed to assuring that state agencies report on the progress made towards meeting Year 2000 compliance and the resources used to achieve this purpose.

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 730 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 211

APPROPRIATIONS — ADMINISTRATION AND REGULATION

S.F. 529

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.

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, 1997, and ending June 30, 1998, 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:

..... $ 1,393,355
..... 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 pursu-

ant 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, 1997, and ending June 30, 1998, 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:

.....	$	429,137
.....	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, 1997, and ending June 30, 1998, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. ADMINISTRATIVE SERVICES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	966,256
.....	FTEs	18.50

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.

2. ALCOHOLIC BEVERAGES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	1,510,485
.....	FTEs	25.00

3. BANKING DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	5,466,364
.....	FTEs	81.00

4. CREDIT UNION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	1,066,000
.....	FTEs	19.00

5. INSURANCE DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	3,079,517
.....	FTEs	91.00

Of the amounts appropriated in this subsection to the insurance division, not more than $100,000 shall be used for the regulation of health insurance reform.

Of the amounts appropriated in this subsection to the insurance division, at least $120,000 shall be used for the investigation of insurance fraud. It is the intent of the general assembly that the insurance division shall establish an insurance fraud program considering, but is not limited to the following guidelines: study successful insurance fraud programs in other states, hire necessary staff, promulgate necessary rules, review the fraud unit of the Iowa department of workforce development, educate the regulated community and the general public on the functions of the fraud program, work with consultants as needed to establish the insurance fraud program, and establish a procedure for handling complaints.

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 reimbursable 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.

6. PROFESSIONAL LICENSING AND REGULATION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 849,044
..... FTEs 12.00

7. UTILITIES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 5,158,187
..... FTEs 75.00

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 COMMUNICATIONS SERVICES REGULATION. There is appropriated from the general fund of the state to the department of commerce for the fiscal year beginning July 1, 1997, and ending June 30, 1998, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For consulting services to assist the utilities board with the implementation of 1995 Iowa Acts, chapter 199, to assist in the regulatory transition of the communications industry, and for implementation of the federal Telecommunications Act of 1996, Pub. L. No. 104-104:

..... $ 100,000

The utilities division shall recover the moneys appropriated in this section pursuant to the assessment procedures in section 476.10.

Sec. 5. LEGISLATIVE AGENCIES. There is appropriated from the general fund of the state to the following named agencies for the fiscal year beginning July 1, 1997, and ending June 30, 1998, 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:

..... $ 23,350

2. NATIONAL CONFERENCE OF STATE LEGISLATURES

For support of the membership assessment:

..... $ 94,922

3. AMERICAN LEGISLATIVE EXCHANGE COUNCIL

For support of the membership assessment:

..... $ 7,500

Sec. 6. DEPARTMENT OF GENERAL SERVICES. There is appropriated from the general fund of the state to the department of general services for the fiscal year beginning July 1, 1997, and ending June 30, 1998, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,926,518
..... FTEs 52.60

2. PROPERTY MANAGEMENT

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 4,186,909
..... FTEs 115.00

It is the intent of the general assembly that the department of general services shall develop a strategic plan to secure outside leasing in the most economical and efficient manner. The department of general services shall bill the costs of providing the leasing service to the state agencies which use the service.

3. CAPITOL PLANNING COMMISSION

For expenses of the members in carrying out their duties under chapter 18A:

..... $ 2,000

4. 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:

..... $ 656,104

5. UTILITY COSTS

For payment of utility costs and for not more than the following full-time equivalent positions:

..... $ 2,148,942

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, 1998, but shall remain available for expenditure for the purposes of this subsection during the fiscal year beginning July 1, 1998.

6. 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:

..... $ 199,512
..... FTEs 4.00

Sec. 7. REVOLVING FUNDS. There is appropriated from the designated revolving funds to the department of general services for the fiscal year beginning July 1, 1997, and ending June 30, 1998, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. CENTRALIZED PRINTING

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:

.....	$	1,003,152
.....	FTEs	27.05

2. CENTRALIZED PRINTING — REMAINDER

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, 1997, and ending June 30, 1998, which are legally payable from this fund.

3. CENTRALIZED PURCHASING

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:

.....	$	888,535
.....	FTEs	18.20

4. CENTRALIZED PURCHASING — REMAINDER

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, 1997, and ending June 30, 1998, which are legally payable from this fund.

5. VEHICLE DISPATCHER

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:

.....	$	695,808
.....	FTEs	15.85

6. VEHICLE DISPATCHER — REMAINDER

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, 1997, and ending June 30, 1998, which are legally payable from this fund.

It is the intent of the general assembly that any consolidation of the information technology services of this state, including year 2000 corrections, will use a cooperative enterprise model in which the legislative, judicial, and executive branches of state government have input along with all other public entities. The budgetary responsibilities of the general assembly mandate legislative oversight of information technology services consolidation to ensure responsible allocation of the human and fiscal resources of this state.

Sec. 8. NONREVERSION. Notwithstanding section 8.33, unobligated moneys remaining on June 30, 1997, from moneys appropriated to the department of general services in 1996 Iowa Acts, chapter 1219, section 44, shall not revert to the general fund of the state but shall be available for expenditure for the following fiscal year for the purposes for which appropriated.

Sec. 9. 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, 1997, and ending June 30, 1998, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. GENERAL OFFICE

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:

.....	$	1,220,799
.....	FTEs	17.25

2. TERRACE HILL QUARTERS

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:

.....	$	71,829
.....	FTEs	2.00

3. ADMINISTRATIVE RULES COORDINATOR

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:

.....	$	122,910
.....	FTEs	3.00

4. NATIONAL GOVERNORS ASSOCIATION

For payment of Iowa's membership in the national governors association:

.....	$	64,872

Sec. 10. 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, 1997, and ending June 30, 1998, 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:

.....	$	517,990
.....	FTEs	20.20

2. AUDITS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	452,111
.....	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:

.....	$	244,614
.....	FTEs	25.50

4. INVESTIGATIONS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	898,408
.....	FTEs	37.00

It is the intent of the general assembly that $120,000 and 3.00 FTEs included in this subsection shall be used for additional welfare investigations.

5. HEALTH FACILITIES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	2,001,795
.....	FTEs	99.00

It is the intent of the general assembly that $181,344 and 2.00 FTEs included in this subsection shall be used for additional inspections of state-licensed residential care facilities only.

6. INSPECTIONS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 622,783
..... FTEs 13.00

7. EMPLOYMENT APPEAL BOARD

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 33,683
..... 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:

..... $ 554,407
..... FTEs 13.00

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.

Sec. 11. 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, 1997, and ending June 30, 1998, 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 pari-mutuel racetracks, and for not more than the following full-time equivalent positions:

..... $ 2,007,624
..... FTEs 23.51

It is the intent of the general assembly that if the funds appropriated in this section are insufficient to meet the costs of the commission associated with the extended horse racetrack season, the commission may collect any deficient costs not to exceed $17,577 from the horse racetrack licensee.

Sec. 12. 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, 1997, and ending June 30, 1998, 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:

..... $ 1,253,092
..... FTEs 25.29

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 nine riverboats are operating during the fiscal year beginning July 1, 1997, and ending June 30, 1998, the commission may expend no more than $84,917 for no more than 2 FTEs for each additional riverboat in excess of nine. 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. 13. USE TAX APPROPRIATION. There is appropriated from the use tax receipts collected pursuant to sections 423.7 and 423.7A 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, 1997, and ending June 30, 1998, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 1,052,109

Sec. 14. 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, 1997, and ending June 30, 1998, 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:

..... $ 1,893,317
..... FTEs 28.00

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

It is the intent of the general assembly that $23,750 be appropriated for law enforcement training reimbursements pursuant to section 384.15, subsection 7, for the fiscal year beginning July 1, 1998, and ending June 30, 1999, and thereafter, no moneys be appropriated for that purpose.

3. COUNCIL OF STATE GOVERNMENTS

For support of the membership assessment:

..... $ 80,031

4. COUNCIL ON HUMAN INVESTMENT

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 187,856
..... FTEs 2.00

The council on human investment shall notify the co-chairpersons and ranking members of the joint appropriations subcommittee on administration and regulation of the budget for results performance measures established for state agencies receiving appropriations under this Act before the measures are finally adopted.

Sec. 15. ROAD USE TAX APPROPRIATION. There is appropriated from the road use tax fund to the department of management for the fiscal year beginning July 1, 1997, and ending June 30, 1998, 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

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* Item veto; see message at end of the Act

Sec. 16. DEPARTMENT OF PERSONNEL. There is appropriated from the general fund of the state to the department of personnel for the fiscal year beginning July 1, 1997, and ending June 30, 1998, 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:

..... $ 1,247,218
..... FTEs 18.42

2. PROGRAM DELIVERY SERVICES

For salaries for personnel services, employment law and labor relations and training for not more than the following full-time equivalent positions:

..... $ 1,330,232
..... FTEs 32.55

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:

..... $ 1,524,422
..... FTEs 33.80

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 services 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 annually to the chairpersons and ranking members of the joint appropriations subcommittee on administration and regulation concerning the number of private consultant contracts of one year or more which are entered into or extended each year by the departments and agencies of the state. All departments and agencies of the state shall cooperate with the department in the preparation of this report.

Sec. 17. INSURANCE REFORM SPECIALIST. The executive council shall expend moneys from the surplus funds in the health insurance reserve operating account for salary and benefit costs for one insurance reform specialist. The activities of this position shall be directed by the director of the department of personnel. The position shall be funded from surplus funds specified in the section for the fiscal year beginning July 1, 1997, and ending June 30, 1998, as follows:

..... $ 86,722

Sec. 18. IPERS. There is appropriated from the Iowa public employees' retirement system fund to the department of personnel for the fiscal year beginning July 1, 1997, and ending June 30, 1998, 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:

..... $ 4,611,296

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.

Sec. 19. PRIMARY ROAD FUND APPROPRIATION. There is appropriated from the primary road fund to the department of personnel for the fiscal year beginning July 1, 1997,

and ending June 30, 1998, 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:

..... $ 359,741

Sec. 20 ROAD USE TAX FUND APPROPRIATION. There is appropriated from the road use tax fund to the department of personnel for the fiscal year beginning July 1, 1997, and ending June 30, 1998, 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:

..... $ 58,563

Sec. 21. 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, 1997, and ending June 30, 1998, 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. 22. DEPARTMENT OF REVENUE AND FINANCE. There is appropriated from the general fund of the state to the department of revenue and finance for the fiscal year beginning July 1, 1997, and ending June 30, 1998, 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 539.00

1. COMPLIANCE

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 10,302,325

2. STATE FINANCIAL MANAGEMENT

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 10,613,764

3. INTERNAL RESOURCES MANAGEMENT

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 6,072,663

4. COLLECTION COSTS AND FEES

For payment of collection costs and fees pursuant to section 422.26:

..... $ 45,000

5. a. 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.

b. 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. 23. LOTTERY. There is appropriated from the lottery fund to the department of revenue and finance for the fiscal year beginning July 1, 1997, and ending June 30, 1998, 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:

..... $ 7,699,135
..... FTEs 120.00

Notwithstanding section 99E.10, subsection 1, the lottery expenses for marketing, educational, and informational material shall not exceed three percent of the lottery revenue.

It is the intent of the general assembly that none of the lottery appropriation shall be expended for the lease or purchase of any equipment that sells lottery tickets, validates winning tickets, and allows credit from winning tickets back on the equipment. However, such lottery equipment may be leased or purchased if the credits from winning tickets are printed out on a receipt for cash redemption only.

Sec. 24. MOTOR VEHICLE FUEL TAX APPROPRIATION. 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, 1997, and ending June 30, 1998, 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:

..... $ 998,276

Sec. 25. SECRETARY OF STATE. 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, 1997, and ending June 30, 1998, 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:

..... $ 656,440
..... FTEs 10.00

It is the intent of the general assembly that the state department or state agency which provides data processing services to support voter registration file maintenance and storage shall provide those services without charge.

It is the intent of the general assembly that contracts and agreements relating to data processing for voter registration records to which the department of general services or the state registrar of voters is a party immediately prior to the effective date of this Act shall remain in effect until their expiration unless earlier terminated or amended by mutual consent.

2. BUSINESS SERVICES

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,770,796
..... FTEs 32.00

3. OFFICIAL REGISTER

For costs incurred in the printing of the official register:

..... $ 45,000

The secretary of state may consider an electronic version of the official register as an official copy for distribution.

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* Item veto; see message at end of the Act

Sec. 26. 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, 1997, and ending June 30, 1998, 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:

.....	$	252,663
.....	FTEs	3.00

Sec. 27. 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, 1997, and ending June 30, 1998, 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:

.....	$	927,014
.....	FTEs	27.80

The office of treasurer of state shall supply clerical and secretarial support for the executive council.

**Sec. 28. BUDGET PREPARATION — INTENT OF GENERAL ASSEMBLY.*

1. In preparing budgets for the fiscal year beginning July 1, 1998, and ending June 30, 1999, the state agencies receiving appropriations pursuant to this Act shall conform to the following standards:

a. The supervisory span of control for the agency shall be one supervisor for five or more subordinates.

b. The request for office supplies shall not exceed the norm for all state agencies as determined by the department of management.

*2. If a budget fails to comply with a standard specified in subsection 1, the state agency shall provide a detailed explanation for each variance to the co-chairpersons and ranking members of the joint appropriations subcommittee on administration and regulation.**

Sec. 29. ELIMINATION OF VACANT UNFUNDED JOBS. Within sixty days after an unfunded vacancy occurs, a state department, agency, or office receiving appropriations under this Act shall eliminate the vacant unfunded position from the table of organization of the state department, agency, or office.

Approved May 27, 1997, except the items which I hereby disapprove and which are designated as Section 14, subsection 2, unnumbered and unlettered paragraph 2 in its entirety; Section 14, subsection 4, unnumbered and unlettered paragraph 2 in its entirety; Section 23, unnumbered and unlettered paragraph 2 in its entirety; and Section 28 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 529, 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.

Senate File 529 is, therefore, approved on this date with the following exceptions, which I hereby disapprove.

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* Item veto; see message at end of the Act

I am unable to approve the item designated as section 14, subsection 2, unnumbered and unlettered paragraph 2, in its entirety. This item states the legislature's intent relating to funds to be appropriated in fiscal year 1999 and thereafter. Language directing or restricting the use of certain funds is more appropriately provided in the year the funds are appropriated.

I am unable to approve the item designated as section 14, subsection 4, unnumbered and unlettered paragraph 2, in its entirety. This item would require the Council on Human Investment to inform the legislature on the progress made toward the adoption of state agency budget performance measures. Requiring the Council on Human Investment to provide this information is not appropriate as neither the selection nor adoption of performance measures falls within the responsibilities of the Council.

I am unable to approve the item designated as section 23, unnumbered and unlettered paragraph 2, in its entirety. This item would limit lottery marketing and public information expenses to three percent of lottery revenues. Commissioner Ed Stanek has done an outstanding job of managing an honest, efficient, and well run lottery. If the state is to maintain a lottery, adequate flexibility must continue to be provided to ensure a well run program. This provision would unduly restrict the commissioner's ability to effectively operate the state lottery.

I am unable to approve the item designated as section 28, in its entirety. This item would require state agencies to conform to certain staffing and office supply expense standards in preparing their budgets for fiscal year 1999. Strict compliance with such standards is impractical given the different staffing and supply needs of the various agencies.

For the above reasons, I hereby respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in Senate File 529 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 212

APPROPRIATIONS — EDUCATION

S.F. 549

AN ACT relating to the funding of, operation of, and appropriation of moneys to the college student aid commission, the department of cultural affairs, the department of education, the state board of regents, to the transfer of moneys from the interest for Iowa schools fund, and making related statutory changes and providing effective date and applicability provisions.

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

COLLEGE STUDENT AID COMMISSION

Section 1. There is appropriated from the general fund of the state to the college student aid commission for the fiscal year beginning July 1, 1997, and ending June 30, 1998, 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:

..... $ 310,847
..... FTEs 6.65

If the amount of federal moneys received by the college student aid commission during the fiscal year beginning July 1, 1997, and ending June 30, 1998, for state student incentive grants exceeds the amount of federal moneys received for those programs during the fiscal year beginning July 1, 1996, and ending June 30, 1997, the additional moneys received during the fiscal year beginning July 1, 1997, shall be used for vocational-technical tuition grants as provided in section 261.17. Additional moneys used as provided in this unnumbered paragraph shall supplement, not supplant, moneys appropriated or allocated by the general assembly for purposes of awarding vocational-technical tuition grants as provided in section 261.17.

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 or section 261.19 as amended by 1997 Iowa Acts, House File 410, if enacted:**

..... $ 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

3. STUDENT AID PROGRAMS

For payments to students for the Iowa grant program:

..... $ 1,397,790

4. NATIONAL GUARD TUITION AID PROGRAM

For purposes of providing national guard tuition aid under the program established in section 261.21:

..... $ 625,000

5. CHIROPRACTIC GRADUATE STUDENT FORGIVABLE LOAN PROGRAM

For purposes of providing forgivable loans under the program established in section 261.71:

..... $ 70,000

Sec. 2. Notwithstanding section 261.21, for the fiscal year beginning July 1, 1997, and ending June 30, 1998, a national guard member who has not earned college credit hours in an amount necessary to be considered a junior or senior shall be given highest priority for tuition aid under the national guard tuition aid program.

Sec. 3. There is appropriated from the loan reserve account to the college student aid commission for the fiscal year beginning July 1, 1997, and ending June 30, 1998, the following amount, or so much thereof as may be necessary, to be used for the purpose 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:

..... $ 5,161,902
..... FTEs 32.35

Sec. 4. Notwithstanding the maximum allowed balance requirement of the scholarship and tuition grant reserve fund as provided in section 261.20, there is appropriated from the scholarship and tuition grant reserve fund to the college student aid commission for the fiscal year beginning July 1, 1997, and ending June 30, 1998, the moneys remaining in the fund following transfer, pursuant to section 261.20 for the fiscal years ending June 30, 1996, and June 30, 1997, which are to be used for purposes of Iowa vocational-technical tuition grants in accordance with section 261.17. Funds appropriated in this section are in addition to funds appropriated in section 261.25, subsection 3.

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* Item veto; see message at end of the Act
** Chapter 134 herein

DEPARTMENT OF CULTURAL AFFAIRS

Sec. 5. There is appropriated from the general fund of the state to the department of cultural affairs for the fiscal year beginning July 1, 1997, and ending June 30, 1998, 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:

..... $ 1,162,167
..... FTEs 9.50

2. HISTORICAL DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,790,905
..... FTEs 60.00

3. HISTORIC SITES

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 533,917
..... FTEs 8.00

4. ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 223,920
..... FTEs 4.30

The department of cultural affairs shall coordinate activities with the tourism division of the department of economic development to promote attendance at the state historical building and at this state's historic sites.

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:

..... $ 708,680
..... FTE 0.70

Sec. 6. Notwithstanding section 8.33 and 1996 Iowa Acts, chapter 1215, section 5, subsection 3, of the funds appropriated and allocated for historic sites pursuant to 1996 Iowa Acts, chapter 1215, section 5, subsection 3, that remain unencumbered or unobligated on June 30, 1997, the amount of $50,000 shall not revert to the general fund of the state but shall be allocated to the department of cultural affairs which shall distribute the moneys to the Iowa state arts council for the fiscal year beginning July 1, 1997, and ending June 30, 1998, for purposes of awarding operational support grants.

DEPARTMENT OF EDUCATION

Sec. 7. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 1997, and ending June 30, 1998, 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:

..... $ 5,469,602
..... FTEs 95.95

The department of education shall conduct a study of phase I of the educational excellence

program as provided in chapter 294A. The purpose of the study shall be to determine options for decreasing the need for state funding of phase I of the education excellence program and for shifting funding to phase II of the educational excellence program. The department shall submit a report of its findings and recommendations to the general assembly by December 31, 1997.

The director of the department of education shall convene a study committee during the 1997 legislative interim consisting of the co-chairpersons of the joint appropriations subcommittee on education; two members of the governing board of the first in the nation in education foundation, who shall be appointed by the chairperson of the governing board; and the director of the department of education. The study committee shall do the following:

a. Study how to maintain the autonomy of the foundation.

b. Develop strategies that allow the foundation's funds to be invested in such a way as to increase the interest earned.

c. Explore ways to enhance the research and dissemination functions of the foundation.

d. Determine methods for reporting foundation activities that impact Iowa education.

The study committee shall report its findings and recommendations in a report to the general assembly by October 1, 1997.

2. VOCATIONAL EDUCATION ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	519,674
.....	FTEs	15.60

3. BOARD OF EDUCATIONAL EXAMINERS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	198,504
.....	FTEs	2.00

4. VOCATIONAL REHABILITATION SERVICES DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	4,349,622
.....	FTEs	298.25

The division of vocational rehabilitation services shall seek funds other than federal funds, which may include but are not limited to local funds from local provider entities, community colleges, area education agencies, and local education agencies, for purposes of matching federal vocational rehabilitation funds. The funds collected by the division may exceed the amount needed to match available federal vocational rehabilitation funds in an effort to qualify for additional federal funds when such funds become available.

Except where prohibited under federal law, the division of vocational rehabilitation services of the department of education shall accept client assessments, or assessments of potential clients, performed by other agencies in order to reduce duplication of effort.

Notwithstanding the full-time equivalent position limit established in this subsection, for the fiscal year ending June 30, 1998, if federal funding is received to pay the costs of additional employees for the vocational rehabilitation services division who would have duties relating to vocational rehabilitation services paid for through federal funding, authorization to hire not more than four additional 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 persons with severe physical or mental disabilities to function more independently, including salaries and support, and for not more than the following full-time equivalent positions:

.....	$	75,381
.....	FTEs	1.50

The highest priority use for the moneys appropriated under this lettered paragraph shall

be for programs that emphasize employment and assist persons with severe physical or mental disabilities to find and maintain employment to enable them to function more independently.

5. STATE LIBRARY

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,734,725
..... FTEs 21.00

The state library shall begin implementing the 1996 Iowa joint use library guide commencing July 1, 1997.

Reimbursement of the institutions of higher learning under the state board of regents for participation in the access plus program during the fiscal year beginning July 1, 1997, and ending June 30, 1998, shall not exceed the total amount of reimbursement paid to the regents institutions of higher learning for participation in the access plus program during the fiscal year beginning July 1, 1996, and ending June 30, 1997.

6. REGIONAL LIBRARY

For state aid:

..... $ 1,537,000

7. PUBLIC BROADCASTING DIVISION

For salaries, support, maintenance, capital expenditures, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 7,226,694
..... FTEs 113.50

8. IOWA MATHEMATICS AND SCIENCE COALITION

For support of the Iowa mathematics and science coalition:

..... $ 50,000

9. 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.

10. 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

11. 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

12. 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:

..... $ 107,900

13. FAMILY RESOURCE CENTERS

For support of the family resource center demonstration program established under chapter 256C:

..... $ 120,000

14. READING RECOVERY PROGRAM

For allocation to area education agencies to assist school districts in developing reading recovery programs:

..... $ 50,000

Moneys appropriated to or paid to the department of education for purposes of the reading recovery program shall be allocated to area education agencies in the proportion that the number of children who are eligible for free or reduced price meals under the federal National School Lunch Act and the federal Child Nutrition Act of 1966, 42 U.S.C. § 1751 – 1785, in the basic enrollment of grades one through six in the area served by an agency, bears to the sum of the number of children who are eligible for free or reduced price meals under the federal National School Lunch Act and the federal Child Nutrition Act of 1966, 42 U.S.C. § 1751 – 1785, in the basic enrollments of grades one through six in all of the areas served by area education agencies in the state for the budget year.

15. REHABILITATING COMPUTERS FOR SCHOOLS AND LIBRARIES

..... $ 50,000

16. LOCAL ARTS COMPREHENSIVE EDUCATIONAL STRATEGIES PROGRAM (LACES)

..... $ 25,000

17. COMMUNITY COLLEGES

For general state financial aid distributed as provided in section 260C.18A, 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:

..... $ 130,582,051

The funds appropriated in this subsection shall be allocated as follows:

a. Merged Area I	$	6,236,541
b. Merged Area II	$	7,353,865
c. Merged Area III	$	6,943,989
d. Merged Area IV	$	3,383,065
e. Merged Area V	$	7,076,264
f. Merged Area VI	$	6,557,575
g. Merged Area VII	$	9,354,212
h. Merged Area IX	$	11,469,275
i. Merged Area X	$	17,802,012
j. Merged Area XI	$	19,018,739
k. Merged Area XII	$	7,554,167
l. Merged Area XIII	$	7,726,323
m. Merged Area XIV	$	3,426,976
n. Merged Area XV	$	10,689,360
o. Merged Area XVI	$	5,989,688

Sec. 8. Notwithstanding section 8.33 and section 256.39, subsection 7, unobligated or unencumbered moneys remaining on June 30, 1997, from the appropriation made in 1995 Iowa Acts, chapter 218, section 1, subsection 11, for purposes of the career pathways program, shall not revert but shall be available for expenditure for the program during the fiscal year beginning July 1, 1997, and ending June 30, 1998.

Sec. 9. Notwithstanding section 8.33, of the unencumbered or unobligated funds remaining on June 30, 1997, from moneys appropriated in 1996 Iowa Acts, chapter 1215, section 6, subsection 5, $120,000 shall not revert to the general fund of the state but shall be available the following fiscal year for expenditure for maintenance of the state of Iowa libraries online (SILO) program.

Sec. 10. A school district shall not receive funds from the new Iowa schools development corporation for more than three consecutive years, effective July 1, 1998. The corporation

shall place a high priority on increasing the number of school districts the corporation serves. The corporation shall study the methods by which it can increase the number of school districts served, analyze the services provided to school districts, and determine the average amount of time necessary to adequately serve a school district. The corporation shall submit its findings and recommendations to the general assembly by December 31, 1997.

STATE BOARD OF REGENTS

Sec. 11. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 1997, and ending June 30, 1998, 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:

..... $ 1,140,525
..... FTEs 15.63

If the moneys appropriated in this lettered paragraph are augmented by reimbursements from the institutions under the control of the state board of regents for the funding of the office of the state board of regents, the office shall report quarterly such reimbursements to the chairpersons and ranking members of the joint appropriations subcommittee on education.

The board shall prepare and submit a quarterly report, regarding the board office budget and the reimbursements provided to the board by the institutions of higher learning under the control of the board, to the general assembly and the legislative fiscal bureau.

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:

..... $ 27,786,234

(1) The state board of regents, the department of management, and the legislative fiscal bureau shall cooperate to determine and agree upon, by November 15, 1997, the amount that needs to be appropriated for tuition replacement for the fiscal year beginning July 1, 1998.

(2) Notwithstanding section 8.33, funds appropriated in this lettered paragraph remaining unencumbered or unobligated on June 30, 1998, shall not revert to the general fund of the state but shall be available for expenditure for the purposes listed in this lettered paragraph during the subsequent fiscal year.

c. For funds to be allocated to the southwest Iowa graduate studies center:

..... $ 106,109

d. For funds to be allocated to the siouxland interstate metropolitan planning council for the tristate graduate center under section 262.9, subsection 21:

..... $ 76,778

e. For funds to be allocated to the quad-cities graduate studies center:

..... $ 158,230

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:

..... $ 213,451,453
..... FTEs 4,034.67

b. For the primary health care initiative in the college of medicine and for not more than the following full-time equivalent positions:

..... $ 800,600
..... FTEs 11.00

From the moneys appropriated in this lettered paragraph, $330,000 shall be allocated to the department of family practice at the state university of Iowa college of medicine for family practice faculty and support staff.

c. University hospitals

For salaries, support, maintenance, equipment, and miscellaneous purposes and for medical and surgical treatment of indigent patients as provided in chapter 255, for medical education, and for not more than the following full-time equivalent positions:

.....	$	30,134,503
.....	FTEs	5,523.11

The university of Iowa hospitals and clinics, the Iowa department of corrections, and the association of Iowa hospitals and health systems shall jointly develop and issue recommendations relating to localizing indigent health care services, including but not limited to health care services to inmates, the potential application of telemedicine in providing health care services to inmates, and the feasibility of establishing a corrections infirmary, in a report to be submitted to the general assembly by January 1, 1998.

The university of Iowa hospitals and clinics shall submit quarterly a report regarding the portion of the appropriation in this lettered paragraph expended on medical education. The report shall be submitted in a format jointly developed by the university of Iowa hospitals and clinics, the legislative fiscal bureau, and the department of management, and shall delineate 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, 1997, shall not be lower than the total quota allocated to the counties for the fiscal year commencing July 1, 1996. The total quota shall be allocated among the counties on the basis of the 1990 census pursuant to section 255.16.

d. Psychiatric hospital

For salaries, support, maintenance, equipment, miscellaneous purposes, for the care, treatment, and maintenance of committed and voluntary public patients, and for not more than the following full-time equivalent positions:

.....	$	7,438,304
.....	FTEs	305.77

e. Hospital-school

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	6,188,179
.....	FTEs	168.55

f. Oakdale campus

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	2,952,280
.....	FTEs	63.58

g. State hygienic laboratory

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	3,472,190
.....	FTEs	102.49

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:

.....	$	2,140,381
.....	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:

.....	$	490,058
.....	FTEs	10.27

j. Agricultural health and safety programs

For agricultural health and safety programs, and for not more than the following full-time equivalent positions:

.....	$	259,543
.....	FTEs	3.48

k. Statewide cancer registry

For the statewide cancer registry, and for not more than the following full-time equivalent positions:

.....	$	199,894
.....	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:

.....	$	66,561
.....	FTEs	1.15

m. Center for biocatalysis

For the center for biocatalysis, and for not more than the following full-time equivalent positions:

.....	$	1,039,826
.....	FTEs	10.40

n. National advanced driving simulator

For the national advanced driving simulator, and for not more than the following full-time equivalent positions:

.....	$	618,479
.....	FTEs	3.58

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:

.....	$	169,721,402
.....	FTEs	3,595.49

b. Agricultural experiment station

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	32,742,389
.....	FTEs	546.98

c. Cooperative extension service in agriculture and home economics

For salaries, support, maintenance, miscellaneous purposes, including salaries and support for the fire service institute, and for not more than the following full-time equivalent positions:

.....	$	19,970,547
.....	FTEs	431.85

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:

.....	$	564,718
.....	FTEs	11.25

e. Livestock disease research

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:

.....	$	276,335
.....	FTEs	3.17

4. UNIVERSITY OF NORTHERN IOWA

a. General university

For salaries, support, maintenance, equipment, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	75,357,005
.....	FTEs	1,344.14

b. Recycling and reuse center

For purposes of the recycling and reuse center and for not more than the following full-time equivalent position:

.....	$	239,745
.....	FTE	0.50

5. STATE SCHOOL FOR THE DEAF

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	6,935,267
.....	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:

.....	$	3,864,065
.....	FTEs	91.36

7. TUITION AND TRANSPORTATION COSTS

For payment to local school boards for the tuition and transportation costs of students residing in the Iowa braille and sight saving school and the state school for the deaf pursuant to section 262.43 and for payment of certain clothing and transportation costs for students at these schools pursuant to section 270.5:

.....	$	16,400

Sec. 12. Reallocations of sums received under section 11, 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. 13. Notwithstanding section 8.33, funds appropriated in 1996 Iowa Acts, chapter 1215, section 12, subsection 1, paragraph "b", remaining unencumbered or unobligated on June 30, 1997, shall not revert to the general fund of the state but shall be available for expenditure for the purposes listed in section 11, subsection 1, paragraph "b", of this Act during the fiscal year beginning July 1, 1997, and ending June 30, 1998.

Sec. 14. Notwithstanding section 8.33, funds appropriated in 1996 Iowa Acts, chapter 1215, section 12, subsection 2, paragraph "n", remaining unencumbered or unobligated on June 30, 1997, shall not revert to the general fund of the state but shall be available for expenditure for the purposes listed in section 11, subsection 2, paragraph "n", of this Act.

Sec. 15. MEDICAL ASSISTANCE — SUPPLEMENTAL AMOUNTS. For the fiscal year beginning July 1, 1997, and ending June 30, 1998, 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, 1997, and ending September 30, 1998, 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 supple-

mental 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.

Sec. 16. For the fiscal year beginning July 1, 1997, and ending June 30, 1998, 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. 17. REMAINING INTEREST FOR IOWA SCHOOLS FUND BALANCE. Notwithstanding section 257B.1A, subsection 5, Code 1995, or any other provision to the contrary, the interest remaining unencumbered or unobligated on June 30, 1996, in the interest for Iowa schools fund, after the total of the transfer of moneys to the first in the nation in education foundation pursuant to section 257B.1A, subsection 2, and after the transfer of moneys to the international center endowment fund in section 257B.1A, subsection 3, paragraph "a", shall be transferred to the state board of regents, which shall distribute the moneys by July 1, 1997, to the state university of Iowa for the fiscal year beginning July 1, 1997, and ending June 30, 1998, for purposes of the reading recovery program. The university of Iowa shall work with the department of education to coordinate the support system for delivery of the reading recovery program to school districts.

Sec. 18. Notwithstanding section 270.7, the department of revenue and finance shall pay the state school for the deaf and the Iowa braille and sight saving school the moneys collected from the counties during the fiscal year beginning July 1, 1997, for expenses relating to prescription drug costs for students attending the state school for the deaf and the Iowa braille and sight saving school.

Sec. 19. ADDITIONAL FUNDING FOR PROGRAMS FOR AT-RISK CHILDREN. In addition to the funds appropriated in section 279.51, subsection 1, there is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 1997, and ending June 30, 1998, the amount of $190,000 to be allocated to the child development coordinating council established in chapter 256A for the purposes set out in section 279.51, subsection 2, and section 256A.3.

Sec. 20. Section 19A.3, subsection 24, unnumbered paragraph 2, Code 1997, is amended to read as follows:

The director of the department of personnel shall negotiate ~~agreements~~ an agreement with the director of the department for the blind ~~and with the director of the department of education~~ concerning the applicability of the merit system to the professional employees of ~~their respective agencies~~ the department for the blind.

Sec. 21. Section 256.10, Code 1997, is amended to read as follows:

256.10 EMPLOYMENT OF PROFESSIONAL STAFF.

The salary of the director shall be fixed by the governor within a range established by the general assembly. Appointments to the professional staff of the department shall be without reference to political party affiliation, religious affiliation, sex, or marital status, but shall be based solely upon fitness, ability, and proper qualifications for the particular position. The professional staff shall serve at the discretion of the director. A member of the professional staff shall not be dismissed for cause without ~~at least ninety days' notice, except in cases of conviction of a felony or cases involving moral turpitude~~ appropriate due process procedures including a hearing. ~~In cases of procedure for dismissal, the accused has the same right to notice and hearing as teachers in the public school systems as provided in section 279.27 to the extent that it is applicable.~~

*Sec. 22. *Section 257B.1A, Code 1997, is amended by striking the section and inserting in lieu thereof the following:*

257B.1A INTEREST FOR IOWA SCHOOLS FUND — TRANSFER OF INTEREST.

1. The interest for Iowa schools fund is established in the office of the 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. Of the interest deposited in the interest for Iowa schools fund each year, fifty percent shall be transferred to the first in the nation in education foundation as established in section 257A.1 and fifty percent shall be transferred to the international center for gifted and talented education endowment fund established in section 263.8A. The department of revenue and finance shall transfer interest as provided in this section on a quarterly basis. As a condition of receiving funds under this section, the foundation and the center shall maintain and continue to increase the balances of their private foundations. In addition, the foundation and the center shall each certify to the department of revenue and finance and the general assembly, by January 1 of each year, the cumulative total value of contributions received during the preceding calendar year.

2. If the general assembly appropriates funds to the international center endowment fund in the amount of not less than eight hundred seventy-five thousand dollars prior to July 1, 1998, the center's interest allocation shall decrease to twenty-five percent. If the general assembly appropriates funds to the international center endowment fund in an amount of not less than one million five hundred fifty thousand dollars, the center shall no longer receive an interest allocation.

*3. The foundation shall use for administrative costs not more than twenty-five percent of any moneys received annually pursuant to this section.**

**Sec. 23. *Section 260C.14, Code 1997, is amended by adding the following new subsection:*

NEW SUBSECTION. 2A. Cause to be printed on all statements of account for payment of tuition and fees issued by the community college the portion of the average cost of an Iowa resident student's education at that community college that is paid by appropriations from the general fund of the state. The information, rounded to the nearest one-tenth of one percent and the nearest whole dollar, shall be included in the following statement:

*"Tuition pays for approximately ____% of the average cost for a resident Iowa student at this community college. The State of Iowa pays approximately $____ of the average cost for a full-time state resident student at this community college."**

Sec. 24. Section 260C.29, subsections 1 and 2, Code 1997, are amended to read as follows:

1. The mission of the ~~career opportunity~~ academic incentives for minorities program established in this section is to encourage collaborative efforts by ~~a~~ community ~~college~~ colleges, the institutions of higher learning under the control of the state board of regents, and business and industry to enhance ~~the~~ educational opportunities and provide for job

* Item veto; see message at end of the Act

creation and career advancement for Iowa's ~~minority persons~~ minorities by providing assistance to ~~minority persons~~ minorities who major in fields or subject areas where minorities are currently underrepresented or underutilized.

2. ~~A career opportunity~~ An academic incentives for minorities program is established to be administered by ~~the~~ a 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.

Sec. 25. Section 261.12, subsection 1, paragraph b, Code 1997, is amended to read as follows:

b. For the fiscal year beginning July 1, 1996, and for each following fiscal year, three thousand ~~one~~ four hundred ~~fifty~~ dollars.

Sec. 26. Section 261.17, subsections 1, 2, and 4, Code 1997, are amended to read as follows:

1. A vocational-technical tuition grant may be awarded to any resident of Iowa who is admitted and in attendance as a full-time or part-time student in a vocational-technical or career option program at a community college in the state, and who establishes financial need.

2. A qualified full-time student may receive vocational-technical tuition grants for not more than four semesters, eight quarters or the equivalent of two full years of study. The amount of a vocational-technical tuition grant to a qualified part-time student enrolled in a course of study including at least three semester hours but fewer than twelve semester hours or the trimester or quarter equivalent shall be equal to the amount of a tuition grant that would be paid to a full-time student times a number which represents the number of hours in which the part-time student is actually enrolled divided by twelve semester hours, or the trimester or quarter equivalent.

PARAGRAPH DIVIDED. However, if a student resumes study after at least a two-year absence, the student may again be eligible for the specified amount of time, except that the student shall not receive assistance for courses for which credit was previously received.

4. A vocational-technical tuition grant shall be awarded on an annual basis, requiring reapplication by the student for each year. Payments under the grant shall be allocated equally among the semesters or quarters of the year upon certification by the institution that the student is in full-time or part-time 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 receiving payment of the grant, the entire amount of any refund due that student, up to the amount of any payments made under the annual grant, shall be paid by the institution to the state.

Sec. 27. Section 261.25, subsection 1, Code 1997, 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-eight~~ forty-one million six hundred sixty-four thousand seven hundred fifty dollars for tuition grants.

Sec. 28. Section 262.9, subsection 24, Code 1997, is amended to read as follows:

24. Develop a policy requiring oral communication competence of persons who provide instruction to students attending institutions under the control of the board. The policy shall include a student evaluation mechanism which requires student evaluation of persons providing instruction on at least an annual basis. However, the board shall establish criteria by which an institution may discontinue annual evaluations of a specific person providing instruction. The criteria shall include receipt by the institution of two consecutive positive annual evaluations from the majority of students evaluating the person.

*Sec. 29. *Section 262.9, Code 1997, is amended by adding the following new subsection:*

NEW SUBSECTION. *30. Cause to be printed on all statements of account for payment of tuition and fees issued by each institution of higher learning under the control of the board the portion of the average cost of an Iowa resident student's education at the institution issuing the statement that is paid by appropriations from the general fund of the state. The information, rounded to the nearest one-tenth of one percent and the nearest whole dollar, shall be included in the following statement:*

*"Tuition pays for approximately ____% of the average cost for a resident Iowa student at this institution of higher learning. The State of Iowa pays approximately $____ of the average cost for a full-time state resident student at this institution of higher learning."**

Sec. 30. Section 294A.25, Code 1997, is amended by adding the following new subsections:

NEW SUBSECTION. 4A. For the fiscal year beginning July 1, 1997, and ending June 30, 1998, the amount of fifty thousand dollars to be paid to the department of education for participation in a state and national project, the national assessment of education progress, to determine the academic achievement of Iowa students in math, reading, science, United States history, or geography.

NEW SUBSECTION. 4B. For the fiscal year beginning July 1, 1997, and ending June 30, 1998, the amount of fifty thousand dollars to the department of education for the geography alliance.

NEW SUBSECTION. 7A. For the fiscal year beginning July 1, 1997, and ending June 30, 1998, the amount of seventy thousand dollars to the state board of regents for equal distribution to the Iowa braille and sight saving school and the Iowa state school for the deaf from phase III moneys.

Sec. 31. Section 294A.25, subsections 7 and 8, Code 1997, are amended to read as follows:

7. Commencing with the fiscal year beginning July 1, ~~1996~~ 1997, the amount of ~~fifty thousand dollars for geography alliance and one~~ two hundred ~~eighty~~ thirty thousand dollars for a kindergarten to grade twelve management information system from additional funds transferred from phase I to phase III.

8. For the fiscal year beginning July 1, ~~1996~~ 1997, and ending June 30, ~~1997~~ 1998, 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. 32. Section 303.3, subsection 3, Code 1997, is amended by striking the subsection and inserting in lieu thereof the following:

3. Notwithstanding section 8.33, moneys committed to grantees under this section that remain unencumbered or unobligated 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 subsection 2.

Sec. 33. Section 321.34, subsection 21, paragraph c, subparagraph (2), Code 1997, is amended to read as follows:

(2) Twenty-five percent shall be allocated to the department of ~~education~~ cultural affairs. The department shall use the moneys to support teacher training in Iowa history, to purchase Iowa history classroom materials, to support student participation in Iowa history and citizenship-building activities, and to create a grant program for school districts to apply for funding to support field trips to museums, historic sites, and heritage attractions.

* Item veto; see message at end of the Act

Sec. 34. FUNDS TRANSFERRED. For the fiscal year beginning July 1, 1997, and ending June 30, 1998, the following amounts for the purposes designated shall be paid to the department of education from additional funds transferred from phase I to phase III:

1. For Iowa public television overnight transmitter feeds:

..... $ 150,000

2. For contracting with the Iowa alliance for arts education to execute the local arts comprehensive educational strategies program (LACES):

..... $ 50,000

3. For allocation to area education agencies to assist school districts in developing reading recovery programs:

..... $ 50,000

If funds available are insufficient to fully fund the amount designated for the reading recovery program under this section, the amount distributed for the reading recovery programs shall be reduced to an amount equal to the available funds.

Sec. 35. EFFECTIVE DATES.

1. Section 6 of this Act, relating to moneys designated for the Iowa state arts council for purposes of awarding operational support grants, being deemed of immediate importance, takes effect upon enactment.

2. Section 8 of this Act, relating to carryover for the career pathways program, being deemed of immediate importance, takes effect upon enactment.

3. Section 9 of this Act, relating to the state of Iowa libraries online (SILO) program, being deemed of immediate importance, takes effect upon enactment.

4. Section 13 of this Act, relating to tuition replacement, being deemed of immediate importance, takes effect upon enactment.

5. Section 14 of this Act, relating to the nonreversion of funds appropriated for the national advanced driving simulator, being deemed of immediate importance, takes effect upon enactment.

6. Section 17 of this Act, relating to the remaining interest for Iowa schools fund balance, being deemed of immediate importance, takes effect upon enactment.

Sec. 36. The section of this Act that amends section 257B.1A applies to interest earned on or after July 1, 1997.

Sec. 37. EFFECTIVE DATE. Sections 23 and 29 of this Act, relating to statements of account, being deemed of immediate importance, take effect upon enactment and apply to statements of account issued after January 1, 1998.

Approved May 27, 1997, except the items which I hereby disapprove and which are designated as Section 1, subsection 1, unnumbered and unlettered paragraph 2, in its entirety; Sections 22 and 23 in their entirety; Section 29 in its entirety; and Sections 36 and 37 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 549, an Act relating to the funding of, operation of, and appropriation of moneys to the college student aid commission, the department of cultural affairs, the department of education, the state board of regents, to the transfer of moneys from the interest for Iowa schools fund, and making related statutory changes and providing effective date and applicability provisions.

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* Item veto; see message at end of the Act

Senate File 549 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 1, unnumbered and unlettered paragraph 2, in its entirety. This item would require any new fiscal year 1998 State Student Incentive Grant (SSIG) funds to be used only for Vocational-Technical Tuition Grants. The College Student Aid Commission should retain the flexibility to allocate SSIG funds as needed.

I am unable to approve the items designated as section 22 and 36, in their entirety. These items would impact the way funding is received and spent by the First in the Nation in Education (FINE) Foundation and the International Center for Gifted and Talented Education. These items were not adequately discussed by the legislature and do not accomplish the legislative intent. I have been assured that a recommendation to limit administrative expenses will be included in the Department of Education study of the FINE Foundation to be completed this fall.

I am unable to approve the items designated as section 23, 29 and 37, in their entirety. These items would require information on student billing statements issued by the Regents institutions and community colleges to show the percentage of a student's education paid by tuition and the approximate dollar amount paid for with state appropriations. I support the addition of this information on student billing statements, however, the specific provisions of this bill are unworkable. The Regents institutions and the community colleges have agreed to develop a workable process for providing this information by the fall of 1998.

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 549 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 213

APPROPRIATIONS — AGRICULTURE AND NATURAL RESOURCES

H.F. 708

AN ACT relating to agriculture and natural resources by providing for appropriations, related statutory changes, and providing an effective date.

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, 1997, and ending June 30, 1998, 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:

..... $ 1,780,278
..... FTEs 41.45

(1) Of the amount appropriated and full-time equivalent positions authorized in this paragraph "a", $322,329 and 7.00 FTEs shall be used to support horticulture.

(2) Of the amount appropriated in this paragraph "a", $55,500 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 and full-time equivalent positions authorized in this paragraph "a", $129,167 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 and full-time equivalent positions authorized in this paragraph "a", $73,304 and 1.00 FTE shall be allocated to support the administrative assistant VI position created pursuant to 1996 Iowa Acts, chapter 1214, section 26, as amended by this Act.

(5) Of the amount appropriated and the number of full-time equivalent positions authorized in this paragraph "a", at least $38,000 shall be used to contract for part-time livestock market news specialist positions.

b. For the operations of the dairy trade practices bureau:

..... $ 66,969

c. For the purpose of performing commercial feed audits:

..... $ 64,945

d. For the purpose of performing fertilizer audits:

..... $ 64,945

2. REGULATORY DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 3,938,176
..... FTEs 123.50

Of the amount appropriated in this paragraph "a", not more than $21,009 and 1.00 FTE shall be used to support the hiring and training of a meat and poultry inspector.

b. For the costs of inspection, sampling, analysis, and other expenses necessary for the administration of chapters 192, 194, and 195:

..... $ 656,801

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:

..... $ 824,833
..... FTEs 84.10

(1) 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.

(2) Of the number of full-time equivalent positions authorized in this paragraph "a" and funded in paragraph "c", 1.00 FTE shall be used to support an organics program coordinator who shall assure compliance of organic foods sold commercially within the state with federal and state regulations relating to organic foods.

b. For the operations of the commercial feed programs:

..... $ 760,236

c. For the operations of the pesticide programs:

..... $ 1,307,865

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:

..... $ 647,203

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:

..... $ 6,058,717

..... FTEs 171.28

Of the amount appropriated in this paragraph "a", $347,376 shall be used to reimburse commissioners of soil and water conservation districts for administrative expenses, including but not limited to, travel expenses and technical training. Moneys used for the payment of meeting dues by counties shall be matched on a dollar-for-dollar basis by the soil conservation division.

b. To provide financial incentives for soil conservation practices under chapter 161A:

..... $ 6,461,850

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, 2001, from moneys appropriated in paragraph "b" for the fiscal year beginning July 1, 1997, shall revert to the general fund on August 31, 2001.

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, 1997, and ending June 30, 1998, 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:

..... $ 216,113

..... 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, 1997, and ending June 30, 1998, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For support of the pseudorabies eradication program:

..... $ 900,400

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, 1997, and ending June 30, 1998, 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:

..... $ 202,146

DEPARTMENT OF NATURAL RESOURCES

Sec. 5. 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, 1997, and ending June 30, 1998, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADMINISTRATIVE AND SUPPORT SERVICES

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,105,343
..... FTEs 118.25

Of the amount appropriated and the number of full-time equivalent positions authorized in this subsection 1, at least $150,000 and 3.00 FTEs shall be used by administrative and support services to support a compliance and permit assistance team to facilitate cooperation between the department and persons regulated by the department in order to ensure efficient compliance with applicable legal requirements.

2. PARKS AND PRESERVES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 5,728,615
..... FTEs 195.73

Of the amount appropriated in this subsection 2, at least $50,000 shall be allocated for the replacement of maintenance equipment used by the division.

3. FORESTS AND FORESTRY DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,539,416
..... 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:

..... $ 1,723,286
..... 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:

..... $ 2,798,698
..... FTEs 228.50

(2) Of the amount appropriated and the number of full-time equivalent positions authorized in subparagraph (1), at least $424,600 and 9.00 FTEs shall be used to support the regulation of animal feeding operations.

(3) Of the amount appropriated and the number of full-time equivalent positions authorized in subparagraph (1), at least $700,467 and 10.00 FTEs shall be used to support the regulation of wastewater treatment systems, including issuing permits and conducting inspections.

b. WATER QUALITY PROTECTION FUND

For allocation to the administration account of the water quality protection fund established pursuant to section 455B.183A, to carry out the purpose of that account:

..... $ 729,000

(1) Of the number of full-time equivalent positions authorized in paragraph "a", 32.50 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 2.00 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 342.18

7. WASTE MANAGEMENT ASSISTANCE DIVISION

For not more than the following full-time equivalent positions:

..... FTEs 17.75

Sec. 6. STATE FISH AND GAME PROTECTION FUND — APPROPRIATION TO THE DIVISION OF FISH AND WILDLIFE.

1. a. 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, 1997, and ending June 30, 1998, 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:

..... $ 21,951,394

b. Of the amount appropriated in paragraph "a", $105,000 may be used for purposes of providing compensation to conservation peace officers employed in a protection occupation who retire, pursuant to section 97B.49.

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. 7. MARINE FUEL TAX RECEIPTS — 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, 1997, and ending June 30, 1998, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For maintaining and developing boating facilities and access to public waters by the parks and preserves division:

..... $ 411,311

Sec. 8. SNOWMOBILE FEES — TRANSFER FOR ENFORCEMENT PURPOSES. There is transferred on July 1, 1997, 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, 1997, and ending June 30, 1998, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For enforcing snowmobile laws as part of the state snowmobile program administered by the department of natural resources:

..... $ 100,000

Sec. 9. VESSEL FEES — TRANSFER FOR ENFORCEMENT PURPOSES. There is transferred on July 1, 1997, from the fees deposited under section 462A.52 to the fish and game protection fund and appropriated to the natural resource commission for the fiscal year beginning July 1, 1997, and ending June 30, 1998, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the administration and enforcement of navigation laws and water safety:

..... $ 1,350,000

1. Of the amount appropriated in this section and the full-time equivalent positions authorized for the fish and wildlife division in section 5, subsection 6, of this Act, not more than $100,000 and 1.00 FTE may be used for purposes of controlling and eradicating eurasian milfoil.

2. Notwithstanding section 8.33, moneys transferred pursuant to this section which are unencumbered or unobligated on June 30, 1998, shall be transferred on July 1, 1998, to the special conservation fund established by section 462A.52 to be used as provided in that section, and shall not revert as provided in section 8.33.

RESOURCES ENHANCEMENT AND PROTECTION

Sec. 10. 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, 1997, and ending June 30, 1998, the sum of $9,000,000, of which all moneys shall be allocated as provided in section 455A.19.

RELATED APPROPRIATIONS

Sec. 11. ANIMAL FEEDING OPERATIONS. Notwithstanding section 455E.11, subsection 2, paragraph "b", prior to any appropriation from the agriculture management account of the groundwater protection fund, as provided in section 455E.11, subsection 2, paragraph "b", the following amounts are appropriated for use as provided in this section during the fiscal period beginning July 1, 1997, and ending January 1, 1999, as follows:

1. To Iowa state university for purposes of conducting a study of sites where there is located earthen waste storage structures:

..... $ 200,000

2. The moneys appropriated in this section shall be used to determine the extent to which the structures contribute to point and nonpoint pollution in this state. Iowa state university shall select test sites where earthen waste storage structures are located, and shall perform tests at the sites with the owner's consent and according to established testing procedures. For purposes of establishing a baseline for the study, test sites shall include locations where the structures are not located. To every extent feasible, the tests shall be conducted to ensure the most efficient use of moneys appropriated under this section to obtain accurate samples,

which may include the use of hydraulically powered, percussion and probing equipment designed specifically for use in the environmental industry to drive borings in order to obtain groundwater samples. Iowa state university shall collect samples and evaluate the results of the tests. Iowa state university shall submit a report, including standards, criteria, and protocols used to conduct the testing, to the general assembly regarding the findings of the study not later than January 1, 1999.

3. Except as provided in this subsection, the identity of a site selected pursuant to this section, including a person holding an interest in the earthen waste storage structure, shall be confidential and shall not be subject to disclosure under chapter 22, and the findings of the testing shall not be used in a case or proceeding brought against a person based upon a violation of state law. This subsection shall not apply to a person or an animal feeding operation in which the person holds a controlling interest, if the person is classified as a habitual violator for a violation of state law involving an animal feeding operation as regulated by the department of natural resources.

4. Notwithstanding section 8.33, the moneys appropriated pursuant to this section shall revert to the account from which appropriated on January 1, 1999.

Sec. 12. TRANSFER FROM ORGANIC NUTRIENT MANAGEMENT FUND. There is transferred from the organic nutrient management fund, as created in section 161C.5, for the fiscal year beginning July 1, 1997, and ending June 30, 1998, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. To Iowa state university for supporting odor control applications for animal feeding operations, including confinement feeding operations, regulated by the department of natural resources pursuant to chapter 455B:

..... $ 400,000

2. To the state board of regents for Iowa state university for the fiscal year beginning July 1, 1997, and ending June 30, 1998, to be used for the purpose designated:

For purposes of supporting the Iowa state university cooperative extension service in agriculture and home economics in providing for a program to assist counties in testing private wells and waters of the state for pollution caused by animal production:

..... $ 50,000

Moneys appropriated in subsection shall support testing programs administered by counties which may submit an application to the extension service to participate in the state assistance program, as provided by the extension service. The county shall perform testing within a test area. As used in this section, "test area" means an area within a two-mile radius of any structure used to store manure which is part of a confinement feeding operation. Iowa state university of science and technology shall adopt necessary standards, protocols, and criteria for the establishment of baselines for testing by counties. The program shall be administered within each participating county by the county agricultural extension district serving that county in collaboration with the local board of health. The testing may be performed with volunteer assistance. However, all testing shall be performed under the supervision of a county sanitarian. The samples of the testing shall be analyzed by the state hygienic laboratory at the state university of Iowa or an environmental laboratory for drinking water analysis certified by the department of natural resources. The samples shall be evaluated in accordance with standards established by the department of agricultural biosystems engineering within the college of agriculture and the college of engineering at Iowa state university. All moneys available under this subsection shall only be used for the following purposes:

a. Analyzing test samples by the state hygienic laboratory.

b. Performing tests in counties. However, not more than $50 of the moneys available under this section shall be used to pay for administering testing within any test area, including labor and equipment costs, regardless of the number of tests performed within the test area.

3. To the soil conservation division of the department of agriculture and land stewardship for purposes of supporting technical training and administrative expenses of commissioners of soil and water conservation districts:

..... $ 99,000

Sec. 13. NONREVERSION OF MONEYS ALLOCATED TO IOWA GRAIN QUALITY INITIATIVE. Notwithstanding 1995 Iowa Acts, chapter 216, section 19, subsection 2, moneys allocated pursuant to 1995 Iowa Acts, chapter 216, section 19, subsection 1, paragraph "f", subparagraph (1), which remain unencumbered or unobligated on June 30, 1997, shall not revert pursuant to section 8.33, but shall remain available 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 in subsequent fiscal years.

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, which are required to be deposited in the water protection fund created in section 161C.4, as provided in section 455A.19, subsection 1, paragraph "c", the following amount 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:

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

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, 1997, and ending June 30, 1998, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For administration expenses of the underground storage tank section of the department of natural resources:

..... $ 75,000

Sec. 16. TRANSFER — AIR QUALITY. For the fiscal year beginning July 1, 1997, and ending June 30, 1998, the department of natural resources may transfer up to $430,000 from the hazardous substance remedial fund created pursuant to section 455B.423, 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. LEWIS AND CLARK RURAL WATER SYSTEM. There is appropriated from the general fund of the state to the department of natural resources for a grant to local sponsors of the Lewis and Clark rural water system for the fiscal year beginning July 1, 1997, and ending June 30, 1998, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For a grant for the purpose of providing safe and adequate municipal and rural water supplies for residential, agricultural, and industrial uses, to preserve wetlands, and to mitigate water conservation efforts:

..... $ 15,000

MISCELLANEOUS

Sec. 18. TRANSFER OF MONEYS OR POSITIONS — CHANGES IN TABLES OF ORGANIZATION — NOTIFICATION. In addition to the requirements of section 8.39, in each fiscal quarter, 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. 19. *GENERAL ASSEMBLY — DECLARATION OF INTENTION NOT TO SUPPORT CERTAIN PROJECTS IN SUBSEQUENT FISCAL YEARS FROM THE GENERAL FUND. The general assembly declares its intention that for the fiscal year beginning July 1, 1998, and ending June 30, 1999, and for subsequent fiscal years, all of the following shall apply:*

1. Moneys appropriated from the general fund of the state shall not be used to support the administration of the organic food program by the department of agriculture and land stewardship, including the position of a program coordinator within the department's laboratory division. The general assembly intends that the program shall be supported by revenues from fees imposed upon organic producers as may be established or required by the general assembly, upon finalization of organic production guidelines by the federal government.

*2. Moneys appropriated from the water protection fund as created in section 161C.4 shall not be used to support the Loess Hills development and conservation fund created in section 161D.2. However, the general assembly supports continued state funding of the loess hills development and conservation authority as provided in section 161D.1.**

Sec. 20. AIR QUALITY PROGRAM — NONGENERAL FUND SUPPORT. The department of natural resources for the fiscal year beginning July 1, 1997, and ending June 30, 1998, 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, 1997, and ending June 30, 1998, 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. 21. ELIMINATION OF POSITIONS. The following positions are eliminated from the administrative division of the department of agriculture and land stewardship:

1. One position in the information bureau of the administrative division.
2. The position of interim assistant secretary of agriculture as created in 1996 Iowa Acts, chapter 1214, section 27.
3. The position of deputy secretary of agriculture as provided in 1996 Iowa Acts, chapter 1214, sections 25 and 33.

Sec. 22. APPROPRIATIONS CONDITIONAL UPON IMPLEMENTATION OF ADMINISTRATIVE FUNCTIONS. As a condition of the appropriations made to the department of agriculture and land stewardship in sections 1 through 4 of this Act, all of the following shall apply:

1. The office from which the position of deputy secretary of agriculture performed duties on January 1, 1996, shall remain vacated until the position of deputy secretary of agriculture is filled.

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* Item veto; see message at end of the Act

2. The position of administrative assistant VI shall not perform duties relating to personnel, administration, or budgeting for the department, or have jurisdiction over the heads of the department's administrative units, as provided by 1996 Iowa Acts, chapter 1214, section 26, as amended by this Act.

Sec. 23. APPROPRIATIONS CONDITIONAL UPON EXECUTION OF A MEMORANDUM OF UNDERSTANDING FOR ANIMAL CONTROL.

1. As a condition of the appropriations made to the department of natural resources in section 5 of this Act, the department shall, not later than June 1, 1997, execute a memorandum of understanding with the United States department of agriculture, animal and plant health inspection service, animal damage control, for purposes of supporting measures by the federal agency for the fiscal year beginning July 1, 1997, to prevent or minimize damage to agricultural production caused by all wild animals.

2. If the department of natural resources denies the federal agency a depredation permit the department shall notify the chairpersons, vice-chairpersons, and the minority party ranking members of the general assembly's senate standing committee on natural resources and environment and the house standing committee on natural resources within ten days from the date that denial occurred.

Sec. 24. SUPPORT OF WILD ANIMAL DEPREDATION BIOLOGISTS. 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, 1997, and ending June 30, 1998, an amount necessary to support necessary full-time equivalent positions which shall be filled by persons serving as wild animal depredation biologists within the wild animal depredation unit established within the fish and wildlife division of the department of natural resources, as provided in 1997 Iowa Acts, Senate File 362, if enacted.*

Sec. 25. 1996 Iowa Acts, chapter 1214, section 26, is amended to read as follows:

SEC. 26. ADMINISTRATIVE ASSISTANT VI POSITION. ~~An additional~~ The position of administrative assistant VI ~~is created~~ shall be maintained within the department of agriculture and land stewardship. The duties of the position shall not include any matter relating to personnel~~, including the appointment of an interim assistant secretary of agriculture as provided in section 27 of this Act~~; or the administration of or budgeting for the department or its administrative units, including divisions within the department. The position shall not have jurisdiction over the heads of the department's administrative units, including division directors. Notwithstanding chapter 19A, the person appointed to fill the position shall serve at the pleasure of the secretary of agriculture. ~~The secretary of agriculture shall prepare and submit a written report to the chairpersons and ranking members of the house and senate standing committees on appropriations and to the legislative fiscal bureau director not later than August 31, 1996, describing the duties and responsibilities of the position.~~

CODIFIED CHANGES

Sec. 26. NEW SECTION. 455A.12 GIFT CERTIFICATES FOR SPECIAL PRIVILEGE FEES ON STATE PARKS AND RECREATION AREAS.

The department of natural resources shall publish and make available for purchase by the general public, gift certificates entitling the bearer of the certificate to free camping and other special privileges at state parks and recreation areas. The department shall establish prices for the certificates based on amounts required to be paid in fees for camping and special privileges pursuant to section 461A.47.

Sec. 27. NEW SECTION. 455A.13 STATE NURSERIES.

Notwithstanding section 17A.2, subsection 10, paragraph "g", the department of natural resources shall adopt administrative rules establishing a range of prices of plant material

* Chapter 180 herein

grown at the state forest nurseries to cover all expenses related to the growing of the plants.

1. 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.

2. The department shall encourage a cooperative relationship between the state forest nurseries and private nurseries in the state in order to achieve these goals.

REPEALS

Sec. 28. 1996 Iowa Acts, chapter 1214, section 33, is amended to read as follows:

SEC. 33. FUTURE REPEAL. Sections 25 ~~through 27~~ and 26 of this Act are repealed on December 31, 1998.

Sec. 29. 1995 Iowa Acts, chapter 216, section 13, subsection 3, is amended by striking the subsection.

Sec. 30. 1995 Iowa Acts, chapter 195, section 41, is repealed.

Sec. 31. 1996 Iowa Acts, chapter 1214, section 27, is repealed.

EFFECTIVE DATE

Sec. 32. EFFECTIVE DATE. Section 23 of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 27, 1997, except the item which I hereby disapprove and which is designated as Section 19 in its entirety. My reason for vetoing this item is 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 708, an Act relating to agriculture and natural resources by providing for appropriations, related statutory changes, and providing an effective date.

House File 708 is, therefore, approved on this date with the following exception, which I hereby disapprove.

I am unable to approve the item designated as section 19, in its entirety. This item states the legislature's intent regarding funds to be appropriated in fiscal year 1999 and beyond. Language directing or restricting the use of certain funds is more appropriately provided in the year the funds are appropriated.

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 708 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 214

HOUSING DEVELOPMENT

H.F. 732

AN ACT relating to housing development and making an appropriation.

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

Section 1. Section 15.108, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 11. HOUSING DEVELOPMENT. a. To provide assistance to local governments, housing organizations, economic development groups, and other local entities to increase the development of housing in the state and to improve the quality of existing housing in order to maximize the effects of other economic development efforts.

b. To carry out this responsibility, the department shall:

(1) Provide housing needs assessments.

(2) Provide a one-stop source, in coordination with other agencies of the state, for housing development assistance.

(3) Establish programs which assist communities or local entities in developing housing to meet a range of community needs, including programs to assist homeless shelter operations and programs to assist in the development of housing to enhance economic development opportunities in the community.

Sec. 2. NEW SECTION. 15.351 SHORT TITLE.

This part shall be known and may be cited as the "Local Housing Assistance Program".

Sec. 3. NEW SECTION. 15.352 PURPOSE.

The purpose of this part is to assist communities on a cooperative basis to address the housing development needs in the communities in order to better position the communities for economic development or to meet housing needs arising as a result of other economic development efforts in the area. Assistance may be either technical or financial and shall be provided pursuant to rules established by the department in accordance with the provisions of this part and be coordinated with existing housing assessment and assistance programs when feasible.

Sec. 4. NEW SECTION. 15.353 PROGRAM.

The department shall establish the local housing assistance program in coordination with the Iowa finance authority to effectuate the purposes of this part, subject to the following provisions:

1. The department shall provide financial assistance on a competitive basis for housing projects. Requests for assistance for housing projects may be made by a city, county, housing trust fund, local housing organization, recognized neighborhood organization, economic development organization, or other entity or by a local housing group on behalf of a local entity. To be eligible to receive assistance, a housing needs assessment must have been completed for the community in which the project will be undertaken within the five years prior to the date of the application.

2. The department shall also provide technical assistance to local housing groups or entities. Technical assistance provided under the program shall be coordinated with existing departmental programs or resources and existing programs or resources of the Iowa finance authority, to the extent feasible.

3. A local housing group which applies to the department on behalf of a local entity shall not directly administer a project receiving financial assistance under the program. The project shall be administered by the entity for which the local housing group made the application.

4. In reviewing applications for financial assistance, the department shall consider a variety of factors including, but not limited to, the following:

a. Whether the project is consistent with the recommendations of the housing needs assessment.

b. Whether the need for the project arose as a result of economic development efforts or opportunities not reflected in the housing needs assessment. When considering projects not consistent with the housing needs assessment, the department shall consider whether failure to fund the project will cause the economic development activity necessitating the project to fail.

c. Whether the local housing group or entity has adopted a comprehensive housing plan for the community in which the project will be undertaken.

d. The extent to which financial assistance under the program will leverage local or private matching funds or financial assistance or other state or federal financial assistance.

5. As used in this part:

a. "Community" means a city or county, or an entity established pursuant to chapter 28E.

b. "Local housing group" means an entity organized to represent community housing development interest.

Sec. 5. NEW SECTION. 15.354 LOCAL HOUSING ASSISTANCE PROGRAM FUND.

1. The local housing assistance program fund is created consisting of one million dollars appropriated from the rebuild Iowa infrastructure fund each fiscal year starting with the fiscal year beginning July 1, 1997, and ending June 30, 1998, and ending with the fiscal year beginning July 1, 2001, and ending June 30, 2002, notwithstanding section 8.57, subsection 5, paragraph "c", and any other moneys appropriated to or received by the department for deposit in the fund.

2. Payments of interest, recaptures of awards, or other repayments to the fund shall be deposited in the fund. Moneys in the local housing assistance program fund are not subject to section 8.33.

3. The fund is subject to an annual audit by the auditor of state. Moneys in the fund, which may be subject to warrants written by the director of revenue and finance, shall be drawn upon the written requisition of the director of the department of economic development or an authorized representative of the director.

Sec. 6. Section 16.91, subsection 1, Code 1997, is amended to read as follows:

1. The authority through the title guaranty division shall initiate and operate a program in which the division shall offer guaranties of real property titles in this state. The terms, conditions and form of the guaranty contract shall be forms approved by the division board. The division shall fix a charge for the guaranty in an amount sufficient to permit the program to operate on a self-sustaining basis, including payment of administrative costs and the maintenance of an adequate reserve against claims under the title guaranty program. A title guaranty fund is created in the office of the treasurer of state. Funds collected under this program shall be placed in the title guaranty fund and are available to pay all claims, necessary reserves and all administrative costs of the title guaranty program. Moneys in the fund shall not revert to the general fund and interest on the moneys in the fund shall be ~~retained as a part of the fund~~ transferred to the department of economic development for deposit in the local housing assistance program fund established in section 15.354 and shall not accrue to the general fund. If the authority board in consultation with the division board determines that there are surplus funds in the title guaranty fund after providing for adequate reserves and operating expenses of the division, the surplus funds shall be transferred to the housing program fund created pursuant to section 16.40.

**Sec. 7. Section 103A.10, subsection 4, paragraph a, Code 1997, is amended to read as follows:*

a. Provisions of the state building code establishing thermal efficiency energy conservation standards shall be applicable to all new construction owned by the state, an agency of the

* Item veto; see message at end of the Act

*state or a political subdivision of the state, to all new construction located in a governmental subdivision which has adopted ~~either~~ the state building code, ~~or a local building code or compilation of requirements for building construction~~ and to all other new construction in the state which will contain more than one hundred thousand cubic feet of enclosed space that is heated or cooled.**

**Sec. 8. Section 103A.10, Code 1997, is amended by adding the following new subsection:*

*NEW SUBSECTION. 5. Provisions of the state building code establishing thermal efficiency energy conservation standards shall not apply to new construction which is not owned by a governmental subdivision, and which contains less than one hundred thousand cubic feet of enclosed space that is heated or cooled, and which is located in a governmental subdivision that has adopted its own thermal efficiency energy conservation standards.**

Sec. 9. Section 403.22, subsection 1, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For a municipality with a population of five thousand or less, the municipality need not provide any low and moderate income family housing assistance if the municipality has completed a housing needs assessment meeting the standards set out by the department of economic development, which shows no low and moderate income housing need and the department of economic development agrees that no low and moderate family housing assistance is needed.

Sec. 10. Section 404.1, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 5. An area designated as appropriate for public improvements related to housing and residential development, or construction of housing and residential development, including single or multifamily housing.

Sec. 11. NEW SECTION. 404.3A RESIDENTIAL DEVELOPMENT AREA EXEMPTION.

Notwithstanding the schedules provided for in section 404.3, all qualified real estate assessed as residential property in an area designated under section 404.1, subsection 5, is eligible to receive an exemption from taxation on the first seventy-five thousand dollars of actual value added by the improvements. The exemption is for a period of five years.

Sec. 12. Section 543B.46, subsection 1, Code 1997, is amended to read as follows:

1. Each real estate broker shall maintain a common trust account in a bank, a savings and loan association, savings bank, or credit union for the deposit of all down payments, earnest money deposits, or other trust funds received by the broker or the broker's salespersons on behalf of the broker's principal, except that a broker acting as a salesperson shall deposit these funds in the common trust account of the broker for whom the broker acts as salesperson. The account shall be an interest-bearing account. The interest on the account shall be transferred quarterly to the treasurer of state and ~~deposited in the title guaranty fund and used for public purposes and the benefit of the public pursuant to section 16.91 unless there is a written agreement between the buyer and seller to the contrary. The broker shall not benefit from interest received on funds of others in the broker's possession~~ transferred to the department of economic development for deposit in the local housing assistance program fund established in section 15.354 unless there is a written agreement between the buyer and seller to the contrary. The broker shall not benefit from interest received on funds of others in the broker's possession.

Approved May 29, 1997, except the items which I hereby disapprove and which are designated as Sections 7 and 8 in their entirety. My reasons for vetoing these items are delineated in the item veto message pertaining to this Act to the Secretary of State this same date, a copy of which is attached hereto.

TERRY E. BRANSTAD, *Governor*

* Item veto; see message at end of the Act

Dear Mr. Secretary:

I hereby transmit House File 732, an Act relating to housing development and making an appropriation.

House File 732 is an important bill that will provide additional assistance to provide affordable housing in communities with critical needs. The bill is estimated to provide in excess of $21 million for housing improvement projects over the next five years. The bill will also expand the housing that qualifies for urban revitalization tax exemptions.

House File 732 is, therefore, approved on this date with the following exceptions, which I hereby disapprove.

I am unable to approve the items designated as sections 7 and 8, in their entirety. These items would reduce the applicability of the state thermal efficiency energy conservation standards to construction of residential housing. Energy efficiency makes economic sense during the new construction of a home, and compliance with such standards is now required for the housing programs under the Federal Housing Administration, the Department of Agriculture, and the Department of Veteran's Affairs. The current standards provide important safeguards to home buyers and contribute to the state's effort to conserve energy.

For the above reason, I hereby respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 732 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 215

APPROPRIATIONS — INFRASTRUCTURE AND CAPITAL PROJECTS

H.F. 733

AN ACT making appropriations from the rebuild Iowa infrastructure fund to the departments of cultural affairs, general services, economic development, public defense, natural resources, revenue and finance, public safety, education, transportation, workforce development, and agriculture and land stewardship, and to the commission of veterans affairs, Loess Hills development and conservation authority, state fair foundation, and state board of regents, making an appropriation of marine fuel tax receipts from the general fund of the state, and making statutory changes relating to the appropriations.

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

DIVISION I
DEPARTMENT OF CULTURAL AFFAIRS

Section 1. There is appropriated from the rebuild Iowa infrastructure fund to the department of cultural affairs for the fiscal year beginning July 1, 1997, and ending June 30, 1998, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the completion of undeveloped exhibit space at the new historical building:
..... $ 500,000

2. For allocation to an Iowa project that has received a national endowment for the humanities award for the museum and discovery center:

..... $ 500,000

3. For a feasibility study by the city of Burlington regarding the construction of a replica of the first territorial capitol of Iowa:

..... $ 25,000

Allocation of moneys pursuant to this subsection shall be contingent upon a matching contribution of private moneys at a rate of two dollars of private moneys for each dollar of state appropriated moneys.

Notwithstanding section 8.33, the unencumbered or unobligated moneys remaining on June 30 of the fiscal year from moneys appropriated in this section may be expended during the following fiscal year for the same purpose.

DEPARTMENT OF GENERAL SERVICES

Sec. 2. There is appropriated from the rebuild Iowa infrastructure fund to the department of general services for the fiscal year beginning July 1, 1997, and ending June 30, 1998, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For major maintenance needs including health, life, and fire safety, for compliance with the federal Americans with Disabilities Act for state-owned buildings and facilities:

..... $ 7,000,000

2. For critical and deferred maintenance at Terrace Hill:

..... $ 100,000

As a condition of receiving this appropriation made in this subsection, private matching funds must be contributed on a dollar-for-dollar basis.

3. For relocation of offices and other transition costs associated with renovation of the Lucas state office building and the old historical building:

..... $ 1,300,000

*4. *For relocating the state library:*

..... *$ 1,000,000**

5. To fund the state share of the capitol gateway east development project in conjunction with the city of Des Moines:

..... $ 50,000

6. For the installation of storm drainage, grading, new asphalt, new lighting, and striping of capitol complex parking lots 4 and 5 in accordance with capitol complex renovation plans, provided that not more than $450,000 shall be used for lot 4 and not more than $105,000 shall be used for lot 5, and provided that existing capitol complex construction plans do not conflict with the parking lot improvements:

..... $ 555,000

7. For filling cracks, resurfacing, new handicapped parking signs which comply with the provisions of chapter 321L, as amended by 1997 Iowa Acts, House File 688,** and striping capitol complex parking lots 13 and 15 in accordance with capitol complex renovation plans, provided that not more than $100,750 shall be used for lot 13 and not more than $75,000 shall be used for lot 15, and provided that existing capitol complex construction plans do not conflict with the parking lot improvements:

..... $ 175,750

8. For the design and construction of new or replacement buildings at the state training school by allocating not more than $1,600,000 for design and construction of a living unit, allocating not more than $800,000 for design and construction of a multipurpose building, and allocating not more than $200,000 for the design of a new school building:

..... $ 2,600,000

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* Item veto; see message at end of the Act

** Chapter 70 herein

9. For renovation of an existing cottage to provide additional beds for females at the Toledo juvenile home:
..... $ 350,000

10. For conducting a survey of the condition of state-owned property:
..... $ 500,000

The department shall report on the progress of the vertical infrastructure survey and provide an accounting of how the appropriation in subsection 1 was spent to the joint transportation, infrastructure and capitals appropriations subcommittee not later than February 1, 1998.

Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30, 2002, from the funds appropriated in this section, shall revert to the rebuild Iowa infrastructure fund on August 31, 2002.

Sec. 3. 1996 Iowa Acts, chapter 1218, section 13, is amended to read as follows:

SEC. 13.

1. There is appropriated from the rebuild Iowa infrastructure fund of the state to the department of general services for the fiscal period beginning July 1, 1996, and ending June 30, ~~1999~~ 1998, the following amounts, or so much thereof as is necessary, to be used for the projects in the amounts and for the fiscal years as designated in subsection 2:

a. For the fiscal year beginning July 1, 1996, and ending June 30, 1997:
..... $ 20,700,000

b. For the fiscal year beginning July 1, 1997, and ending June 30, 1998:
..... $ ~~14,600,000~~
14,540,000

~~c. For the fiscal year beginning July 1, 1998, and ending June 30, 1999:~~
..... $ ~~3,900,000~~

2. a. For exterior state capitol building restoration:

(1) For the fiscal year beginning July 1, 1996, and ending June 30, 1997:
..... $ 9,300,000

(2) For the fiscal year beginning July 1, 1997, and ending June 30, 1998:
..... $ ~~7,600,000~~
4,400,000

b. For interior state capitol building restoration:

(1) For the fiscal year beginning July 1, 1996, and ending June 30, 1997:
..... $ 2,800,000

(2) For the fiscal year beginning July 1, ~~1998~~ 1997, and ending June 30, ~~1999~~ 1998:
..... $ ~~2,300,000~~
3,140,000

c. For renovation of the old historical building:

(1) For the fiscal year beginning July 1, 1996, and ending June 30, 1997:
..... $ 5,400,000

*(2) *For the fiscal year beginning July 1, 1997, and ending June 30, 1998, provided that not more than $1,800,000 may be allocated for construction of a tunnel between the old historical building and the capitol and provided that the remaining $2,300,000 shall only be obligated or expended on or after July 1, 1998:*
..... $ *4,100,000**

d. For renovation of the Lucas tunnel, provided that existing capitol complex construction plans do not conflict with the renovation:

(1) For the fiscal year beginning July 1, 1996, and ending June 30, 1997:
..... $ 100,000

(2) For the fiscal year beginning July 1, 1997, and ending June 30, 1998:
..... $ 400,000

e. For renovation of the Lucas state office building:

(1) For the fiscal year beginning July 1, 1996, and ending June 30, 1997:

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* Item veto; see message at end of the Act

..... $ 3,100,000

(2) For the fiscal year beginning July 1, 1997, and ending June 30, 1998:

..... $ 2,500,000

Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30, ~~2001~~ 2002, from the funds appropriated in this section shall revert to the rebuild Iowa infrastructure fund of the state on August 31, ~~2001~~ 2002.

Sec. 4. There is appropriated from the rebuild Iowa infrastructure fund to the department of general services for the fiscal year beginning July 1, 1998, and ending June 30, 1999, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For exterior state capitol building restoration:

..... $ 4,400,000

2. For interior state capitol building restoration:

..... $ 4,200,000

3. For conducting a survey of the condition of state-owned property:

..... $ 500,000

4. For the design and construction of new or replacement buildings at the state training school by allocating not more than $2,300,000 to complete construction of the new school building and allocating not more than $400,000 for the design of the new gymnasium building:

..... $ 2,700,000

*5. *For repair of capitol complex parking lots in accordance with capitol complex renovation plans:*

..... $ *1,500,000**

*6. *For relocating the state library:*

..... $ *4,000,000**

Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30, 2003, from the funds appropriated in this section, shall revert to the rebuild Iowa infrastructure fund on August 31, 2003.

Sec. 5. There is appropriated from the rebuild Iowa infrastructure fund to the department of general services for the fiscal year beginning July 1, 1999, and ending June 30, 2000, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For construction of a new gymnasium building at the state training school:

..... $ 4,000,000

Sec. 6. The department of general services, after consulting with the appropriate committee designated by the legislative council, shall contract with a private person with experience in evaluating the renovation and repair needs of vertical infrastructure as defined in section 8.57, subsection 5, paragraph "c", to conduct the survey of the condition of state-owned property.

DEPARTMENT OF ECONOMIC DEVELOPMENT

Sec. 7. There is appropriated from the rebuild Iowa infrastructure fund to the department of economic development for the fiscal period beginning July 1, 1997, and ending June 30, 1998 1999,** the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the fiscal year beginning July 1, 1997, and ending June 30, 1998:

a. For a welcome center at living history farms:

..... $ 500,000

**b. *For the historical site preservation grant program:*

..... $ *500,000**

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* Item veto; see message at end of the Act

** "June 30, 1999" probably intended

c. For construction of a China-Des Moines trade and cultural center:
..... $ 150,000

*d. *For the main street investments loan program, notwithstanding section 8.57, subsection 5, paragraph "c":*
..... $ *200,000**

2. For the fiscal year beginning July 1, 1998, and ending June 30, 1999:

**a. For the historical site preservation grant program:*
..... $ *2,500,000**

b. For a welcome center at Okoboji:
..... $ 200,000

Notwithstanding section 8.33, the unencumbered or unobligated moneys remaining on June 30 of the fiscal year from the moneys appropriated in this section may be expended during the following fiscal year for the same purpose.

Sec. 8. 1996 Iowa Acts, chapter 1218, section 55, unnumbered paragraph 1, is amended to read as follows:

There is appropriated from the rebuild Iowa infrastructure fund of the state, notwithstanding section 8.57, subsection 5, paragraph "c", to the Iowa department of economic development for the fiscal years beginning July 1, 1996, and ending June 30, 1998, the following amounts, or so much thereof as is necessary, to be deposited in the physical infrastructure assistance fund created in section 15E.175 and used only in accordance with subsection 3, provided that the department, to the best of its abilities, expend the funds on projects which meet the definition of vertical infrastructure:

**Sec. 9. 1996 Iowa Acts, chapter 1218, section 55, subsection 2, is amended to read as follows:*

2. For the fiscal year beginning July 1, 1997, and ending June 30, 1998, the following amount:
..... $ ~~*6,100,000*~~ *4,130,000**

DEPARTMENT OF PUBLIC DEFENSE

Sec. 10. There is appropriated from the rebuild Iowa infrastructure fund to the department of public defense for the fiscal year beginning July 1, 1997, and ending June 30, 1998, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For maintenance and repair of national guard armories and facilities:
..... $ 400,000

Notwithstanding section 8.33, the unencumbered or unobligated moneys remaining on June 30 of the fiscal year from the moneys appropriated in this section may be expended during the following fiscal year for the same purpose.

DEPARTMENT OF NATURAL RESOURCES

Sec. 11. 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, 1997, and ending June 30, 1998, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the purpose of funding capital projects funded from marine fuel tax receipts for the purposes specified in section 452A.79:
..... $ 1,800,000

Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30, 1998, from the funds appropriated in this section, shall revert to the general fund of the state on August 31, 1998.

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* Item veto; see message at end of the Act

STATE DEPARTMENT OF TRANSPORTATION

Sec. 12. There is appropriated from the rebuild Iowa infrastructure fund to the state department of transportation for the fiscal year beginning July 1, 1997, and ending June 30, 1998, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For allocating $75,000 for the Nishna Valley trail project at Anita state park and for acquiring, constructing, and improving recreational trails within the state:

..... $ 1,000,000

2. For funding, on a matching basis, recreational trail projects, with priority given to completion of trail connections and sections between existing trails and parks within the established state recreational trails system:

..... $ 1,000,000

Projects funded in subsection 2 shall be matched by one dollar of private or other funds for each three dollars of state funds.

The department may, upon proper documentation from the governmental subdivision, pay the state's share of a project directly to the contractor undertaking the project.

Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30 of the fiscal year from funds appropriated in this section shall not revert to the rebuild Iowa infrastructure fund but shall remain available for expenditure for the same purpose during the following fiscal year.

Sec. 13. There is appropriated from the rebuild Iowa infrastructure fund to the state department of transportation for the fiscal year beginning July 1, 1998, and ending June 30, 1999, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For acquiring, constructing, and improving recreational trails within the state:

..... $ 1,000,000

2. For funding, on a matching basis, recreational trail projects, with priority given to completion of trail connections and sections between existing trails and parks within the established state recreational trails system:

..... $ 1,000,000

Projects funded in subsection 2 shall be matched by one dollar of private or other funds for each three dollars of state funds.

The department may, upon proper documentation from the governmental subdivision, pay the state's share of a project directly to the contractor undertaking the project.

Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30 of the fiscal year from funds appropriated in this section shall not revert to the rebuild Iowa infrastructure fund but shall remain available for expenditure for the same purpose during the following fiscal year.

DEPARTMENT OF REVENUE AND FINANCE

Sec. 14. Notwithstanding section 8.57, subsection 5, paragraph "c", there is appropriated from the rebuild Iowa infrastructure fund to the department of revenue and finance for the fiscal year beginning July 1, 1997, and ending June 30, 1998, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For upgrades to the Iowa financial accounting system, provided that none of the moneys appropriated in this section shall be used for personnel expenses not associated with the installation of the upgrades to the system or for training expenses:

..... $ 1,875,000

DEPARTMENT OF PUBLIC SAFETY

Sec. 15. Notwithstanding section 8.57, subsection 5, paragraph "c", there is appropriated from the rebuild Iowa infrastructure fund to the department of public safety for the fiscal

period beginning July 1, 1997, and ending June 30, 2000, the following amount, or so much thereof as is necessary, to be used for the conversion of the department of public safety's radio system from analog to digital technology, provided that none of the moneys appropriated in this section shall be used for personnel expenses not associated with the installation of the radio system or for training expenses:

1. For the fiscal year beginning July 1, 1997, and ending June 30, 1998:
..... $ 1,897,786
2. For the fiscal year beginning July 1, 1998, and ending June 30, 1999:
..... $ 2,074,663
3. For the fiscal year beginning July 1, 1999, and ending June 30, 2000:
..... $ 2,339,200

The department of public safety shall notify local law enforcement agencies and fire departments of the department's intent to purchase new radio equipment and shall allow any local law enforcement agency or fire department, which wishes to purchase with its own funds on the same purchase order, to participate in the joint purchase in order to purchase new radio equipment for the local law enforcement agency or fire department.

Notwithstanding section 8.33, unencumbered or unobligated moneys remaining on June 30, 2001, shall revert on August 31, 2001.

DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

Sec. 16. There is appropriated from the rebuild Iowa infrastructure fund, notwithstanding section 8.57, subsection 5, paragraph "c", to the department of agriculture and land stewardship for the fiscal period beginning July 1, 1997, and ending June 30, 1999, the following amounts, or so much thereof as is necessary, to be used for deposit in the alternative drainage system assistance fund created in section 159.29A, if enacted by 1997 Iowa Acts, Senate File 473,* for purposes of supporting the alternative drainage system assistance program administered by the soil conservation division of the department of agriculture and land stewardship as provided in section 159.29B, if enacted by 1997 Iowa Acts, Senate File 473:*

1. For the fiscal year beginning July 1, 1997, and ending June 30, 1998:
..... $ 1,500,000
2. For the fiscal year beginning July 1, 1998, and ending June 30, 1999:
..... $ 1,500,000

As a condition of receiving the appropriations in this section, the department shall allocate seventy-five percent of the estimated or actual cost of improvements as defined by section 468.3, not to exceed five hundred thousand dollars each fiscal year, for a single drainage improvement project, which will provide alternative drainage outlets to allow for the closing of thirty or more agricultural drainage wells, constructed by a drainage district established under section 468.22 on or after July 1, 1987, and prior to July 1, 1997, for which a construction contract for the project is successfully let prior to March 1, 1998.

DEPARTMENT OF WORKFORCE DEVELOPMENT

Sec. 17. Notwithstanding section 8.57, subsection 5, paragraph "c", there is appropriated from the rebuild Iowa infrastructure fund to the department of workforce development for the fiscal period beginning July 1, 1997, and ending June 30, 1999, the following amounts, or so much thereof as is necessary, to be used for the integrated information system provided that none of the moneys appropriated in this section shall be used for personnel expenses not associated with the installation of the system or for training expenses:

1. For the fiscal year beginning July 1, 1997, and ending June 30, 1998:
..... $ 700,000
2. For the fiscal year beginning July 1, 1998, and ending June 30, 1999:
..... $ 300,000

* Chapter 193 herein

JUDICIAL DEPARTMENT

Sec. 18. There is appropriated from the rebuild Iowa infrastructure fund to the judicial department for the fiscal period beginning July 1, 1997, and ending June 30, 1999, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the fiscal year beginning July 1, 1997, and ending June 30, 1998, for planning for the relocation of judicial department offices out of the capitol:

..... $ 150,000

*2. *For the fiscal year beginning July 1, 1998, and ending June 30, 1999, contingent on the decision being made to relocate the judicial department's offices out of the capitol:*

..... $ *2,000,000*

*Notwithstanding section 8.33, moneys appropriated under subsection 2 remaining unobligated or unexpended at the end of the fiscal year, shall not revert until August 31, 2001.**

COMMISSION OF VETERANS AFFAIRS

Sec. 19. There is appropriated from the rebuild Iowa infrastructure fund to the commission of veterans affairs for the fiscal period beginning July 1, 1997, and ending June 30, 1999, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the fiscal year beginning July 1, 1997, and ending June 30, 1998, for expansion of the food preparation area and dining room at the veteran's home:

..... $ 1,400,000

*2. *For the fiscal year beginning July 1, 1998, and ending June 30, 1999, for expansion of the food preparation area and dining room and major maintenance at the veteran's home, provided that not more than $850,000 shall be allocated for major maintenance projects:*

..... $ *2,750,000**

Notwithstanding section 8.33, the unencumbered or unobligated moneys remaining on June 30 of the fiscal year from the moneys appropriated in this section may be expended during the following fiscal year for the same purpose.

LOESS HILLS DEVELOPMENT AND CONSERVATION AUTHORITY

Sec. 20. There is appropriated from the rebuild Iowa infrastructure fund, notwithstanding section 8.57, subsection 5, paragraph "c", to the Loess Hills development and conservation authority for the fiscal year beginning July 1, 1997, and ending June 30, 1998, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For deposit in the Loess Hills development and conservation fund created in section 161D.2 for the purposes specified in section 161D.1:

..... $ 742,500

IOWA STATE FAIR FOUNDATION

Sec. 21. There is appropriated from the rebuild Iowa infrastructure fund of the state to the Iowa state fair foundation for the fiscal period beginning July 1, 1997, and ending June 30, 1999, the following amount, or so much thereof as is necessary, to be used for rennovation, restoration, and improvement projects on the state fairgrounds and for distributing in accordance with chapter 174, $1,060,000 each fiscal year to qualified fairs which belong to the association of Iowa fairs:

For the fiscal year beginning July 1, 1997, and ending June 30, 1998:

..... $ 5,460,000

**For the fiscal year beginning July 1, 1998, and ending July 1, 1999:*

..... $ *5,460,000**

* Item veto; see message at end of the Act

Notwithstanding section 8.33, the unencumbered or unobligated moneys remaining on June 30 of the fiscal year from the moneys appropriated in this section may be expended during the following fiscal year for the same purpose.

Sec. 22. Effective July 1, 1997, the departments of general services, workforce development, and public safety, and the commission on veterans affairs are authorized to enter into contracts for the full cost of carrying out the projects for which appropriations are made in this division of this Act. The state shall not be obligated for costs associated with contracts identified in this section in excess of funds appropriated by the general assembly.

DIVISION II
STATE BOARD OF REGENTS

Sec. 23.

1. There is appropriated from the rebuild Iowa infrastructure fund of the state to the state board of regents for the fiscal period beginning July 1, 1997, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the projects designated in subsection 2:

a. For the fiscal year beginning July 1, 1997, and ending June 30, 1998:
..... $ 19,500,000

b. For the fiscal year beginning July 1, 1998, and ending June 30, 1999:
..... $ 19,500,000

c. For the fiscal year beginning July 1, 1999, and ending June 30, 2000:
..... $ 19,500,000

d. For the fiscal year beginning July 1, 2000, and ending June 30, 2001:
..... $ 11,915,000

The state board of regents shall determine the amounts to be allocated to each project for each fiscal year of the fiscal period beginning July 1, 1997, and ending June 30, 2001, based upon project needs. However, the total appropriated funds for a project for all fiscal years of that fiscal period shall not exceed the amount listed in subsection 2 for that project.

2. The state board of regents is authorized to undertake, plan, construct, equip, and otherwise carry out the following projects at the institutions under the jurisdiction of the board in the following appropriated amounts:

a. For construction of the livestock infectious disease isolation facility at Iowa state university of science and technology:
..... $ 9,270,000

b. For construction and renovation of the medical education and biomedical research facilities at the university of Iowa:
..... $ 27,000,000

c. For renovation of Lang hall at the university of northern Iowa:
..... $ 12,900,000

d. For Phase II construction of the engineering teaching and research complex at Iowa state university of science and technology:
..... $ 20,900,000

e. For improvements to the lakeside laboratory complex:
..... $ 140,000

f. Conditioned upon the state board of regents allocating funding for building maintenance at the Iowa school for the deaf for the fiscal year beginning July 1, 1997, and ending June 30, 1998, in an amount equal to or greater than the amount of funding allocated for that purpose in the previous fiscal year, the following amount, to be used for a visual alert system and to address fire safety deficiencies at the Iowa school for the deaf:
..... $ 110,000

g. Conditioned upon the state board of regents allocating funding for building maintenance at the Iowa braille and sight saving school for the fiscal year beginning July 1, 1997,

and ending June 30, 1998, in an amount equal to or greater than the amount of funding allocated for that purpose in the previous fiscal year, the following amount, to be used for deferred maintenance at the Iowa braille and sight saving school:

..... $ 95,000

3. Effective July 1, 1997, the state board of regents is authorized to enter into contracts for the full cost of carrying out the projects listed in subsection 2, for which appropriations are made in subsection 1, for the fiscal years beginning July 1, 1997, July 1, 1998, July 1, 1999, and July 1, 2000.

The state shall not be obligated for costs associated with contracts identified in this section in excess of funds appropriated by the general assembly.

4. a. Notwithstanding section 8.33, funds appropriated in subsection 1, paragraph "a", for the fiscal year beginning July 1, 1997, which remain unexpended as of June 30, 1998, shall be available for expenditure through June 30, 2002.

b. Notwithstanding section 8.33, funds appropriated in subsection 1, paragraph "b", for the fiscal year beginning July 1, 1998, which remain unexpended as of June 30, 1999, shall be available for expenditure through June 30, 2003.

c. Notwithstanding section 8.33, funds appropriated in subsection 1, paragraph "c", for the fiscal year beginning July 1, 1999, which remain unexpended as of June 30, 2000, shall be available for expenditure through June 30, 2004.

d. Notwithstanding section 8.33, funds appropriated in subsection 1, paragraph "d", for the fiscal year beginning July 1, 2000, which remain unexpended as of June 30, 2001, shall be available for expenditure through June 30, 2005.

The board of regents shall not submit a request to the governor or general assembly for funding from the rebuild Iowa infrastructure fund or other funds for capital projects, including funding for planning for capital projects, until fiscal year 2001, except for project or planning funding requested for the Iowa school for the deaf or the Iowa braille and sight saving school.

DIVISION III
COMMUNITY COLLEGE VOCATIONAL-TECHNICAL TECHNOLOGY IMPROVEMENT PROGRAM

Sec. 24. NEW SECTION. 260A.1 COMMUNITY COLLEGE VOCATIONAL-TECHNICAL TECHNOLOGY IMPROVEMENT APPROPRIATION.

1. Notwithstanding section 8.57, subsection 5, paragraph "c", there is appropriated from the rebuild Iowa infrastructure fund created in section 8.57, to the department of education for each fiscal year of the fiscal period beginning July 1, 1997, and ending June 30, 2001, the sum of three million dollars for the community college vocational-technical technology improvement program.

2. Moneys appropriated in subsection 1 shall be allocated by the department of education to each community college in the proportion that the allocation to that community college in 1996 Iowa Acts, chapter 1215, section 6, subsection 15, bears to the total appropriation made in 1996 Iowa Acts, chapter 1215, section 6, subsection 15, to all community colleges.

3. For each year in which an appropriation is made to the community college vocational-technical technology improvement program, the department of education shall notify the department of revenue and finance of the amount to be paid to each community college based upon the allocation criteria set forth for the appropriation pursuant to subsection 2. Allocations to each community college under this section shall be made in one payment on or about October 15 and one payment on or about February 15 of the fiscal year in which the appropriation is made, taking into consideration the relative budget and cash position of the state resources.

4. Moneys received by a community college under this section shall not be commingled with general state financial aid, including 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, and including moneys received for vocational education programs in accordance with chapters 258 and 260C. Payments made to a community college shall be accounted for by the community college separately from other state aid payments. Each community college shall maintain a separate listing within its budget accounting for payments received and expenditures made pursuant to this section and section 260A.3.

5. Moneys received under this section shall supplement, not supplant, the moneys each community college budgets for technology. A community college may also use moneys received under this section for projects, as defined in section 8.57, subsection 5, paragraph "c", related to the acquisition or installation of technology. A community college shall not be eligible for funds under this section unless the community college, without including moneys received under this section, maintains the same average amount of expenditure for technology per year as the community college maintains during the fiscal period beginning July 1, 1994, and ending June 30, 1997.

6. Moneys received under this section shall not be used for payment of any collective bargaining agreement or arbitrator's decision negotiated or awarded under chapter 20.

Sec. 25. NEW SECTION. 260A.2 COMMUNITY COLLEGE VOCATIONAL-TECHNICAL TECHNOLOGY IMPROVEMENT PLANS.

Prior to receiving moneys under this chapter, the board of directors of a community college shall adopt a technology plan that supports community college vocational-technical technology improvement efforts, authorizes a needs assessment of business and industry in the district, and includes an evaluation component, and shall provide to the department of education adequate assurance that funds received under this chapter will be used in accordance with the technology plan. The plan shall be developed by licensed professional staff of the community college, including both faculty members and school administrators, the private sector, trade and professional organizations, and other interested parties, and shall, at a minimum, focus on the attainment of the vocational-technical skills and achievement goals of the student. The plan shall consider the community college's interconnectivity with the Iowa communications network, and shall demonstrate how, over a four-year period, the board will utilize technology to improve vocational-technical student achievement. The technology plan shall be kept on file at the community college. Progress made under the plan shall be reported annually to the department of education in a manner prescribed by the department of education.

Sec. 26. NEW SECTION. 260A.3 COMMUNITY COLLEGE VOCATIONAL-TECHNICAL TECHNOLOGY IMPROVEMENT EXPENDITURES.

A community college shall expend funds received pursuant to section 260A.1 for the acquisition, lease, lease-purchase, installation, and maintenance of instructional technology equipment used in vocational-technical programs, including hardware and software, materials and supplies related to instructional technology, faculty development and training related to instructional technology, and projects, as defined in section 8.57, subsection 5, paragraph "c", related to the acquisition or installation of technology funded through this chapter, and shall establish priorities for the use of the funds. However, funds received by a community college pursuant to section 260A.1 shall not be expended to add a full-time equivalent position or otherwise increase staffing.

Sec. 27. NEW SECTION. 260A.4 FUTURE REPEAL.

This chapter is repealed effective July 1, 2001.

DIVISION IV
MISCELLANEOUS STATUTORY CHANGES

Sec. 28. NEW SECTION. 7E.5A BUILDINGS AND INFRASTRUCTURE — MAINTENANCE FUNDING.

1. For each new vertical infrastructure project undertaken on or after July 1, 1997, the

department in control of the vertical infrastructure shall identify and recommend to the general assembly funding sufficient to meet the projected maintenance, repair, and replacement needs of the vertical infrastructure.

2. As used in this section, "vertical infrastructure" means the same as defined in section 8.57, subsection 5, paragraph "c".

*Sec. 29. NEW SECTION. 15E.176 MAIN STREET INVESTMENTS LOAN PROGRAM.

The department shall adopt rules to implement a main street investments loan program to increase the availability of lower cost funds to stimulate building restorations or rehabilitations of historic buildings within the central business district of a city which is a certified local government, or in the Iowa main street program or the rural main street program. The rules shall include the following conditions:

1. Investment loans shall be limited to projects for a building restoration or rehabilitation located in the central business district whose boundaries are the same as the main street or rural main street or central business district of a city which is a certified local government project area.

2. Eligible borrowers are limited to the property owner, contract purchaser of record, or long-term lessee.

3. Loan applications under this program shall be for the restoration or rehabilitation of buildings which are eligible or nominated or listed on the national register of historic places. Public buildings are excluded.

*4. The maximum loan amount under the main street investments loan program is fifty thousand dollars per project.**

*Sec. 30. NEW SECTION. 15.177 APPLICATION PROCESS.

Applicants shall be certified as eligible for assistance prior to submitting applications to the department for loans under the main street investment loan program. Administrative rules pursuant to chapter 17A shall be adopted by the department in consultation with the department of cultural affairs to require applicants to do the following:

1. Show evidence of preliminary design assistance.

2. Show evidence of preliminary design review approval from the local design review committee.

*3. Submit project plans and specifications prepared by a design professional with historic preservation experience.**

*Sec. 31. NEW SECTION. 18.24 COORDINATION OF VERTICAL INFRASTRUCTURE DATABASES.

1. The director shall establish by administrative rule, and as part of a survey conducted regarding the condition of state-owned property, a uniform system for evaluating and rating vertical infrastructure needs in the state so that the vertical infrastructure needs of each state entity and proposed vertical infrastructure projects, including the state board of regents, can be compared. The director shall consult with state entities which already have databases regarding their vertical infrastructure needs and shall seek input from individuals or organizations with expertise in public vertical infrastructure assessment in drafting proposed rules.

*2. As used in this section, "vertical infrastructure" has the same meaning as in section 8.57, subsection 5, paragraph "c".**

Sec. 32. Section 174.1, subsection 1, Code 1997, is amended to read as follows:

1. "Fair" shall mean ~~a bona fide exhibition of agricultural, dairy, and kindred products, livestock, and farm implements~~ an annual gathering of people that incorporates agricultural exhibits, shows, or competition which has the following activities:

a. Extension, 4-H, or future farmers of America programs.

b. Commercial and educational exhibits.

c. Competition in the fine or home craft arts.

* Item veto; see message at end of the Act

Sec. 33. Section 174.9, unnumbered paragraph 1, Code 1997, is amended to read as follows:

Each eligible society which is a member of the association of Iowa fairs and which conducts a county fair shall be entitled to receive aid from the state as provided in this chapter. In order to be eligible for state aid, a society must file with the ~~treasurer of state~~ Iowa state fair foundation, as established in section 173.22, on or before November 1 of each year, a statement which shall show:

Sec. 34. Section 174.9, subsection 4, Code 1997, is amended to read as follows:

4. A copy of the published financial statement published as required by law, together with proof of such publication and a certified statement showing an itemized list of premiums awarded, and such other information as the ~~treasurer of state~~ Iowa state fair foundation may require.

Sec. 35. Section 174.10, Code 1997, is amended to read as follows:

174.10 APPROPRIATION — AVAILABILITY.

1. ~~Each county shall receive an equal share of any moneys appropriated to support one or more societies conducting one or more county fairs in that county, if the society or societies are eligible for the state aid. Moneys~~ Any moneys appropriated for county or local fairs shall be paid directly to each eligible society which conducts a fair which qualifies for funding.

2. The association of Iowa fairs shall provide the ~~treasurer of state~~ Iowa state fair foundation with a list of each society in a county which is a member of the association and conducts a fair in that county as provided in this chapter. If a county has more than one fair, the association shall list the name of each society conducting a fair in that county for three or more years. The ~~treasurer of state~~ Iowa state fair foundation shall not authorize payment of state aid to a society, unless the society complies with section 174.9 and the name of the society appears on the association's list.

3. ~~If a county has more than one fair eligible for state aid, the~~ The amount of state aid for ~~that county~~ each fair which is eligible for state aid shall be ~~divided equally among the eligible societies in that county~~ equal.

4. If no society in a county qualifies to receive state aid, that county's share shall be divided equally among the counties with societies eligible for state aid, as provided in this section.

5. ~~If an official county fair is designated by election, the total amount of state aid for that county shall be paid to that society determined to be conducting the official county fair.~~ The board of supervisors, upon receiving a petition seeking to designate an official county fair which meets the requirements of section 331.306, shall submit to the registered voters of the county at the next general election following submission of the petition or at a special election if requested by the petitioners at no cost to the county, the question of which fair shall be designated as the official county fair. Notice of the election shall be given as provided in section 49.53. The fair receiving a majority of the votes cast on the question shall be designated the official county fair.

Sec. 36. Section 174.12, unnumbered paragraph 1, Code 1997, is amended to read as follows:

The department of revenue and finance shall issue a warrant to a society for the amount due in state aid, less five hundred dollars, as provided in this chapter. The ~~treasurer of state~~ Iowa state fair foundation must certify to the department that the society is eligible under this chapter to receive the amount due provided in section 174.10. The department shall issue a warrant to the society for the remaining five hundred dollars, if all of the following apply:

Sec. 37. NEW SECTION. 461A.3A RESTORE THE OUTDOORS PROGRAM.

1. The department shall establish a restore the outdoors program. The purpose of the program is to provide funding for projects involving existing vertical infrastructure as de-

fined in section 8.57, subsection 5, paragraph "c", or the construction of new vertical infrastructure if the new construction is required due to increased demand for facilities at the park or if it is not cost-effective to repair or renovate the existing vertical infrastructure. Projects shall be limited to existing state parks and other public facilities managed by the department.

2. There is appropriated from the rebuild Iowa infrastructure fund for each fiscal year of the fiscal period beginning July 1, 1997, and ending June 30, 2001, the sum of four million dollars to the department for use in the restore the outdoors program *of which, one million dollars shall be used to fund projects in parks of governmental subdivisions which are connected by a recreational trail to a state park or the state recreational trail system.* Notwithstanding section 8.33, unencumbered or unobligated moneys remaining at the end of a fiscal year shall not revert but shall remain available for expenditure during the following fiscal year for purposes of the restore the outdoors program.

The department shall provide in its annual budget documentations to the governor and general assembly a report on the use of moneys under the program since the last report and the projected use of future moneys.

Approved May 29, 1997, except the items which I hereby disapprove and which are designated as Section 2, subsection 4 in its entirety; that portion of Section 3 which is herein bracketed in ink and initialed by me; Section 4, subsections 5 and 6 in their entirety; Section 6 in its entirety; Section 7, subsection 1, paragraphs b and d in their entirety; Section 7, subsection 2, paragraph a in its entirety; Section 9 in its entirety; that portion of Section 18 which is herein bracketed in ink and initialed by me; Section 19, subsection 2 in its entirety; that portion of Section 21 which is herein bracketed in ink and initialed by me; Sections 29, 30, and 31 in their entirety; and that portion of Section 37, subsection 2 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 733, an Act making appropriations from the rebuild Iowa infrastructure fund to the departments of cultural affairs, general services, economic development, public defense, natural resources, revenue and finance, public safety, education, transportation, workforce development, and agriculture and land stewardship, and to the commission of veterans affairs, Loess Hills development and conservation authority, state fair foundation, and state board of regents, making an appropriation of marine fuel tax receipts from the general fund of the state, and making statutory changes relating to the appropriations.

House File 733 is the only bill that appropriates funds on a biennial basis, a positive step in the direction of a biennial budget. Although spending in the bill is $21 million above the level I recommended, House File 733 does not contain the large number of special interest items included in infrastructure bills in the past.

There are several serious shortcomings in House File 733. Major maintenance is one of the key areas needing a steady stream of funding, and yet no funds are provided for this purpose in the second year. Also, numerous projects are included in the bill that are seriously underfunded. For both of these reasons — to make major maintenance funds available in the second year and to ensure all projects are fully funded — I have aggressively identified places where spending can be cut. As a result of the following vetoes, nearly $20 million will be available to appropriate for these purposes in fiscal year 1999.

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* Item veto; see message at end of the Act

House File 733 is, therefore, approved on this date with the following exceptions, which I hereby disapprove.

I am unable to approve the items designated as section 2, subsection 4, in its entirety; the designated portion of section 3; section 4, subsection 6, in its entirety; and the designated portion of section 18. These items would appropriate and allocate funds to support the relocation of the courts to the old historical building. The courts will be reviewing their overall space needs during the legislative interim. It is premature to assume that the courts will be relocating to the old historical building, when other options will likely be considered. Further, the total costs associated with such a move have not yet been determined. The effect of the item veto in section 3 is to make the entire $4.1 million available for renovation of the old historical building in fiscal year 1998.

I am unable to approve the item designated as section 4, subsection 5, in its entirety. This item would appropriate $1.5 million in fiscal year 1999 for repair of parking lots on the capitol complex. I recognize the need for parking lot repairs and, elsewhere in this bill, I am approving $730,750 in fiscal year 1998 for this purpose. However, funding for parking lot repair work in future years should be determined based on the prioritization of all major maintenance needs. By vetoing this item, funding will be available for overall major maintenance needs in fiscal year 1999.

I am unable to approve the item designated in section 6, in its entirety. This item would require the Department of General Services to consult with the legislature prior to contracting for an infrastructure needs assessment. Contracting for such purposes is more appropriately an executive branch responsibility.

I am unable to approve the items designated as section 7, subsection 1, paragraphs b and d, in their entirety; section 7, subsection 2, paragraph a, in its entirety; section 29, in its entirety; section 30, in its entirety; and the designated portion of section 37, subsection 2. These items would appropriate $500,000 in fiscal year 1998 and $2.5 million in fiscal year 1999 for a historic site preservation grant program, $200,000 for a main street investment loan program, and $1 million per year to local parks. While great strides have been made in the past few years to take care of state infrastructure needs, a large backlog still exists. Although these local projects may have merit, they should not be funded from the Rebuild Iowa Infrastructure Fund.

I am unable to approve the item designated as section 9, in its entirety. This item would reduce the fiscal year 1998 appropriation to the Physical Infrastructure Assistance Program from $6.1 million to $4.13 million. This program is an important economic development tool and, given the April 1997 upward adjustment in the estimate of funds available to the Rebuild Iowa Infrastructure Fund, the $6.1 million appropriation should be maintained.

I am unable to approve the item designated as section 19, subsection 2, in its entirety. This item would appropriate $2.75 million in fiscal year 1999 to the Iowa Veterans Home (IVH). I support making improvements to the IVH and I am approving the fiscal year 1998 appropriation in this bill for the dining room project. I will also be recommending an additional $900,000 in each of the fiscal years 1999 and 2000 to complete this project. Other parts of the IVH five-year capital plan should be considered along with the major maintenance needs of all the other state institutions.

I am unable to approve the designated portion of section 21. This item would appropriate $5.46 million to the Iowa State Fair Foundation for fiscal year 1999, the majority of which would be used to enclose the Varied Industries Building. I strongly support the state fair renovation and development project. I was involved in establishing the Iowa State Fair Foundation and have personally assisted in the foundation's fund-raising. In fiscal years 1995, 1996, and 1997, I approved $14.5 million in appropriations for renovation projects. In fiscal year 1998, I am approving $4.4 million for the state fair in this bill. Before approving

additional funds in fiscal year 1999, I would encourage the foundation to explore opportunities with the private sector for a joint venture on this project.

I am unable to approve the item designated as section 31, in its entirety. This item would require the Department of General Services to establish a system for comparative evaluation and rating of all state vertical infrastructure needs, including the Board of Regents institutions. I am disappointed the legislature chose not to establish a citizen board as recommended by the Fisher Commission nor to provide adequate staff to allow the state to become more systematic in its approach to prioritizing infrastructure needs. I believe the board and the additional staffing are necessary prerequisites to developing a comparative evaluation methodology.

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 733 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 216

PROPOSED CONSTITUTIONAL AMENDMENT — EQUAL RIGHTS

H.J.R. 5

Second Time Passed

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 proposed amendment, having been adopted and agreed to by the Seventy-sixth General Assembly, 1995 Session, thereafter duly published, and now adopted and agreed to by the Seventy-seventh 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-eight in the manner required by the Constitution of the State of Iowa and the laws of the State of Iowa.

CHAPTER 217

PROPOSED CONSTITUTIONAL AMENDMENT — OFFENSES TRIED WITHOUT INDICTMENT

H.J.R. 10

Second Time Passed

A JOINT RESOLUTION proposing an amendment to the Constitution of the State of Iowa to eliminate the limitation on fines for offenses which may be summarily tried without indictment.

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 11, unnumbered paragraph 1, Article I of the Constitution of the State of Iowa, is amended to read as follows:

All ~~offences~~ offenses less than felony and in which the ~~punishment does not exceed a fine of one hundred dollars, or~~ maximum permissible imprisonment ~~for~~ does not exceed thirty days~~,~~ shall be tried summarily before ~~a justice of the peace, or other~~ an officer authorized by law, on information under oath, without indictment, or the intervention of a grand jury, saving to the defendant the right of appeal; and no person shall be held to answer for any higher criminal ~~offence~~ offense, unless on presentment or indictment by a grand jury, except in cases arising in the army, or navy, or in the militia, when in actual service, in time of war or public danger.

Sec. 2. The foregoing proposed amendment to the Constitution of the State of Iowa, having been adopted and agreed to by the Seventy-sixth General Assembly, 1996 Session, thereafter duly published, and now adopted and agreed to by the Seventy-seventh 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-eight in the manner required by the Constitution and laws of the State of Iowa.

CHAPTER 218

ADDITIONAL TIME AFTER SERVICE BY MAIL

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: DIANE BOLENDER, SECRETARY OF THE LEGISLATIVE COUNCIL OF THE STATE OF IOWA.

Pursuant to Iowa Code sections 602.4201 and 602.4202, the Supreme Court of Iowa has prescribed and hereby reports on this date to the Secretary of the Legislative Council concerning an amendment to Iowa Rule of Civil Procedure 83(b) as shown in the attached Exhibit "A".

Pursuant to Iowa Code section 602.4202(2), the change to rule 83(b) is to take effect April 1, 1997.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ Arthur A. McGiverin
ARTHUR A. McGIVERIN, Chief Justice

Des Moines, Iowa
December 20, 1996

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council, hereby acknowledge delivery to me on twenty-third day of December, 1996, 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"

83. Enlargement; additional time after service by mail.

b. *Additional time after service by mail.* Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after ~~the~~* service of a notice or other paper ~~upon him~~* and the notice or paper is served upon ~~him~~ that person* by mail, three days shall be added to the prescribed period. Such additional time shall not be applicable where a court has prescribed the method of service of notice and the number of days to be given, or where the deadline runs from entry or filing of a judgment, order or decree.

* Corrective changes authorized by Court after Report was filed

CHAPTER 219

ACCEPTANCE OF PLEA AGREEMENT

IN THE SUPREME COURT OF IOWA

ORDER

IN THE MATTER OF IOWA RULE
OF CRIMINAL PROCEDURE 9(3)

By action of this court en banc, Iowa Rule of Criminal Procedure 9(3) is hereby amended as shown in the attached exhibit "A," effective immediately.

Dated this tenth day of April, 1997.

THE SUPREME COURT OF IOWA

/s/ Arthur A. McGiverin

ARTHUR A. McGIVERIN, Chief Justice

EXHIBIT "A"

Rule 9. Plea Bargaining.

3. *Acceptance of plea agreement.* When the plea agreement is conditioned upon the court's concurrence, and the court accepts the plea agreement, the court shall inform the defendant that it will embody in the judgment and sentence the disposition provided for in the plea agreement or another disposition more favorable to the defendant than that provided for in the plea agreement. In that event, the court may accept a waiver of the use of the presentence investigation, the right to file a motion in arrest of judgment, and time for entry of judgment, and proceed to judgment.

CHAPTER 220
BILL OF EXCEPTIONS

IN THE SUPREME COURT OF IOWA

ORDER

IN THE MATTER OF IOWA RULE
OF CRIMINAL PROCEDURE 23.1(1)

By action of this court en banc, Iowa Rule of Criminal Procedure 23.1(1) is hereby amended as shown in the attached exhibit "A," effective immediately.

Dated this twentieth day of December, 1996.

THE SUPREME COURT OF IOWA

/s/ Arthur A. McGiverin

ARTHUR A. McGIVERIN, Chief Justice

EXHIBIT "A"

Rule 23.1 Bill of exceptions.

1. *Purpose.* The ~~office~~ purpose of a bill of exceptions is to make the proceedings or evidence appear of record which would not otherwise so appear.

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