

State of Iowa

1999

**ACTS AND JOINT RESOLUTIONS
(Session Laws)**

Enacted at the

1999 REGULAR SESSION

of the

Seventy-Eighth General Assembly

of the

State of Iowa

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

REGULAR SESSION BEGUN ON THE ELEVENTH DAY OF JANUARY
AND ENDED ON THE TWENTY-NINTH DAY OF APRIL, A.D. 1999



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GENERAL ASSEMBLY OF IOWA
Des Moines

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PREFACE

CERTIFICATION

We, Diane E. Bolender, Director, Legislative Service Bureau, and Leslie E. W. Hickey, 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 1999 Regular Session of the Seventy-eighth 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 1999 IOWA CODE SUPPLEMENT IS PUBLISHED. Changes will be shown in the Tables of Disposition of Acts in the 1999 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, 1999, 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(6) 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 is placed at the beginning of the enacting clause and a footnote included for each enrolled Act which requires the estimate.

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

THOMAS J. VILSACK Henry
John Norris, Executive Assistant Montgomery

LIEUTENANT GOVERNOR

SALLY J. PEDERSON Polk
Dawn Wilson, Senior Advisor to Lieutenant Governor Polk
Allison Engel, Special Assistant to Lieutenant Governor Polk
Katherine Riley, Lieutenant Governor's Scheduler Polk

SECRETARY OF STATE

CHESTER J. CULVER Polk
Dean Lerner, Chief Deputy and Deputy of Corporations Polk
Donald Stanley, Jr., Deputy of Communications and Elections Polk
Joni Klaassen, Deputy of Administration Polk

AUDITOR OF STATE

RICHARD D. JOHNSON Polk
Warren G. Jenkins, Chief Deputy Auditor of State Polk
Judith A. Vander Linden, Deputy, Administration Division Polk
Tamera S. Kusian, Acting Deputy, Performance Investigation 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, Deputy Treasurer Polk
Bret Mills, Deputy Treasurer Polk

SECRETARY OF AGRICULTURE

PATTY JUDGE Monroe
Brent Halling, Deputy Secretary Dallas
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
Tam Ormiston, Deputy Attorney General Polk
Gordon Allen, Deputy Attorney General Polk
Julie Pottorff, Deputy Attorney General Polk
Douglas Marek, Deputy Attorney General Story
Eric Tabor, Chief of Staff Jackson

GENERAL ASSEMBLY

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

SENATORS

<u>Name and Residence</u>	<u>Occupation</u>	<u>Senatorial District</u>	<u>Former Legislative Service</u>
Angelo, Jeff Creston	Broadcaster	44th—Adams, Decatur, Page, Ringgold, Taylor, Union	77
Bartz, Merlin E. Grafton	Farmer/Laborer	10th—Cerro Gordo, Mitchell, Worth	74, 74X, 74XX, 75, 76, 77
Behn, Jerry Boone	Farmer	40th—Boone, Carroll, Greene	77
Black, Dennis H. Grinnell	Conservationist	29th—Jasper, Mahaska, Marshall, Poweshiek	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77
Boettger, Nancy J. Harlan	Farmer, Former Educator ..	41st—Audubon, Harrison, Pottawattamie, <i>Shelby</i>	76, 77
Bolkcom, Joe Iowa City	Legislator	23rd— <i>Johnson</i>	None
Connolly, Michael W. Dubuque	School Administrator	18th— <i>Dubuque</i>	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77
Dearden, Dick Des Moines	Job Developer, 5th Judicial District	35th— <i>Polk</i>	76, 77
Deluhery, Patrick J. Davenport	College Teacher	22nd— <i>Scott</i>	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77
Drake, Richard F. Muscatine	Farmer	24th—Johnson, Louisa, <i>Muscatine</i> , Scott	63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77
Dvorsky, Robert E. Coralville	Job Developer, Community-Based Corrections	25th— <i>Johnson</i> , Linn	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77
Fink, William (Bill) Carlisle	Teacher	45th— <i>Marion</i> , <i>Warren</i>	75, 76, 77
Flynn, Tom Epworth	Business Owner	17th— <i>Delaware</i> , <i>Dubuque</i> , <i>Jackson</i>	76, 77
Fraise, Eugene (Gene) Fort Madison	Farmer	50th— <i>Des Moines</i> , <i>Lee</i>	71 (2nd), 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77
Freeman, Mary Lou Alta	Substitute Teacher/ Grantwriter	5th— <i>Buena Vista</i> , <i>Cherokee</i> , <i>Clay</i> , <i>O'Brien</i> , <i>Plymouth</i> , <i>Pocahontas</i>	75 (2nd), 76, 77

<u>Name and Residence</u>	<u>Occupation</u>	<u>Senatorial District</u>	<u>Former Legislative Service</u>
Gaskill, E. Thurman Corwith	Farmer	8th— <i>Hancock, Humboldt, .. Kossuth, Winnebago, Wright</i>	77(2nd)
Gronstal, Michael E. Council Bluffs	.....	42nd— <i>Pottawattamie</i>	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77
Hammond, Johnie Ames	Legislator	31st— <i>Story</i>	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77
Hansen, Steven D. Sioux City	Adjunct Instructor/ Self-Employed	1st— <i>Woodbury</i>	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77
Harper, Patricia Waterloo	Retired Educator	13th— <i>Black Hawk</i>	72, 72X, 72XX, 73, 75, 76, 77
Hedge, H. Kay Fremont	Grain and Livestock Farmer	48th— <i>Keokuk, Mahaska, .. Marion, Wapello, Washington</i>	73, 74, 74X, 74XX, 75, 76, 77
Horn, Wally E. Cedar Rapids	Teacher (Retired)	27th— <i>Linn</i>	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77
Iverson, Stewart E., Jr. Dows	Farmer	9th— <i>Franklin, Hamilton, .. Hardin, Wright</i>	73(2nd), 74, 74X, 74XX, 75, 76, 77
Jensen, John W. Plainfield	Farmer	11th— <i>Black Hawk, Bremer, Butler, Grundy</i>	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77
Johnson, JoAnn Adel	.....	39th— <i>Adair, Dallas, Guthrie, Madison</i>	76, 77
*Judge, John Albia	Farmer/Banker	46th— <i>Appanoose, Clarke, Davis, Lucas, Monroe, Van Buren, Wayne</i>	None
**Judge, Patty Albia	Farmer/Mediator	46th— <i>Appanoose, Clarke, Davis, Lucas, Monroe, Van Buren, Wayne</i>	75, 76, 77
Kibbie, John P. Emmetsburg	Farmer	4th— <i>Clay, Dickinson, Emmet, Kossuth, Palo Alto</i>	59, 60, 60X, 61, 62, 73, 74, 74X, 74XX, 75, 76, 77
King, Steve Kiron	Earthmoving Contractor	6th— <i>Crawford, Ida, Monona, Sac, Woodbury</i>	77
Kramer, Mary West Des Moines	Foundation Executive	37th— <i>Polk</i>	74, 74X, 74XX, 75, 76, 77
Lamberti, Jeff Ankeny	Attorney	33rd— <i>Polk</i>	76, 77
Lundby, Mary A. Marion	Legislator	26th— <i>Linn</i>	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77
Maddox, Gene Clive	Lawyer	38th— <i>Dallas, Polk</i>	75, 76, 77
McCoy, Matt Des Moines	.....	34th— <i>Polk</i>	75, 76, 77

* Elected in Special Election January 12, 1999

** Resigned December 13, 1998

<u>Name and Residence</u>	<u>Occupation</u>	<u>Senatorial District</u>	<u>Former Legislative Service</u>
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, 77
McKibben, Larry Marshalltown	Lawyer	32nd—Marshall, Story	77
McLaren, Derryl Farragut	Farmer	43rd—Cass, Fremont, Mills, Montgomery, Pottawattamie	74, 74X, 74XX, 75, 76, 77
Miller, David Libertyville	Attorney/Farmer	47th—Jefferson, Van Buren, Wapello	None
Redfern, Donald B. Cedar Falls	Attorney	12th—Black Hawk	75 (2nd), 76, 77
Redwine, John Sioux City	Physician	2nd—Plymouth, Woodbury	77
Rehberg, Kitty Rowley	Farmer	14th—Black Hawk, Buchanan, Delaware, Fayette	77
Rife, Jack Durant	Farmer	20th—Cedar, Clinton, Jones, Scott	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77
Rittmer, Sheldon De Witt	Farmer	19th—Clinton, Scott	74, 74X, 74XX, 75, 76, 77
Schuerer, Neal Amana	Restaurateur	30th—Benton, Black Hawk, Iowa, Tama	77
Sexton, Mike Rockwell City	Farmer	7th—Boone, Calhoun, Hamilton, Webster	None
Shearer, Mark S. Washington	Communications Consultant	49th—Des Moines, Henry, Lee, Washington	73, 74
Soukup, Betty A. New Hampton	Legislator, Writer, Communications	15th—Chickasaw, Floyd, ... Howard, Mitchell, Winneshiek	None
Szymoniak, Elaine Des Moines	Retired	36th—Polk	73, 74, 74X, 74XX, 75, 76, 77
Tinsman, Maggie Davenport	Legislator	21st—Scott	73, 74, 74X, 74XX, 75, 76, 77
Veenstra, Ken Orange City	Insurance Agent	3rd—Lyon, O'Brien, Osceola, Sioux	76, 77
Zieman, Lyle E. Postville	Retired Farmer (Part-time)	16th—Allamakee, Clayton, Fayette, Winneshiek	75, 76, 77

REPRESENTATIVES

<u>Name and Residence</u>	<u>Occupation</u>	<u>Representative District</u>	<u>Former Legislative Service</u>
Alons, Dwayne Hull	Farmer/Air National Guard	5th—Sioux	None
Arnold, Richard D. Russell	Farmer	91st—Appanoose, Clarke, .. Lucas, Wayne	76, 77
Barry, Donna M. Dunlap	Farmer	82nd—Harrison,	76, 77
Baudler, Clel Greenfield	Retired State Trooper	78th—Adair, Guthrie,	None
Bell, Paul A. Newton	Police Lieutenant, Newton	57th—Jasper	75, 76, 77
Blodgett, Gary B. Clear Lake	Retired Orthodontist	19th—Cerro Gordo	75, 76, 77
Boal, Carmine Ankeny	Homemaker	65th—Polk	None
Boddicker, Dan Tipton	Electrical Engineer	39th—Cedar, Clinton,	75, 76, 77
Bogges, Effie Lee Villisca	Farmer	87th—Adams, Page, Taylor	76, 77
Bradley, Clyde Camanche	Retired Engineer	37th—Clinton, Scott	76, 77
Brauns, Barry D. Muscatine	Muscatine County Fair Manager	47th—Johnson, Louisa, Muscatine	75, 76, 77
Brunkhorst, Bob Waverly	Computer Analyst	22nd—Black Hawk,	75, 76, 77
Bukta, Polly Clinton	.....	38th—Clinton	77
Burnett, Cecelia Ames	Consultant/Legislator	61st—Story	76, 77
Carroll, Danny C. Grinnell	Realtor	58th—Jasper, Mahaska, Marshall, Poweshiek	76, 77
Cataldo, Michael J. Des Moines	Vice President, Iowa EPS .. Products	68th—Polk	75, 76, 77
Chapman, Kathleen H. Cedar Rapids	Lawyer	53rd—Linn	70, 71, 72, 72X, 72XX, 73, 74, 77
Chiodo, Frank J. Des Moines	Small Business Manager ...	67th—Polk	77
Cohoon, Dennis M. Burlington	Teacher	100th—Des Moines	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77
Connors, John H. Des Moines	Retired Fire Captain	69th—Polk	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77

<u>Name and Residence</u>	<u>Occupation</u>	<u>Representative District</u>	<u>Former Legislative Service</u>
Corbett, Ron J. Cedar Rapids	Special Project Manager, .. CRST International	52nd—Linn	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77
Cormack, Michael G. Fort Dodge	Substitute Teacher/	13th—Webster	76, 77
Davis, Galen M. Ottumwa	Police Sergeant	93rd—Wapello	None
Dix, Bill	Farmer	21st—Butler, Grundy	77
Doderer, Minnette .....	.....	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, 77
Dolecheck, Cecil	Farmer	88th—Decatur, Ringgold, .. Taylor, Union	77
Dotzler, William A., Jr. Waterloo	Machine Operator/	26th—Black Hawk	77
Drake, Jack	Farmer	81st—Audubon,	75, 76, 77
Drees, James H. Manning	Retired	80th—Carroll, Greene	76, 77
Eddie, Russell J. Storm Lake	Retired Farmer/	10th—Buena Vista, Clay, ... Pocahontas	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77
Falck, Steve	Real Estate Appraiser	28th—Buchanan, Fayette ..	77
Fallon, Ed	Legislator/Musician	70th—Polk	75, 76, 77
Foege, Ro	Social Worker	50th—Johnson, Linn	77
Ford, Wayne	Human Services	71st—Polk	77
Frevert, Marcella R. Emmetsburg	Legislator	8th—Clay, Kossuth,	77
Garman, Teresa	Farmer/Landlord	63rd—Marshall, Story	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77
Gipp, Chuck	Dairy Farmer	31st—Allamakee,	74, 74X, 74XX, 75, 76, 77
Greiner, Sandra H. Keota	Farmer	96th—Keokuk, Mahaska, .. Wapello, Washington	75, 76, 77
Grundberg, Betty	Property Management	73rd—Polk	75, 76, 77
Hahn, James F. Muscatine	Real Estate/Property	48th—Muscatine, Scott	74, 74X, 74XX, 75, 76, 77
Hansen, Brad L. Carter Lake	Health Care Administrator	83rd—Pottawattamie	77

<u>Name and Residence</u>	<u>Occupation</u>	<u>Representative District</u>	<u>Former Legislative Service</u>
Heaton, David E. Mount Pleasant	Restaurant Owner	97th—Des Moines, Henry, Washington	76, 77
Hoffman, Clarence C. Charter Oak	Insurance	12th—Crawford, Monona ..	None
Holmes, Danny J. Walcott	Accountant	40th—Scott	77
Holveck, John K., Jr. Des Moines	Attorney	72nd—Polk	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77
Horbach, Lance	Horbach Furniture	60th—Benton, Black Hawk, Tama	None
Houser, Hubert M. Carson	Farmer	85th—Fremont, Mills,	75, 76, 77
Huseman, Daniel A. Aurelia	Farmer	9th—Buena Vista,	76, 77
Huser, Geri D. Altoona	.....	66th—Polk	77
Jacobs, Elizabeth (Libby) S. West Des Moines	Assistant Director,	74th—Polk	76, 77
Jager, Michael D. La Porte City	Small Business Owner	27th—Black Hawk,	None
Jenkins, G. Willard	Engineer	24th—Black Hawk	77
Jochum, Pam .....	.....	35th—Dubuque	75, 76, 77
Johnson, David	Dairy Farmer	6th—Lyon, O'Brien,	None
Kettering, Steven C. Lake View	Banker	11th—Ida, Sac, Woodbury	None
Klemme, Ralph F. Le Mars	Farmer	4th—Plymouth, Woodbury	75, 76, 77
Kreiman, Keith A. Bloomfield	Attorney	92nd—Appanoose, Davis, ..	75, 76, 77
Kuhn, Mark A. Charles City	Farmer	29th—Floyd, Mitchell	None
Larkin, Rick	Correctional Counselor	99th—Des Moines, Lee	75, 76, 77
Larson, Charles W., Jr. Cedar Rapids	Assistant Jones County	55th—Linn	75, 76, 77
Lord, David G. Perry	Retired Clothier	77th—Dallas, Madison	76, 77
Martin, Mona K. Davenport	Property Management	43rd—Scott	75, 76, 77

<u>Name and Residence</u>	<u>Occupation</u>	<u>Representative District</u>	<u>Former Legislative Service</u>
Mascher, Mary Iowa City	Teacher	46th—Johnson	76, 77
May, Dennis Kensett	Farmer	20th—Cerro Gordo, Mitchell, Worth	72, 72X, 72XX, 73, 75, 76, 77
Mertz, Dolores M. Ottosen	Self-Employed, Farmer/Legislator	15th—Humboldt, Kossuth ..	73, 74, 74X, 74XX, 75, 76, 77
Metcalf, Janet S. Urbandale	Legislator	75th—Polk	71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77
Millage, David A. Bettendorf	Attorney	41st—Scott	74, 74X, 74XX, 75, 76, 77
Mundie, Norman Fort Dodge	Retired Farmer	14th—Boone, Calhoun, Hamilton, Webster	75, 76, 77
Murphy, Patrick J. Dubuque	Self-Employed, Jajona Enterprizes	36th—Dubuque	73(2nd), 74, 74X, 74XX, 75, 76, 77
Myers, Richard E. Iowa City	Business Owner	49th—Johnson	75(2nd), 76, 77
Nelson, Beverly J. Marshalltown	Executive Vice President, Iowa Valley Community College	64th—Marshall	76, 77
O'Brien, Mike Boone	Retired Teacher	79th—Boone, Greene	75, 76, 77
Osterhaus, Robert J. Maquoketa	Pharmacist	34th—Dubuque, Jackson ...	76(2nd), 77
Parmenter, Dennis W. Cambridge	Lawyer	62nd—Story	None
Raecker, J. Scott Urbandale	Executive Director, Legacy 150 Institute at Drake University	76th—Polk, Dallas	None
Rants, Christopher Sioux City	Pierce and Associates	3rd—Woodbury	75, 76, 77
Rayhons, Henry Garner	Farmer	16th—Hancock, Winnebago, Wright	77
Reynolds, Rebecca Bonaparte	Nurse/Legislator	94th—Jefferson, Van Buren, Wapello	77
Richardson, Steve Indianola	Teacher	89th—Warren	77
Scherrman, Paul Farley	Vice President, J. P. Scherrman, Inc.	33rd—Delaware, Dubuque	77
Schrader, David Monroe	Small Business Owner/ Operator, Legislator	90th—Marion, Warren	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77
Shultz, Don Waterloo	Consultant	25th—Black Hawk	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77

<u>Name and Residence</u>	<u>Occupation</u>	<u>Representative District</u>	<u>Former Legislative Service</u>
Siegrist, Brent Council Bluffs	Consultant	84th—Pottawattamie	71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77
Stevens, Greg Milford	Teacher/Coach	7th—Dickinson, Emmet, Palo Alto	None
Sukup, Steven E. Dougherty	Engineer	18th—Franklin, Hardin	76, 77
Sunderbruch, John P. Davenport	Firefighter Lieutenant/ EMT-I	44th—Scott	None
Taylor, Todd Cedar Rapids	Staff Representative, AFSCME	54th—Linn	76(2nd), 77
Teig, Russell W. Jewell	Farmer	17th—Franklin, Hamilton, Hardin, Wright	76, 77
Thomas, Roger Elkader	Farmer	32nd—Allamakee, Clayton, Fayette	77
Thomson, Rosemary R. Marion	.....	51st—Linn	76, 77
Tyrrell, Phil North English	Self-Employed Independent Insurance Agent	59th—Benton, Iowa	68, 69, 69X, 69XX, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77
Van Engelenhoven, James L. Leighton	Farmer	95th—Mahaska, Marion	None
Van Fossen, James Davenport	Service Representative, MidAmerican Energy	42nd—Scott	76, 77
Warnstadt, Steven H. Sioux City	Adjunct Instructor	2nd—Woodbury	76, 77
Weidman, Dick Griswold	Retired State Trooper, Funeral Home Employee	86th—Cass, Montgomery, Pottawattamie	74, 74X, 74XX, 75, 76, 77
Weigel, Keith New Hampton	Certified Financial Planner	30th—Chickasaw, Howard, Winneshiek	75, 76, 77
Welter, Jerry J. Monticello	Farmer	56th—Jones, Linn	75, 76, 77
Whitead, Wes Sioux City	Retired Small Business Owner	1st—Woodbury	77
Wise, Philip Keokuk	Teacher	98th—Henry, Lee	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77
Witt, William G. Cedar Falls	Photojournalist	23rd—Black Hawk	75, 76, 77

JUDICIAL DEPARTMENT

JUSTICES OF THE SUPREME COURT

(Justices listed according to seniority)

Name	Office Address	Term Ending
*David Harris	Jefferson	December 31, 2006
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
Marsha K. Ternus	Des Moines	December 31, 2002
Mark S. Cady	Fort Dodge	December 31, 2000

JUDGES OF THE COURT OF APPEALS

(Judges listed according to seniority)

Rosemary Shaw Sackett, C.J.	Spencer	December 31, 2002
Terry L. Huitink	Ireton	December 31, 2002
Michael J. Streit	Chariton	December 31, 2004
Gayle Nelson Vogel	Knoxville	December 31, 2004
Robert E. Mahan	Waterloo	December 31, 2004
Van D. Zimmer	Vinton	December 31, 2000

* Retired effective July 29, 1999

CONGRESSIONAL DELEGATION AND DISTRICT OFFICES

UNITED STATES SENATORS

Senator Tom Harkin (D)
731 Hart Senate Office Building
Washington, D.C. 20510
(202) 224-3254

733 Federal Building
210 Walnut Street
Des Moines, Iowa 50309
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Cedar Rapids, Iowa 52401
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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)
2186 Rayburn House Office Bldg.
Washington, D.C. 20515-1501
(202) 225-6576

209 West 4th Street
Davenport, Iowa 52801-1307
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UNITED STATES REPRESENTATIVES — Continued

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CONDITION OF STATE TREASURY

June 30, 1998

	Balance July 1, 1997	Total Receipts and Transfers	Total Available	Total Disbursements and Transfers	Balance June 30, 1998
General Fund	\$ 646,449,093	\$ 6,820,178,199	\$ 7,466,627,292	\$ 6,757,722,213	\$ 708,905,079
Special Revenue Fund	430,010,937	1,799,979,996	2,229,990,933	1,774,844,621	455,146,312
Capitol Projects Fund	114,288,139	128,440,261	242,728,400	117,596,426	125,131,974
Debt Service Fund	10,441,111	912,537	11,353,648	703,629	10,650,019
Enterprise Fund	48,539,888	371,446,411	419,986,299	363,398,841	56,587,458
Internal Service Fund	66,846,160	349,481,029	416,327,189	343,771,466	72,555,723
Expendable Trust Fund	30,831,043	186,395,041	217,226,084	188,046,588	29,179,496
Nonexpendable Trust Fund	10,630,151	100,463	10,730,614	0	10,730,614
Pension Fund	9,391,062,823	1,858,704,325	11,249,767,148	463,667,392	10,786,099,756
Trust and Agency Fund	<u>159,341,288</u>	<u>2,739,589,014</u>	<u>2,898,930,302</u>	<u>2,757,429,410</u>	<u>141,500,892</u>
Totals	<u>\$10,908,440,633</u>	<u>\$14,255,227,276</u>	<u>\$25,163,667,909</u>	<u>\$12,767,180,586</u>	<u>\$12,396,487,323</u>

Balance July 1, 1997	\$10,908,440,633
Receipts and Transfers	14,255,227,276
Total Available	25,163,667,909
Disbursements and Transfers	12,767,180,586
Balance June 30, 1998	\$12,396,487,323

DEPARTMENT OF REVENUE AND FINANCE

May 26, 1999

ANALYSIS BY CHAPTERS

1999 REGULAR SESSION

For Conversion Tables of Senate and House Files and Joint Resolutions to chapters of the 1999 Acts, see page 710

CH.	FILE	TITLE
1	HF 146	School finance — allowable growth
2	HF 147	Funding for school districts with decreasing or increasing enrollments
3	SF 47	Priority of funding agreement claims against insurer assets
4	SF 53	Tax sales — date of sale
5	SF 70	Unemployment insurance — employer experience transfer — unemployment trust fund expenditures
6	HF 330	Bank holding company acquisitions — state bank loans
7	HF 200	Special motor vehicle registration plates
8	HF 299	Motor vehicle registration and title applications
9	HF 164	Open meetings violations — attorney fees
10	HF 222	Crime victim rights
11	HF 182	Serious injury — definition
12	HF 573	Controlled substances — methamphetamine — penalties
13	SF 203	Transportation — miscellaneous provisions
14	HF 347	Baled solid waste disposal
15	HF 443	Consumer credit transactions — fees and charges
16	HF 588	Telecommunications — service changes
17	HF 679	Elections — Sac and Fox settlement precinct
18	HF 743	Education block grants — early intervention and school improvement technology
19	SF 99	Board of nursing examiners — composition
20	SF 224	Utilities — cost of board proceedings — competitive utility services
21	SF 281	Workforce development department — miscellaneous provisions
22	SF 404	Real estate licensees and clients — payment for services
23	HF 136	Sex offender registry — offenses covered
24	HF 144	Distribution of certified school to career program trust moneys
25	HF 387	Taxpayer communications — confidentiality
26	SF 55	Legalization of sale of property by Black Hawk and Buchanan joint county system
27	SF 68	Mid-America port commission — counties included
28	SF 173	Vocational rehabilitation services eligibility
29	SF 448	Abandoned property — delinquent taxes — purchase by city or county
30	HF 208	Southern Iowa development and conservation authority
31	HF 209	Eluding a law enforcement vehicle
32	HF 518	Fire safety — bed and breakfast inns
33	SF 190	City cable communication utilities — requirements
34	SF 233	Records of financial institutions — preservation
35	SF 303	Nonstatutory liens — confirmation of notice to affected parties
36	HF 224	Public hospital and health care facility operations
37	HF 403	Fingerprinting and criminal disposition report procedures
38	HF 633	Child visitation rights — murder of other parent
39	SF 264	Natural resources department authority — Sac and Fox tribe and settlement

CH.	FILE	TITLE
40	SF 265	Taking of muskrats by colony traps
41	SF 276	Health care service and treatment coverage
42	SF 277	Physician assistants and advanced registered nurse practitioners — hospital clinical privileges
43	HF 38	Adoption information form
44	HF 313	Disarming a peace officer
45	HF 349	Source water testing by public water systems
46	HF 489	Infectious waste regulation
47	HF 659	Identity theft
48	SF 51	Conservation and recreation programs — cooperative efforts
49	SF 106	Church buildings — accessibility requirements
50	HF 293	Iowa sheep and wool promotion board assessments
51	HF 741	Psychiatric medical institutions for children — authorization requirements
52	SF 92	Medical assistance debt — notice provisions
53	SF 280	Financial institutions investments in Iowa agricultural industry finance corporations
54	SF 335	Real estate transfers — mortgage releases
55	HF 311	Foster care-related damages — state liability
56	HF 662	Estates and trusts — miscellaneous issues
57	HF 713	Domestic abuse protective orders
58	SF 67	Illegal taking of swans or cranes — damages
59	SF 9	Sales and use tax exemption on rural water district building materials, supplies, or equipment
60	SF 115	Drug and alcohol testing — private sector employment
61	SF 216	Commitment of sexually violent predators
62	SF 231	Sales and use tax exemption for hospices
63	SF 392	Telecommunications — city utilities
64	HF 386	Assaults on jailers or correctional staff
65	HF 501	Felony penalties and definitions — assault and willful injury
66	HF 676	Iowa agricultural industry finance Act — miscellaneous provisions
67	HF 705	Accommodation offenses — marijuana
68	SF 146	Regulation of worker and public safety and protection
69	SF 149	Motor vehicle warranty claims — service or warranty facilities
70	HF 100	Law enforcement officer certification — suspension or revocation
71	HF 296	Felony stalking — bail
72	HF 339	Agricultural drainage wells — closing deadline
73	HF 375	Open-end credit and credit card disclosures — reports eliminated
74	HF 442	Underground storage tanks — corrective action costs of governmental subdivisions
75	SF 8	Health insurance coverage of diabetes
76	SF 186	County enterprises
77	SF 192	Open containers in motor vehicles
78	SF 309	Interception of communications
79	SF 429	Mechanics' liens
80	HF 308	Department of inspections and appeals investigators — status
81	HF 402	Proposed licensure of midwives — review
82	HF 458	Auctioneer's role in public sale or auction of real property
83	HF 474	County records and assessments
84	HF 531	Manure applicator certification — deadline extension

CH.	FILE	TITLE
85	SF 160	Pipelines — construction — land restoration
86	SF 254	Emergency management services
87	SF 305	Family farm tax credit
88	SF 436	Livestock marketing practices — packers
89	HF 165	Manufacture of controlled substance — personal use
90	HF 210	Business opportunity promotions — excluded transactions
91	HF 412	Leopold center advisory board membership
92	HF 636	Federal ozone standards — state implementation
93	HF 647	Associate juvenile and probate judges
94	SF 211	Medicaid eligibility — persons with disabilities
95	SF 230	Internal Revenue Code references and income tax provisions
96	SF 102	Nonsubstantative Code corrections
97	SF 114	All-terrain vehicles and snowmobiles — railroad rights-of-way — utility employees
98	SF 194	Licensing of psychiatric medical institutions for children — accreditation
99	SF 210	National guard — active service pay
100	SF 221	Public assistance — family investment program — individual development accounts
101	SF 323	Audiologists and speech pathologists — professional designations
102	SF 352	Slow-moving vehicles — reflective devices
103	SF 367	Child-custody jurisdiction and enforcement
104	SF 437	Notification of mechanics' liens
105	HF 281	Bail enforcement limitations — exempt agents
106	HF 312	Grain industry regulation
107	HF 498	Fraudulent retail sales receipts and universal price code labels
108	HF 651	Implements of husbandry and other vehicles — movement restrictions — product identification numbers
109	HF 721	Iowa egg council — membership and administration
110	SF 95	Proof of motor vehicle financial liability coverage — parking lots
111	SF 287	Foster care placements and plans — child abuse information — decategorization plans
112	SF 294	Sex offender registration — risk assessments — dissemination of information
113	SF 407	Registration and titling of all-terrain vehicles and snowmobiles
114	HF 242	Substantive Code corrections
115	HF 255	Child custody orders — visitation between siblings
116	HF 345	Demand deposit accounts with lines of credit — fees
117	HF 571	Deposit of public funds — depository standards
118	HF 634	Dust control on secondary roads — primary road fund expenditure
119	HF 218	Loess hills development and conservation
120	SF 76	Transportation — reversion, nonreversion, and appropriation of certain funds
121	SF 282	Department of general services practices and procedures
122	SF 457	Iowa educational savings plan trust — miscellaneous provisions
123	HF 395	Vehicular homicide — bail on appeal
124	HF 584	Estates and trusts — determination and distribution of principal and income
125	HF 663	Probate — Iowa trust code
126	HF 689	Iowa freedom trail study

CH.	FILE	TITLE
127	HF 773	Child support enforcement — miscellaneous provisions
128	SF 398	Driver's license issuance requirements
129	HF 379	Health care facility care review committees — name change
130	HF 521	Employment agency licensure and operation
131	HF 660	Property exempt from execution
132	HF 708	Quality care award for health care facilities
133	SF 41	County agricultural extension councils — duties and meetings
134	SF 410	Viatical settlement contracts — sale as investments
135	SF 451	Indigent defense
136	SF 470	Campaign finance
137	HF 115	City and city utility public improvement contracts — early completion incentives
138	HF 172	Adoption procedures
139	HF 417	Property tax rent reimbursement — claimant information
140	HF 472	Private burial sites
141	HF 497	Public health — miscellaneous programs and issues
142	HF 766	National board for professional teaching standards certification — awards pilot project
143	HF 777	Sale of certain insurance products by motor vehicle rental companies
144	SF 150	Judicial administration
145	SF 393	Joint county, city, fire district, and school district buildings — agreements — bond issuance
146	HF 624	Electronic commerce security
147	HF 675	School breakfast programming
148	SF 413	Safe deposit box access — death of owner or lessee
149	HF 700	Unpaid charges for city water, sewage, and solid waste services
150	HF 714	Name change — marriage licenses
151	SF 136	Tax administration and related matters
152	SF 473	Tax administration — additional related matters
153	SF 189	Misdemeanor classifications and penalties — OWI revocations
154	SF 308	Benefited fire district areas — tax levy rates
155	SF 337	Landlord and tenant relations — abandoned and valueless property
156	SF 469	Sales and use taxes — miscellaneous provisions
157	SF 482	Tobacco product manufacturers — settlement agreement
158	HF 570	Marketing of turkeys and turkey products — council — producer assessment
159	HF 661	Sexual abuse — miscellaneous provisions
160	HF 664	Mental health, mental retardation, and developmental disabilities services
161	HF 688	Designation of state poet laureate
162	HF 445	Rights of dissenting shareholders of banks
163	SF 101	Contraband in prisons and detention facilities
164	SF 193	Guardians ad litem for children in juvenile court
165	SF 249	Operation and regulation of insurance companies
166	SF 406	Entities and subject matter regulated by insurance division
167	SF 458	Property tax statement and equalization order information
168	HF 199	State sales, services, and use taxes on aircraft
169	HF 322	Production of agricultural commodities

CH.	FILE	TITLE
170	HF 418	Sales and use taxes on argon and similar gases
171	HF 476	Eminent domain and condemnation proceedings
172	HF 733	Economic development tax credits — miscellaneous provisions
173	HF 748	State sales, services, and use tax exemption for internet access
174	HF 755	Property assessments and taxes — omitted property and erroneous payments
175	HF 757	Real estate transfer tax — payment and allocation
176	HF 776	Urban renewal
177	HF 779	Linked investment programs
178	SF 459	School finance — state aid — gifted and talented children program plans
179	SF 465	Accelerated career education program
180	SF 462	Veterans benefits and interests
181	SF 248	Acquired immune deficiency syndrome — miscellaneous provisions
182	SF 395	Department of corrections — miscellaneous provisions
183	HF 337	Workforce development fund account — fees paid by community colleges
184	HF 343	Costs of drainage improvements in railroad rights-of-way
185	HF 448	Electronic mail transmissions — advertisements
186	HF 758	Mobile home park storm shelters
187	HF 769	Property tax classification of apartments in condominiums
188	HF 770	Manufactured housing — sales and use taxes — certificates of title
189	SF 275	Children's centers — certification or licensing standards
190	SF 439	Iowa community empowerment — miscellaneous provisions
191	HF 532	Education practitioner preparation programs
192	HF 761	Child care — miscellaneous provisions
193	SF 283	Federal block grant appropriations
194	HF 332	Appropriations — energy conservation programs funding
195	SF 361	Appropriations — substance abuse and sexual abuse
196	SF 366	Appropriations — supplemental funding for embedded chips replacement
197	HF 745	Appropriations — economic development
198	SF 424	Appropriations — transportation
199	SF 460	Appropriations — administration and regulation
200	HF 781	Compensation for public employees
201	HF 737	Appropriations — health and human rights
202	SF 468	Appropriations — justice system
203	HF 760	Appropriations — human services
204	HF 772	Appropriations — infrastructure and capital projects
205	SF 464	Appropriations — education
206	HF 746	Appropriations — agriculture and natural resources
207	HF 762	Appropriations — state government technology and operations
208	HF 782	Miscellaneous supplemental and other appropriations and provisions
209	SJR 2	Ola Babcock Miller state office building — commemoration
210	HJR 13	Rock Island Arsenal — additional production work request
211	HJR 15	Nullification of administrative rule — preparation of descriptions of ballot issues
212	SJR 1	Proposed constitutional amendments — state expenditures and taxes

1999 Regular Session
of the
Seventy-Eighth General Assembly
of the
State of Iowa

CHAPTER 1
SCHOOL FINANCE — ALLOWABLE GROWTH
H.F. 146

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

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

Section 1. Section 257.8, subsection 1, Code 1999, is amended to read as follows:

1. **STATE PERCENT OF GROWTH.** The state percent of growth for the budget year beginning July 1, 1999, is three percent. The state percent of growth for the budget year beginning July 1, 2000, is four percent. The state percent of growth for each subsequent budget year shall be established by statute which shall be enacted within thirty days of the submission in the year preceding the base year of the governor's budget under section 8.21. The establishment of the state percent of growth for a budget year shall be the only subject matter of the bill which enacts the state percent of growth for a budget year.

Sec. 2. **APPLICABILITY.** This Act is applicable for computing state aid under the state school foundation program for the school budget year beginning July 1, 2000.

Approved February 4, 1999

CHAPTER 2
FUNDING FOR SCHOOL DISTRICTS WITH
DECREASING OR INCREASING ENROLLMENTS

H.F. 147

AN ACT providing additional funding for certain school districts that have either decreasing or increasing enrollments by extending the regular program district cost guarantee and by providing on-time funding, making an appropriation, and providing effective and applicability dates.

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

Section 1. Section 257.1, subsection 2, unnumbered paragraph 3, Code 1999, is amended to read as follows:

For the budget year commencing July 1, ~~1995~~ 1999, the department of management shall add the amount of the additional budget adjustment computed in section 257.14, subsection ~~2~~ 1, to the combined foundation base.

Sec. 2. NEW SECTION. 257.13 ON-TIME FUNDING FOR NEW STUDENTS.

1. For the school budget year beginning July 1, 1999, if a district's actual enrollment for the budget year, determined under section 257.6, is greater than its budget enrollment for the budget year, the district may submit a request to the school budget review committee for on-time funding for new students. The school budget review committee shall consider the relative increase in enrollment on a district-by-district basis, in determining whether to approve the request, and shall determine the amount of additional funding to be provided if the request is granted. An application for on-time funding pursuant to this subsection must be received by the department of education by November 1. Written notice of the committee's decision shall be given through the department of education to the school board for a district.

2. If the school budget review committee approves a request for on-time funding for new students, the funding shall be in an amount up to the product of the state cost per pupil for the budget year multiplied by the difference between the actual enrollment for the budget year and the budget enrollment for the budget year. The additional funding received under this section is miscellaneous income to the district.

3. There is appropriated for the fiscal year beginning July 1, 1999, and ending June 30, 2000, from the general fund of the state to the department of education up to four million dollars to pay additional funding authorized under this section, which shall be paid to school districts in the same manner as other state aids payable under section 257.16. If the requests approved by the school budget review committee exceed the appropriation in this subsection, the payments to school districts receiving approval for on-time funding shall be prorated such that each school district approved for on-time funding shall receive an amount of on-time funding equal to the percentage that the on-time funding to be provided to the district bears to the total amount of on-time funding to be provided to all districts receiving approval.

4. If the board of directors of a school district determines that a need exists for additional funds exceeding the state aid amount provided in this section, a request for modified allowable growth based upon increased enrollment may be submitted to the school budget review committee as provided in section 257.31.

5. A school district which is receiving a budget adjustment for a budget year pursuant to section 257.14 shall receive on-time funding for increased enrollment, reduced by the amount of the budget adjustment for that budget year. The resulting amount shall not be less than zero. The school district shall comply with the procedures established in subsection 1.

6. If a district receives additional funding under this section for a budget year, the department of management shall determine the amount of the additional funding which would have been generated by local property tax revenues, in proportion to the amount of funding actually received pursuant to this section, if the actual enrollment for the budget year had been used in determining district cost for that budget year. The department of management shall reduce, but not by more than the amount of the additional funding, the district's total state school aids otherwise available under this chapter for the next following budget year by the amount so determined, and shall increase the district's additional property tax levy for the next following budget year by the amount necessary to compensate for the reduction in state aid, so that the local property tax for the next following year will be increased only by the amount which it would have been increased in the budget year if the enrollment calculated in this section could have been used to establish the levy.

Sec. 3. Section 257.14, subsection 1, Code 1999, is amended to read as follows:

1. For the budget years commencing July 1, 1997, ~~and July 1, 1998, and July 1, 1999~~, 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. 4. **APPLICABILITY AND EFFECTIVE DATE.** This Act, being deemed of immediate importance, takes effect upon enactment and applies to the computation of school aid under the state school foundation program for the school budget year beginning July 1, 1999.

Approved February 4, 1999

CHAPTER 3

PRIORITY OF FUNDING AGREEMENT CLAIMS AGAINST INSURER ASSETS

S.F. 47

AN ACT relating to the classification of funding agreements issued by a life insurance company for purposes of the prioritization of claims against the assets of an insurer subject to supervision, rehabilitation, and liquidation, and including an effective date and a retroactive applicability provision.

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

Section 1. Section 508.31A, subsection 3, Code 1999, is amended to read as follows:

3. A funding agreement is a class ~~3~~ 2 claim under section 507C.42, subsection ~~3~~ 2.

Sec. 2. **RETROACTIVE APPLICABILITY AND EFFECTIVE DATE.**

1. This Act applies retroactively to July 1, 1998.

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

Approved February 11, 1999

CHAPTER 4**TAX SALES — DATE OF SALE**

S.F. 53

AN ACT relating to the date of the annual sale of parcels with delinquent property taxes and providing an effective and applicability date.

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

Section 1. Section 446.7, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Annually, on the third Monday in June the county treasurer shall offer at public sale all parcels on which taxes are delinquent. The sale shall be made for the total amount of taxes, interest, fees, and costs due. If for good cause the treasurer cannot hold the annual tax sale on the third Monday of June, the treasurer may designate a different date in June for the sale.

Sec. 2. Section 446.9, subsections 1 and 2, Code 1999, are amended to read as follows:

1. A notice of the date, time, and place of the annual tax sale shall be served upon the person in whose name the parcel subject to sale is taxed. The county treasurer shall serve the notice by sending it by regular first class mail to the person's last known address not later than May 1 of each fiscal year. The notice shall contain a description of the parcel to be sold which is clear, concise, and sufficient to distinguish the parcel to be sold from all other parcels. It shall also contain the amount of delinquent taxes for which the parcel is liable each year, the amount of the interest, fees, and the actual cost of publication of the notice as provided in subsection 2, all to be incorporated as a single sum. The notice 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.

2. Publication of the date, time, and place of the annual tax sale shall be made once by the treasurer in 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. 3. Section 446.28, Code 1999, is amended to read as follows:

446.28 SUBSEQUENT SALE.

If for good cause, a parcel cannot be advertised and offered for sale on the third Monday of June or on another date in June designated by the treasurer, the county treasurer shall make the sale on the third Monday of the next succeeding month in which the required notice can be given.

Sec. 4. **EFFECTIVE DATE.** This Act, being deemed of immediate importance, takes effect upon enactment and applies to tax sales held on or after that date.

Approved February 17, 1999

CHAPTER 5

UNEMPLOYMENT INSURANCE — EMPLOYER EXPERIENCE TRANSFER — UNEMPLOYMENT TRUST FUND EXPENDITURES

S.F. 70

AN ACT concerning unemployment insurance by providing for the distribution of certain moneys in the unemployment trust fund and the transfer of experience for unemployment insurance tax purposes.

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

Section 1. Section 96.7, subsection 2, paragraph b, unnumbered paragraph 1, Code 1999, is amended to read as follows:

If an enterprise or business, or a clearly segregable and identifiable part of an enterprise or business, for which contributions have been paid is sold or transferred to a subsequent employing unit, or if one or more employing units have been reorganized or merged into a single employing unit, and the successor employer, having qualified as an employer as defined in section 96.19, subsection 16, paragraph "b", continues to operate the enterprise or business, the successor employer shall assume the position of the predecessor employer or employers with respect to the predecessors' payrolls, contributions, accounts, and contribution rates to the same extent as if no change had taken place in the ownership or control of the enterprise or business. However, the successor employer shall not assume the position of the predecessor employer or employers with respect to the predecessor employer's or employers' payrolls, contributions, accounts, and contribution rates which are attributable to that part of the enterprise or business transferred, unless the successor employer applies to the department within sixty ninety days from the date of the partial transfer, and the succession is approved by the predecessor employer or employers and the department.

Sec. 2. UNEMPLOYMENT COMPENSATION PROGRAM — FEDERAL SOCIAL SECURITY ACT FUND CREDITS. Notwithstanding the provisions of section 96.9, subsection 4, to the contrary, moneys credited to the account of this state in the unemployment trust fund by the secretary of the treasury of the United States pursuant to section 903 of the Social Security Act for the federal fiscal years beginning October 1, 1999, October 1, 2000, and October 1, 2001, shall be used solely for the administration of the unemployment compensation program. Expenditure of the moneys credited during the applicable federal fiscal years shall not be subject to any provision of law requiring a specific appropriation of that money for the purpose permitted.

Approved March 12, 1999

CHAPTER 6

BANK HOLDING COMPANY ACQUISITIONS — STATE BANK LOANS

H.F. 330

AN ACT relating to the supervisory authority of the state banking division with regard to bank holding company acquisitions and the ability of state banks to make loans to any one person.

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

Section 1. Section 524.544, subsection 1, Code 1999, is amended to read as follows:

1. Whenever any person proposes to purchase or otherwise acquire directly or indirectly any of the outstanding shares of a state bank, and the proposed purchase or acquisition would result in control or in a change in control of the bank, the person proposing to purchase or acquire the shares shall first apply in writing to the superintendent for a certificate of approval for the proposed change of control. The superintendent shall grant the certificate if the superintendent is satisfied that the person who proposes to obtain control of the bank is qualified by character, experience and financial responsibility to control and operate the bank in a sound and legal manner, and that the interests of the depositors, creditors and shareholders of the bank, and of the public generally, will not be jeopardized by the proposed change of control. ~~If the proposed purchaser or acquirer is a bank holding company as defined by section 524.1801, it shall comply with section 524.1804 in lieu of seeking a certificate of approval under this subsection.~~ A person which will become a bank holding company upon completion of an acquisition shall make application to the superintendent for a certificate of approval as provided in this section. Any other bank holding company shall comply with section 524.1804 in lieu of seeking a certificate of approval under this section. In any situation where the president or cashier of a bank has reason to believe any of the foregoing requirements have not been complied with, it shall be the duty of the president or cashier to promptly report in writing such facts to the superintendent upon obtaining knowledge thereof. As used in this section, the term control means the power, directly or indirectly, to elect the board of directors. If there is any doubt as to whether a change in the ownership of the outstanding shares is sufficient to result in control thereof, or to effect a change in the control thereof, such doubt shall be resolved in favor of reporting the facts to the superintendent.

Sec. 2. Section 524.904, subsections 2, 4, and 5, Code 1999, are amended to read as follows:

2. A state bank may grant loans and extensions of credit to one borrower in an amount not to exceed fifteen percent of the state bank's aggregate capital as defined in section 524.103, unless the additional lending provisions described in ~~subsections 3 and 4 apply~~ subsection 3 or 4 applies.

4. A state bank may grant loans and extensions of credit to one borrower not to exceed thirty-five percent of the state bank's aggregate capital if any amount that exceeds the lending limitations described in ~~subsections~~ subsection 2 and or 3 consists of obligations as endorser of negotiable chattel paper negotiated by endorsement with recourse, or as unconditional guarantor of nonnegotiable chattel paper, or as transferor of chattel paper endorsed without recourse subject to a repurchase agreement.

5. A state bank may grant loans and extensions of credit to a corporate group in an amount not to exceed twenty-five percent of the state bank's aggregate capital if all loans and extensions of credit to any one borrower within a corporate group conform to ~~subsections~~ subsection 2 and or 3, and the financial strength, assets, guarantee, or endorsement of any one corporate group member is not relied upon as a basis for loans and extensions of credit to any other corporate group member. A state bank may grant loans and extensions of credit to a corporate group in an amount not to exceed thirty-five percent of aggregate capital if all loans and extensions of credit to any one borrower within a corporate group conform to ~~subsections~~ subsection 2, 3, and or 4, and the financial strength, assets, guarantee, or endorsement of any one corporate group member is not relied upon as a basis for loans and extensions of credit to any other corporate group member. A corporate group includes a person and all corporations in which the person owns or controls fifty percent or more of the shares entitled to vote.

Approved March 18, 1999

CHAPTER 7

SPECIAL MOTOR VEHICLE REGISTRATION PLATES

H.F. 200

AN ACT relating to special registration plates for motor vehicles.

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

Section 1. Section 321.34, subsection 3, Code 1999, is amended to read as follows:

3. **RADIO OPERATORS PLATES.** The owner of an automobile, light delivery truck, panel delivery truck, motorcycle, trailer, or pickup who holds an amateur radio license issued by the federal communications commission may, upon written application to the county treasurer accompanied by a fee of five dollars, order special registration plates bearing the call letters authorized the radio station covered by the person's amateur radio license. When received by the county treasurer, such special registration plates shall be issued to the applicant in exchange for the registration plates previously issued to the person. Not more than one set of special registration plates may be issued to an applicant. Said fee shall be in addition to and not in lieu of the fee for regular registration plates. Special registration plates must be surrendered upon expiration of the owner's amateur radio license and the owner shall thereupon be entitled to the owner's regular registration plates. The county treasurer shall validate special plates in the same manner as regular registration plates, upon payment of five dollars in addition to the regular annual registration fee.

Sec. 2. Section 321.34, subsection 8, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The owner of a motor vehicle subject to registration under section 321.109, subsection 1, light delivery truck, panel delivery truck, motorcycle, trailer, or pickup who has been awarded the congressional medal of honor may, upon written application to the department, order special registration plates which shall be red, white, and blue in color and shall bear an emblem of the congressional medal of honor and an identifying number. Each applicant applying for special registration plates under this subsection may purchase only one set of registration plates under this subsection. The application is subject to approval by the department and the special registration plates shall be issued to the applicant in exchange for the registration plates previously issued to the person. The special plates are subject to an annual registration fee of fifteen dollars. The department shall validate the special plates in the same manner as regular registration plates are validated under this section. The department shall not issue special registration plates until service organizations in the state have furnished the department either the special dies or the cost of the special dies necessary for the manufacture of the special registration plate.

Sec. 3. Section 321.34, subsection 8A, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The owner of a motor vehicle subject to registration under section 321.109, subsection 1, light delivery truck, panel delivery truck, motorcycle, trailer, 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 registration fee of fifteen dollars. The county treasurer shall validate the special plates in the same manner as regular registration plates are validated under this section.

Sec. 4. Section 321.34, subsections 10 and 10A, Code 1999, are amended to read as follows:

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

10A. EMERGENCY MEDICAL SERVICES PLATES. The owner of a motor vehicle subject to registration pursuant to section 321.109, subsection 1, light delivery truck, panel delivery truck, pickup, motor home, multipurpose vehicle, motorcycle, trailer, or travel trailer who is a current member of a paid or volunteer emergency medical services agency may, upon written application to the department, order special registration plates, designed by the department in cooperation with representatives designated by the Iowa emergency medical services association, which plates signify that the applicant is a current member of a paid or volunteer emergency medical services agency. The application shall be approved by the department, in consultation with representatives designated by the Iowa emergency medical services association, and the special registration plates shall be issued to the applicant in exchange for the registration plates previously issued to the person. The fee for the special plates shall be twenty-five dollars which shall be in addition to the regular annual registration fee. The department shall validate the special plates in the same manner as regular registration plates are validated under this section at the regular annual registration fee.

Sec. 5. Section 321.34, subsection 11, paragraph a, Code 1999, is amended to read as follows:

a. Upon application and payment of the proper fees, the director may issue natural resources plates to the owner of a motor vehicle subject to registration under section 321.109, subsection 1, light delivery truck, panel delivery truck, pickup, motor home, multipurpose vehicle, motorcycle, trailer, or travel trailer.

Sec. 6. Section 321.34, subsection 11A, paragraph a, Code 1999, is amended to read as follows:

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, motorcycle, trailer, or travel trailer.

Sec. 7. Section 321.34, subsection 11B, paragraph a, Code 1999, is amended to read as follows:

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, motorcycle, trailer, or travel trailer.

Sec. 8. Section 321.34, subsection 12, paragraph a, Code 1999, is amended to read as follows:

a. The owner of a motor vehicle subject to registration pursuant to section 321.109, subsection 1, light delivery truck, panel delivery truck, pickup, motor home, multipurpose vehicle, motorcycle, trailer, or travel trailer may, upon written application to the department, order special registration plates with a distinguishing processed emblem as authorized by this section or as approved by the department. The fee for the issuance of special registration plates is twenty-five dollars for each vehicle, unless otherwise provided by this section, which fee is in addition to the regular annual registration fee. The county treasurer shall validate special registration plates with a distinguishing processed emblem in the same manner as regular registration plates, upon payment of five dollars in addition to the regular annual registration fee.

Sec. 9. Section 321.34, subsection 12,* is amended by adding the following new paragraph:

NEW PARAGRAPH. d. A special registration plate issued for a motorcycle or motorized bicycle under this section shall be designated in the manner provided for personalized registration plates under subsection 5, paragraph "a".

Approved March 30, 1999

CHAPTER 8

MOTOR VEHICLE REGISTRATION AND TITLE APPLICATIONS

H.F. 299

AN ACT relating to applications for motor vehicle registration and issuance of certificate of title.

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

Section 1. Section 321.20, subsection 1, Code 1999, is amended to read as follows:

1. The name; social security number or, if the owner does not have a social security number but has a passport, the passport number; driver's license number, whether the license was issued by this state, another state, another country, or is an international driver's license; date of birth; bona fide residence; and mailing address of the owner. If the owner is a firm, association, or corporation, the application shall contain the business address and federal employer identification number of the owner.

Approved March 30, 1999

* "Code 1999," probably intended

CHAPTER 9

OPEN MEETINGS VIOLATIONS — ATTORNEY FEES

H.F. 164

AN ACT concerning the open meetings statute by permitting the awarding of appellate attorney fees for a successful action involving the statute.

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

Section 1. Section 21.6, subsection 3, paragraph b, Code 1999, is amended to read as follows:

b. Shall order the payment of all costs and reasonable attorneys fees in the trial and appellate courts to any party successfully establishing a violation of this chapter. The costs and fees shall be paid by those members of the governmental body who are assessed damages under paragraph "a" ~~of this subsection~~. If no such members exist because they have a lawful defense under that paragraph to the imposition of such damages, the costs and fees shall be paid to the successful party from the budget of the offending governmental body or its parent.

Approved March 31, 1999

CHAPTER 10

CRIME VICTIM RIGHTS

H.F. 222

AN ACT relating to crime victim rights.

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

Section 1. Section 915.84, subsection 1, Code 1999, is amended to read as follows:

1. To claim compensation under the crime victim compensation program, a person shall apply in writing on a form prescribed by the department and file the application with the department within two years after the date of the crime, the discovery of the crime, or the date of death of the victim. The department may waive the time limitation if good cause is shown.

Sec. 2. Section 915.86, subsection 1, Code 1999, is amended to read as follows:

1. Reasonable charges incurred for medical care not to exceed ~~ten~~ fifteen thousand ~~five hundred~~ dollars. Reasonable charges incurred for mental health care not to exceed three thousand dollars which includes services provided by a psychologist licensed under chapter 154B, a person holding at least a master's degree in social work or counseling and guidance, or a victim counselor as defined in section 915.20A.

Sec. 3. Section 915.100, subsection 2, paragraph c, Code 1999, is amended to read as follows:

c. In cases where the act committed by an offender causes the death of another person, in addition to the amount ordered for payment of the victim's pecuniary damages, the court shall also order the offender to pay at least one hundred fifty thousand dollars in restitution to the victim's estate, pursuant to the provisions of section 910.3B.

Approved March 31, 1999

CHAPTER 11
SERIOUS INJURY — DEFINITION
H.F. 182

AN ACT expanding the criminal code definition of serious injury to include certain injuries to children.

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

Section 1. Section 702.18, Code 1999, is amended to read as follows:
702.18 SERIOUS INJURY.

1. "Serious injury" means ~~disabling any of the following:~~

a. ~~Disabling~~ mental illness, ~~or bodily,~~

b. ~~Bodily~~ injury which ~~creates~~ does any of the following:

(1) Creates a substantial risk of death ~~or which causes,~~

(2) Causes serious permanent disfigurement, ~~or,~~

(3) Causes protracted loss or impairment of the function of any bodily member or organ, ~~and,~~

c. Any injury to a child that requires surgical repair and necessitates the administration of general anesthesia.

2. "Serious injury" includes but is not limited to skull fractures, rib fractures, and metaphyseal fractures of the long bones of children under the age of four years.

Approved April 1, 1999

CHAPTER 12
CONTROLLED SUBSTANCES — METHAMPHETAMINE — PENALTIES
H.F. 573

AN ACT to change the penalties applicable to the possession, manufacture, or delivery of methamphetamine and other controlled substances, relating to the possession or control of adulterated or improperly labeled articles, providing for the reopening of certain sentences, and providing for restrictions on bail.

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

Section 1. Section 13B.4, subsection 1, Code 1999, is amended to read as follows:

1. The state public defender shall coordinate the provision of legal representation of all indigents under arrest or charged with a crime, on appeal in criminal cases, and on appeal in proceedings to obtain postconviction relief when ordered to do so by the district court in which the judgment or order was issued, a reopening of a sentence proceeding,* and may provide for the representation of indigents in proceedings instituted pursuant to chapter 908. The state public defender shall not engage in the private practice of law.

Sec. 2. Section 124.401, subsection 4, Code 1999, is amended to read as follows:

4. ~~It is unlawful for any A person to possess who possesses~~ any product containing ephedrine any of the following commits a class "D" felony, if the person possesses with the intent to use the product to manufacture any controlled substance:

a. Ephedrine, its salts, optical isomers, salts of optical isomers, or analogs of ephedrine, ~~or pseudoephedrine,~~

* See chapter 208, §46 herein

~~b. Pseudoephedrine, its salts, optical isomers, salts of optical isomers, or analogs of pseudoephedrine, with the intent to use the product as a precursor to any illegal substance or an intermediary to any controlled substance.~~

~~c. Ethyl ether.~~

~~d. Anhydrous ammonia.~~

~~e. Red phosphorous.~~

~~f. Lithium.~~

~~g. Iodine.~~

~~h. Thionyl chloride.~~

~~i. Chloroform.~~

~~j. Palladium.~~

~~k. Perchloric acid.~~

~~l. Tetrahydrofuran.~~

~~m. Ammonium chloride.~~

~~n. Magnesium sulfate. A person who violates this subsection commits a class "D" felony.~~

Sec. 3. Section 124.401, subsection 5, Code 1999, is amended by adding the following new unnumbered paragraphs after unnumbered paragraph 3:

NEW UNNUMBERED PARAGRAPH. If a person commits a violation of this subsection, the court shall order the person to serve a term of imprisonment of not less than forty-eight hours. Any sentence imposed may be suspended, and the court shall place the person on probation upon such terms and conditions as the court may impose. If the person is not sentenced to confinement under the custody of the director of the department of corrections, the terms and conditions of probation shall require submission to random drug testing. If the person fails a drug test, the court may transfer the person's placement to any appropriate placement permissible under the court order.

NEW UNNUMBERED PARAGRAPH. If the controlled substance is methamphetamine, its salts, isomers, or salts of its isomers, the court shall order the person to serve a term of imprisonment of not less than forty-eight hours. Any sentence imposed may be suspended, and the court shall place the person on probation upon such terms and conditions as the court may impose. The court may place the person on intensive probation. However, the terms and conditions of probation shall require submission to random drug testing. If the person fails a drug test, the court may transfer the person's placement to any appropriate placement permissible under the court order.

Sec. 4. **NEW SECTION.** 124.401D CONSPIRACY TO MANUFACTURE FOR DELIVERY OR DELIVERY OR INTENT OR CONSPIRACY TO DELIVER METHAMPHETAMINE TO A MINOR.

1. It is unlawful for a person eighteen years of age or older to act with, or enter into a common scheme or design with, or conspire with one or more persons to manufacture for delivery to a person under eighteen years of age a material, compound, mixture, preparation, or substance that contains any detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.

A violation of this subsection is a felony punishable under section 902.9, subsection 0A. A second or subsequent violation of this subsection is a class "A" felony.

2. It is unlawful for a person eighteen years of age or older to deliver, or possess with the intent to deliver to a person under eighteen years of age, a material, compound, mixture, preparation, or substance that contains any detectable amount of methamphetamine, its salts, isomers, or salts of its isomers, or to act with, or enter into a common scheme or design with, or conspire with one or more persons to deliver or possess with the intent to deliver to a person under eighteen years of age a material, compound, mixture, preparation, or substance that contains any detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.

A violation of this subsection is a felony punishable under section 902.9, subsection 0A. A second or subsequent violation of this subsection is a class "A" felony.

Sec. 5. NEW SECTION. 124.401E CERTAIN PENALTIES FOR MANUFACTURING OR DELIVERY OF METHAMPHETAMINE.

1. If a court sentences a person for the person's first conviction for delivery or possession with intent to deliver a controlled substance under section 124.401, subsection 1, paragraph "c", and if the controlled substance is methamphetamine, its salts, isomers, or salts of its isomers, the court may suspend the sentence, and the court may order the person to complete a drug court program if a drug court has been established in the county in which the person is sentenced or order the person to be assigned to a community-based correctional facility for a period of one year or until maximum benefits are achieved, whichever is earlier.

2. If a court sentences a person for a conviction of manufacturing of a controlled substance under section 124.401, subsection 1, paragraph "c", and if the controlled substance is methamphetamine, its salts, isomers, or salts of its isomers, the court may suspend the sentence, and the court may order the person to complete a drug court program if a drug court has been established in the county in which the person is sentenced, or order the person to be assigned to a community-based correctional facility for a period of one year or until maximum benefits are achieved, whichever is earlier.

3. If a court sentences a person for the person's second or subsequent conviction for delivery or possession with intent to deliver a controlled substance under section 124.401, subsection 1, and the controlled substance is methamphetamine, its salts, isomers, or salts of its isomers, the court, in addition to any other authorized penalties, shall sentence the person to imprisonment in accordance with section 124.401, subsection 1, and the person shall serve the minimum period of confinement as required by section 124.413.

Sec. 6. NEW SECTION. 124.401F PROHIBITIONS ON TAMPERING WITH, POSSESSING, OR TRANSPORTING ANHYDROUS AMMONIA OR ANHYDROUS AMMONIA EQUIPMENT.

1. A person shall not intentionally tamper with anhydrous ammonia equipment. Tampering occurs when a person who is not authorized by the owner of anhydrous ammonia equipment uses the equipment in violation of a provision of this section. A person shall not in any manner or for any purpose sell, fill, refill, deliver, permit to be delivered, or use an anhydrous ammonia container or receptacle, including for the storage of any gas or compound, unless the person owns the container or receptacle or is authorized to do so by the owner. A person shall not possess or transport anhydrous ammonia in a container or receptacle which is not authorized by the secretary* to hold anhydrous ammonia.

2. A person violating this section commits a serious misdemeanor. In addition to the imposition of the serious misdemeanor penalty, a person shall be subject to a civil penalty of not more than one thousand five hundred dollars, if the person does any of the following:

a. Intentionally tampers with anhydrous ammonia equipment.

b. Possesses or transports anhydrous ammonia in a container or receptacle which is not authorized to hold anhydrous ammonia according to rules adopted by the secretary.**

3. A person tampering with anhydrous ammonia equipment in violation of this section shall not have a cause of action against the owner of the equipment, any person responsible for the installation and maintenance of the equipment, or the person lawfully selling the anhydrous ammonia for damages arising out of the tampering.

Sec. 7. Section 189.16, Code 1999, is amended to read as follows:

189.16 POSSESSION AND CONTROL OF ADULTERATED AND IMPROPERLY LABELED ARTICLES.

1. ~~Any~~ Except as provided in subsection 2, a person ~~having~~ in possession or ~~under~~ having control ~~any of an~~ article which is adulterated or which is improperly labeled according to the provisions of this subtitle, ~~excluding chapters 203, 203A, 203C, 203D, 207, and 208,~~ shall

* See chapter 208, §48 herein

** Secretary of agriculture probably intended

be presumed to know ~~its true character and name, and such~~ that the article is adulterated or improperly labeled. A person's possession of an adulterated or improperly labeled article shall be prima facie evidence of having the same in possession with intent that the person intends to violate the provisions of this subtitle, ~~excluding chapters 203, 203A, 203C, 203D, 207, and 208.~~

2. This section does not apply to the possession or control of any of the following:
 - a. Grain by a person regulated under chapter 203, 203A, 203C, or 203D.
 - b. Mining materials including coal by a person regulated under chapter 207 or 208.
 - c. A controlled substance as provided in chapter 124.

Sec. 8. Section 200.14, subsection 1A, Code 1999, is amended to read as follows:

1A. Anhydrous ammonia equipment shall be installed and maintained in a safe operating condition and in conformity with rules adopted by the secretary. ~~A person shall not intentionally tamper with anhydrous ammonia equipment. Tampering occurs when a person who is not authorized by the owner of anhydrous ammonia equipment uses the equipment in violation of a provision of this chapter, including a rule adopted by the secretary. A person shall not in any manner or for any purpose sell, fill, refill, deliver, permit to be delivered, or use an anhydrous ammonia container or receptacle, including for the storage of any gas or compound, unless the person owns the container or receptacle or is authorized to do so by the owner. A person shall not possess or transport anhydrous ammonia in a container or receptacle which is not authorized by the secretary to hold anhydrous ammonia.~~

Sec. 9. Section 200.18, subsection 2, Code 1999, is amended to read as follows:

2. A person violating this chapter or rules adopted by the secretary pursuant to this chapter shall be guilty of a simple misdemeanor. ~~In addition to the imposition of the simple misdemeanor penalty, a person violating section 200.14 shall be subject to a civil penalty of not more than one thousand five hundred dollars, if the person does any of the following:~~ However, a person who tampers with, possesses, or transports anhydrous ammonia or anhydrous ammonia equipment commits a serious misdemeanor under section 124.401F.

a. ~~Intentionally tampers with anhydrous ammonia equipment.~~

b. ~~Possesses or transports anhydrous ammonia in a container or receptacle which is not authorized to hold anhydrous ammonia according to rules adopted by the secretary.~~

~~A person tampering with anhydrous ammonia equipment in violation of section 200.14 shall not have a cause of action against the owner of the equipment, any person responsible for the installation and maintenance of the equipment, or the person lawfully selling the anhydrous ammonia for damages arising out of the tampering.~~

Sec. 10. Section 811.1, subsections 1 and 2, Code 1999, 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" or "b", or a second or subsequent offense under section 124.401, subsection 1, paragraph "c", or any felony punishable under section 902.9, subsection 0A.

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, any felony included in section 124.401, subsection 1, paragraph "a"; or a violation of section 124.401, subsection 1, paragraph "b", or a second or subsequent conviction under section 124.401, subsection 1, paragraph "c", or any felony punishable under section 902.9, subsection 0A.~~

Sec. 11. Section 811.2, subsection 1, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Any bailable defendant who is charged with unlawful possession, manufacture, delivery, or distribution of a controlled substance or other drug under chapter 124 and is ordered released shall be required, as a condition of that release, to submit to a substance abuse evaluation and follow any recommendations proposed in the evaluation for appropriate substance abuse treatment.

Sec. 12. Section 901.2, unnumbered paragraph 3, Code 1999, is amended to read as follows:

The court shall not order a presentence investigation when the offense is a class "A" felony. If, however, the board of parole determines that the Iowa medical and classification center reception report for a class "A" felon is inadequate, the board may request and shall be provided with additional information from the appropriate judicial district department of correctional services. The court shall order a presentence investigation when the offense is any felony punishable under section 902.9, subsection 0A, or a class "B", class "C", or class "D" felony. A presentence investigation for any felony punishable under section 902.9, subsection 0A, or a class "B", class "C", or class "D" felony shall not be waived. The court may order, with the consent of the defendant, that the presentence investigation begin prior to the acceptance of a plea of guilty, or prior to a verdict of guilty. The court may order a presentence investigation when the offense is an aggravated misdemeanor. The court may order a presentence investigation when the offense is a serious misdemeanor only upon a finding of exceptional circumstances warranting an investigation. Notwithstanding section 901.3, a presentence investigation ordered by the court for a serious misdemeanor shall include information concerning only the following:

Sec. 13. **NEW SECTION.** 901.5A REOPENING OF A SENTENCE.

1. A defendant sentenced by the court to the custody of the director of the department of corrections for an offense punishable under section 902.9, subsection 0A, may have the judgment and sentence entered under section 901.5 reopened for resentencing if the following apply:

a. The county attorney from the county which prosecuted the defendant files a motion to reopen the sentence of the defendant based upon the defendant's cooperation in the prosecution of other persons.

b. The court finds the defendant cooperated in the prosecution of other persons.

2. Upon a finding by the court that the defendant cooperated in the prosecution of other persons, the court may reduce the maximum sentence imposed under the original sentencing order.

3. For purposes of calculating good conduct time under section 903A.2, the sentencing date for a defendant whose sentence has been reopened under this section shall be the date of the original sentencing order.

4. The filing of a motion or the reopening of a sentence under this section shall not constitute grounds to stay any other court proceedings, or to toll or restart the time for filing of any post-trial motion or any appeal.

5. The defendant may request appointment of counsel, if eligible under section 815.10, prior to and during any negotiations and proceedings pursuant to this section.

Sec. 14. Section 901.10, Code 1999, is amended to read as follows:

901.10 IMPOSITION REDUCTION OF MANDATORY MINIMUM SENTENCES.

1. A court sentencing a person for the person's first conviction under section 124.406, 124.413, or 902.7 may, at its discretion, sentence the person to a term less than provided by the statute if mitigating circumstances exist and those circumstances are stated specifically in the record.

2. Notwithstanding subsection 1, if the sentence under section 124.413 involves a methamphetamine offense under section 124.401, subsection 1, paragraph "a" or "b", the court

shall not grant any reduction of sentence unless the defendant pleads guilty. If the defendant pleads guilty, the court may, at its discretion, reduce the mandatory minimum sentence by up to one-third. If the defendant additionally cooperates in the prosecution of other persons involved in the sale or use of controlled substances, and if the prosecutor requests an additional reduction in defendant's sentence because of such cooperation, the court may grant a further reduction in defendant's mandatory minimum sentence, up to one-half of the remaining mandatory minimum sentence.

3. A court sentencing a person for the person's first conviction under section 124.401D may, at its discretion, sentence the person to a term less than the maximum term provided under section 902.9, subsection 0A, if mitigating circumstances exist and those circumstances are stated specifically in the record. However, the court shall not grant any reduction of sentence unless the defendant pleads guilty. If the defendant pleads guilty, the court may, at its discretion, reduce the maximum sentence by up to one-third. If the defendant cooperates in the prosecution of other persons involved in the sale or use of controlled substances, and if the prosecutor requests an additional reduction in the defendant's sentence because of such cooperation, the court may grant a further reduction in the defendant's maximum sentence.

~~3. 4.~~ The state may appeal the discretionary decision on the grounds that the stated mitigating circumstances do not warrant a reduction of the sentence.

Sec. 15. Section 902.3, Code 1999, is amended to read as follows:

902.3 INDETERMINATE SENTENCE.

When a judgment of conviction of a felony other than a class "A" felony is entered against a person, the court, in imposing a sentence of confinement, shall commit the person into the custody of the director of the Iowa department of corrections for an indeterminate term, the maximum length of which shall not exceed the limits as fixed by ~~section 707.3 or~~ section 902.9, unless otherwise prescribed by statute, nor shall the term be less than the minimum term imposed by law, if a minimum sentence is provided. However, the court may sentence a person convicted of a class "D" felony for a violation of section 321J.2 to imprisonment for up to one year in a county jail under section 902.9, subsection 4, and the person shall not be under the custody of the director of the Iowa department of corrections.

Sec. 16. NEW SECTION. 902.8A MINIMUM SENTENCE FOR CONSPIRING TO MANUFACTURE OR DELIVERY OF METHAMPHETAMINE TO A MINOR.

A person who has been convicted for a first violation under section 124.401D shall not be eligible for parole until the person has served a minimum term of confinement of ten years.

Sec. 17. Section 902.9, Code 1999, is amended by adding the following new subsection: NEW SUBSECTION. 0A. A felon sentenced for a first conviction for a violation of section 124.401D, shall be confined for no more than ninety-nine years.

Sec. 18. Section 903A.5, unnumbered paragraph 1, Code 1999, is amended to read as follows:

An inmate shall not be discharged from the custody of the director of the Iowa department of corrections until the inmate has served the full term for which the inmate was sentenced, less good conduct time earned and not forfeited, unless the inmate is pardoned or otherwise legally released. Good conduct time earned and not forfeited shall apply to reduce a mandatory minimum sentence being served pursuant to section 124.406, 124.413, 902.7, 902.8, 902.8A, or 902.11. An inmate shall be deemed to be serving the sentence from the day on which the inmate is received into the institution. However, if an inmate was confined to a county jail or other correctional or mental facility at any time prior to sentencing, or after sentencing but prior to the case having been decided on appeal, because of failure to furnish bail or because of being charged with a nonbailable offense, the inmate shall be given credit for the days already served upon the term of the sentence. The sheriff of the county in which the inmate was confined shall certify to the clerk of the district court from which the inmate

was sentenced the number of days so served. The clerk of the district court shall forward a copy of the certification of the days served to the warden.

Sec. 19. Section 906.5, subsection 1, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The board shall establish and implement a plan by which the board systematically reviews the status of each person who has been committed to the custody of the director of the Iowa department of corrections and considers the person's prospects for parole or work release. The board at least annually shall review the status of a person other than a class "A" felon, a class "B" felon serving a sentence of more than twenty-five years, or a felon serving an offense punishable under section 902.9, subsection 0A, or a felon serving a mandatory minimum sentence other than a class "A" felon, and provide the person with notice of the board's parole or work release decision.

Approved April 6, 1999

CHAPTER 13

TRANSPORTATION — MISCELLANEOUS PROVISIONS

S.F. 203

AN ACT relating to transportation, including regulation of school buses and special trucks, vehicle titling and registration, commercial driver's licenses, regulations on motor carriers, regulations on motor vehicle manufacturers, distributors, and dealers, size, weight, and load restrictions on vehicles, driver education, transportation of students, equipment on vehicles, rescision of a driver's license revocation, and administrative procedures of the state department of transportation, and providing for fees and penalties and an effective date.

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

Section 1. Section 321.1, subsection 32, unnumbered paragraph 3, Code 1999, is amended to read as follows:

Notwithstanding the other provisions of this subsection any vehicle covered ~~thereby by this subsection~~, if it otherwise qualifies, may be registered as special mobile equipment, or operated or moved under the provisions of sections 321.57 to 321.63, if the person in whose name such vehicle is to be registered or to whom a special plate or plates are to be issued elects to do so as special mobile equipment and under such circumstances the provisions of this subsection shall not be applicable to such vehicle, nor shall such vehicle be required to comply with the provisions of sections 321.384 to 321.429 through 321.423, when such vehicle is moved during daylight hours, provided however, the provisions of section 321.383 shall remain applicable to such vehicle.

Sec. 2. Section 321.1, subsection 69, paragraph c, Code 1999, is amended to read as follows:

c. Operated by a municipally or privately owned urban transit company or a regional transit system as defined in section 324A.1 for the transportation of children as part of or in addition to their regularly scheduled service; or

Sec. 3. Section 321.1, subsection 76, Code 1999, is amended to read as follows:

76. "Special truck" means a motor truck or truck tractor not used for hire with a gross weight registration of six through thirty-two tons used by a person engaged in farming to transport commodities produced only by the owner, or to transport commodities purchased by the owner for use in the owner's own farming operation or occasional use for charitable purposes. "Special truck" also means a motor truck or truck tractor not used for hire with a gross weight registration of six through thirty-two tons used by a person engaged in farming who assists another person engaged in farming through an exchange of services. A "special truck" does not include a truck tractor operated more than ~~seventy-five hundred~~ fifteen thousand miles annually.

Sec. 4. Section 321.23, subsection 3, Code 1999, is amended to read as follows:

3. In the event an applicant for registration of a foreign vehicle for which a certificate of title has been issued is able to furnish evidence of being the registered owner of the vehicle to the county treasurer of the owner's residence, although unable to surrender such certificate of title, the county treasurer may issue a registration receipt and plates upon receipt of the required registration fee but shall not issue a certificate of title thereto. Upon surrender of the certificate of title from the foreign state, the county treasurer shall issue a certificate of title to the owner, or person entitled thereto, of such vehicle as provided in this chapter. The owner of a vehicle registered under this subsection shall not be required to obtain a certificate of title in this state and may transfer ownership of the vehicle to a motor vehicle dealer licensed under chapter 322 if, at the time of the transfer, the certificate of title is held by a secured party and the dealer has forwarded to the secured party the sum necessary to discharge the security interest pursuant to section 321.48, subsection 1.

Sec. 5. Section 321.25, unnumbered paragraph 1, Code 1999, is amended to read as follows:

A vehicle may be operated upon the highways of this state without registration plates for a period of ~~thirty~~ forty-five days after the date of delivery of the vehicle to the purchaser from a dealer if a card bearing the words "registration applied for" is attached on the rear of the vehicle. The card shall have plainly stamped or stenciled the registration number of the dealer from whom the vehicle was purchased and the date of delivery of the vehicle. In addition, a dealer licensed to sell new motor vehicles may attach the card to a new motor vehicle delivered by the dealer to the purchaser even if the vehicle was purchased from an out-of-state dealer and the card shall bear the registration number of the dealer that delivered the vehicle. A dealer shall not issue a card to a person known to the dealer to be in possession of registration plates which may be attached to the vehicle. A dealer shall not issue a card unless an application for registration and certificate of title has been made by the purchaser and a receipt issued to the purchaser of the vehicle showing the fee paid by the person making the application. Dealers' records shall indicate the agency to which the fee is sent and the date the fee is sent. The dealer shall forward the application by the purchaser to the county treasurer or state office within fifteen calendar days from the date of delivery of the vehicle. However, if the vehicle is subject to a security interest and has been offered for sale pursuant to section 321.48, subsection 1, the dealer shall forward the application by the purchaser to the county treasurer or state office within ~~twenty-two~~ thirty calendar days from the date of the delivery of the vehicle to the purchaser.

Sec. 6. Section 321.42, Code 1999, is amended to read as follows:

321.42 LOST OR DAMAGED CERTIFICATES, CARDS, AND PLATES.

1. If a registration card, plate, or pair of plates is lost or becomes illegible, the owner shall immediately apply for replacement. The fee for a replacement registration card shall be three dollars. The fee for a replacement plate or pair of plates shall be five dollars. When the owner has furnished information required by the department and paid the proper fee, a duplicate, substitute, or new registration card, plate, or pair of plates may be issued.

2. a. If a certificate of title is lost or destroyed, the owner or lienholder shall apply for a certified copy of the original certificate of title. The owner or lienholder of a motor vehicle

may also apply for a certified copy of the original certificate of title as a replacement for the original certificate of title upon surrender of the original certificate of title with the application. The application shall be made to the department or county treasurer who issued the original certificate of title. The application shall be signed by the owner or lienholder and accompanied by a fee of ten dollars.

b. After five days, the department or county treasurer shall issue a certified copy to the applicant at the applicant's most recent address, however, the five-day waiting period does not apply to an applicant who has surrendered the original certificate of title to the department or county treasurer. The certified copy shall be clearly marked "duplicate" and shall be identical to the original, including notation of liens or encumbrances. When a certified copy has been issued, the previous certificate is void.

c. If a security interest noted on the face of an original certificate of title was released by the lienholder on a separate form pursuant to section 321.50, subsection 4, and the signature of the lienholder, or the person executing the release on behalf of the lienholder, is notarized, but the lienholder has not delivered the original certificate to the appropriate party as provided in section 321.50, subsection 4, the owner may apply for and receive a replacement certificate of title without the released security interest noted thereon. The lienholder shall return the original certificate of title to the department or to the treasurer of the county where the title was issued.

d. A new purchaser or transferee is entitled to receive an original title upon presenting the assigned duplicate copy to the treasurer of the county where the new purchaser or transferee resides. At the time of purchase, a purchaser may require the seller to indemnify the purchaser and all future purchasers of the vehicle against any loss which may be suffered due to claims on the original certificate. A person recovering an original certificate of title for which a duplicate has been issued shall surrender the original certificate to the county treasurer or the department.

3. If a county treasurer mails vehicle registration documents which become lost or are damaged in transit through the United States postal service, the person to whom the documents were being sent may apply for reissuance without cost. The application shall be made with the county treasurer who originally issued the documents not less than twenty days from the date the documents were placed with the United States postal service. If the original documents are received after reissuance of duplicates, the original documents shall be surrendered to the county treasurer within five days of the time they are received.

Sec. 7. Section 321.48, subsection 1, unnumbered paragraph 2, Code 1999, is amended to read as follows:

A dealer licensed pursuant to chapter 322 or chapter 322C who has acquired a vehicle for resale which is subject to a security interest as provided in section 321.50 and who has forwarded to the secured party the sum necessary to discharge the security interest may offer the vehicle for sale prior to the receipt from the county treasurer of the certificate of title for the vehicle with the lien discharged for a period of not more than ~~twenty two~~ thirty days from the date the vehicle was acquired and the provisions of section 321.104, subsection 2 shall not apply.

Sec. 8. Section 321.49, subsection 1, Code 1999, is amended to read as follows:

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

Sec. 9. Section 321.50, subsection 4, unnumbered paragraph 3, Code 1999, is amended to read as follows:

~~However, when~~ 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~~ the 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. 10. Section 321.166, subsections 1 and 4, Code 1999, are amended to read as follows:

1. Registration plates shall be of metal and of a size not to exceed six inches by twelve inches, except that the size of plates issued for use on motorized bicycles, motorcycles, motorcycle trailers, and trailers with an empty weight of two thousand pounds or less, ~~and special mobile equipment~~ shall be established by the department.

Trailers with empty weights of two thousand pounds or less may, upon request, be licensed with regular-sized license plates.

4. The registration plate number, except on motorized bicycle, motorcycle, motorcycle trailer, and trailers with an empty weight of two thousand pounds or less, ~~and special mobile equipment registration plates~~, shall be of sufficient size to be readable from a distance of one hundred feet during daylight.

Sec. 11. Section 321.178, subsection 1, unnumbered paragraphs 2 and 3, Code 1999, are amended to read as follows:

To be qualified as a classroom ~~or laboratory~~ driver education instructor, a person shall have satisfied the educational requirements for a teaching license at the elementary or secondary level and hold a valid license to teach driver education in the public schools of this state.

Every public school district in Iowa shall offer or make available to all students residing in the school district or Iowa students attending a nonpublic school in the district an approved course in driver education. The courses may be offered at sites other than at the public school, including nonpublic school facilities within the public school districts. An approved course offered during the summer months, on Saturdays, after regular school hours during the regular terms or partly in one term or summer vacation period and partly in the succeeding term or summer vacation period, as the case may be, shall satisfy the requirements of this section to the same extent as an approved course offered during the regular school hours of the school term. A student who successfully completes and obtains certification in an approved course in driver education or an approved course in motorcycle education may, upon proof of such fact, be excused from any field test which the student would otherwise be required to take in demonstrating the student's ability to operate a motor vehicle. A student shall not be excused from any field test if a parent, guardian, or instructor requests that a test be administered. Street or highway driving instruction may be provided by a person qualified as a classroom driver education instructor or a person certified by the department of transportation and authorized by the board of educational examiners. A final field test prior to a student's completion of an approved course shall be administered by a person qualified as a classroom driver education instructor. The department of transportation shall adopt rules pursuant to chapter 17A to provide for certification of persons qualified to provide street or highway driving instruction ~~and for administering requested field tests. The board of educational examiners shall adopt rules pursuant to chapter 17A to provide for authorization of persons certified by the department of transportation to provide street or highway driving instruction.~~

Sec. 12. Section 321.180B, subsection 2, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The department may issue an intermediate driver's license to a person sixteen or seventeen years of age who possesses an instruction permit issued under subsection 1 or a comparable instruction permit issued by another state for a minimum of six months, and who presents an affidavit signed by a parent or guardian on a form to be provided by the department that the permittee has accumulated a total of twenty hours of street or highway driving of which two hours were conducted after sunset and before sunrise and the street or highway driving was with the permittee's parent, guardian, instructor, a person certified by the department, or a person at least twenty-five years of age who had written permission from a parent or guardian to accompany the permittee, and whose driving privileges have not been suspended, revoked, or barred under this chapter or chapter 321J during, and who has been accident and conviction free continuously for, the six-month period immediately preceding the application for an intermediate license. An applicant for an intermediate license must meet the requirements of section 321.186, including satisfactory completion of driver education as required in section 321.178, and payment of the required license fee before an intermediate license will be issued. A person issued an intermediate license must limit the number of passengers in the motor vehicle when the intermediate licensee is operating the motor vehicle to the number of passenger safety belts.

Sec. 13. Section 321.180B, subsection 4, Code 1999, is amended to read as follows:

4. FULL DRIVER'S LICENSE. A full driver's license may be issued to a person seventeen years of age who possesses an intermediate license issued under subsection 2 or a comparable intermediate license issued by another state for a minimum of twelve months, and who presents an affidavit signed by a parent or guardian on a form to be provided by the department that the intermediate licensee has accumulated a total of ten hours of street or highway driving of which two hours were conducted after sunset and before sunrise and the street or highway driving was with the licensee's parent, guardian, instructor, a person certified by the department, or a person at least twenty-five years of age who had written permission from a parent or guardian to accompany the licensee, whose driving privileges have not been suspended, revoked, or barred under this chapter or chapter 321J during, and who has been accident and conviction free continuously for, the twelve-month period immediately preceding the application for a full driver's license, and who has paid the required fee.

Sec. 14. Section 321.189, subsection 2, paragraphs b and c, Code 1999, are amended to read as follows:

b. A commercial driver's license shall include the licensee's address as required under federal regulations ~~and the licensee's social security number~~, and the words "commercial driver's license" or "CDL" shall appear prominently on the face of the license. If the applicant is a nonresident, the license must conspicuously display the word "nonresident".

c. The department shall advise an applicant that the applicant for a driver's license ~~other than a commercial driver's license~~ may request a number other than a social security number as the driver's license number.

Sec. 15. NEW SECTION. 321.377 REGIONAL TRANSIT SYSTEM TRANSPORTATION.

A vehicle operated by a regional transit system as defined in section 324A.1 may only provide school transportation services pursuant to rules adopted by the state department of transportation in consultation with the department of education.

Sec. 16. NEW SECTION. 321.404A LIGHT-RESTRICTING DEVICES PROHIBITED.

1. A person shall not operate a motor vehicle, motorcycle, or motorized bicycle on the highways of this state if it is equipped with a device that restricts the light output of a head lamp required under section 321.385 or 321.386, a rear lamp required under section 321.387, a signal lamp or signal device required under section 321.404, or a directional signal device as described in section 321.317.

2. A person who violates this section shall be subject to a scheduled fine under section 805.8, subsection 2, paragraph "d".

Sec. 17. Section 321.449, unnumbered paragraphs 2 and 4, Code 1999, are amended to read as follows:

Rules adopted under this section concerning driver qualifications, hours of service, and recordkeeping requirements do not apply to the operators of public utility trucks, trucks hauling gravel, construction trucks and equipment, trucks moving implements of husbandry, and special trucks, other than a truck tractor, operating intrastate. Trucks Except as otherwise provided in this section, trucks for hire on construction projects are not exempt from this section.

Notwithstanding other provisions of this section, rules adopted under this section for drivers of commercial vehicles shall not apply to a driver of a commercial vehicle who is engaged exclusively in intrastate commerce, when the commercial vehicle's gross vehicle weight rating is 26,000 pounds or less, unless the vehicle is used to transport hazardous materials requiring a placard or if the vehicle is designed to transport more than fifteen passengers, including the driver. For the purpose of complying with the hours of service recordkeeping requirements under 49 C.F.R. § 395.1(e)(5), a driver's report of daily beginning and ending on-duty time submitted to the motor carrier at the end of each work week shall be considered acceptable motor carrier time records. In addition, rules adopted under this section shall not apply to a driver for a farm operation as defined in section 352.2, or for an agricultural interest when the commercial vehicle is operated between the farm as defined in section 352.2 and another farm, between the farm and a market for farm products, or between the farm and an agribusiness location. A driver or a driver-salesperson for a private carrier, who is not for hire and who is engaged exclusively in intrastate commerce, may drive twelve hours, be on duty sixteen hours in a twenty-four hour period and be on duty seventy hours in seven consecutive days or eighty hours in eight consecutive days. For-hire drivers who are engaged exclusively in intrastate commerce and who operate trucks and truck-tractors exclusively for the movement of construction materials and equipment to and from construction projects may also drive twelve hours, be on duty sixteen hours in a twenty-four-hour period, and be on duty seventy hours in seven consecutive days or eighty hours in eight consecutive days. A driver-salesperson means as defined in 49 C.F.R. § 395.2, adopted as of a specific date by the department by rule.

Sec. 18. Section 321.453, Code 1999, is amended to read as follows:

321.453 EXCEPTIONS.

The provisions of this chapter governing size, weight, and load, and the permit requirements of chapter 321E do not apply to fire apparatus; road maintenance equipment owned by or, under lease to, or used in the performance of a contract with any state or local authority; implements of husbandry temporarily moved upon a highway; implements of husbandry moved from farm site to farm site or between the retail seller and a farm purchaser; implements of husbandry moved between any site and the site of an agricultural exposition or a fair administered pursuant to chapter 173 or 174; indivisible implements of husbandry temporarily moved between the place of manufacture and a retail seller or a farm purchaser; implements of husbandry received and moved by a retail seller of implements of husbandry in exchange for a purchased implement; or implements of husbandry moved for repairs, except on any part of the interstate highway system. A vehicle, carrying an implement of husbandry, which is exempted from the permit requirements under this section shall be equipped with an amber flashing light under section 321.423, shall be equipped with warning flags on that portion of the vehicle which protrudes into oncoming traffic, and shall only operate from thirty minutes prior to sunrise to thirty minutes following sunset. The one hundred-mile distance restriction contained in the definition of implement of husbandry in section 321.1 does not apply to this section.

Sec. 19. Section 321A.17, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 8. This section does not apply to an individual whose administrative license revocation has been rescinded under section 321J.13, and who is otherwise under no obligation to furnish proof of financial responsibility.

Sec. 20. Section 321E.8, subsections 2 and 3, Code 1999, are amended to read as follows:

2. 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 twenty 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~~ fifteen feet ~~zero~~ five 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.

3. Vehicles with indivisible loads, including mobile homes and factory-built structures, having an overall width not to exceed sixteen feet zero inches and an overall length not to exceed one hundred twenty feet zero inches may be moved under an annual or all-systems permit and must have a route specified by the issuing authority prior to the movement. However, vehicles with indivisible loads, including mobile homes and factory-built structures, with an overall width not exceeding fourteen feet six inches may exceed fifty miles under an annual and all-systems permit when prior approval for trip routing is obtained from the issuing authority. ~~The A vehicle and load being moved according to this paragraph shall not exceed the fifteen feet five inches in height as prescribed in section 321.456 and shall not exceed~~ the total gross weight as prescribed in section 321.463.

Sec. 21. Section 321E.12, Code 1999, is amended to read as follows:

321E.12 REGISTRATION MUST BE CONSISTENT.

~~Any A~~ vehicle traveling under permit shall be properly registered for the gross weight of the vehicle and load. ~~Any A~~ person owning special mobile equipment ~~registered and in compliance with section 321.21,~~ may use a transport vehicle registered for the gross weight of the transport without a load. Vehicles, while being used for the transportation of buildings, except mobile homes and factory-built structures, may be registered for the combined gross weight of the vehicle and load on a single-trip basis. The fee is five cents per ton exceeding the weight registered under section 321.122 per mile of travel. Fees shall not be prorated for fractions of miles. This provision does not exempt these vehicles from any other provision of this chapter.

Sec. 22. Section 321J.13, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 6. a. The department shall grant a request for a hearing to rescind the revocation if the person whose motor vehicle license or operating privilege has been or is being revoked under section 321J.9 or 321J.12 submits a petition containing information relating to the discovery of new evidence that provides grounds for rescission of the revocation.

b. The person shall prevail at the hearing if, in the criminal action on the charge of violation of section 321J.2 or 321J.2A resulting from the same circumstances that resulted in the administrative revocation being challenged, the court held one of the following:

(1) That the peace officer did not have reasonable grounds to believe that a violation of section 321J.2 or 321J.2A had occurred to support a request for or to administer a chemical test.

(2) That the chemical test was otherwise inadmissible or invalid.

c. Such a holding by the court in the criminal action is binding on the department, and the department shall rescind the revocation.

Sec. 23. Section 322.5, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 5. A manufacturer, distributor, or dealer may, upon receipt of a temporary permit approved by the department, display new ambulances, new fire vehicles, and new rescue vehicles for educational purposes only at vehicle shows and vehicle exhibitions conducted for the express purpose of educating fire and rescue personnel in new technology and techniques for fire fighting and rescue efforts. Application for temporary permits shall be made upon forms provided by the department and shall be accompanied by a ten-dollar permit fee. Permits shall be issued for a single show or exhibition, not to exceed five consecutive days.

Sec. 24. Section 322.14, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

322.14 PENALTIES.

1. A person who violates any of the provisions of this chapter for which a penalty is not specifically provided is guilty of a simple misdemeanor punishable by a fine of not less than two hundred fifty dollars nor more than one thousand five hundred dollars or by imprisonment not to exceed thirty days.

2. Notwithstanding subsection 1, if a provision of chapter 537 is applicable to a retail installment contract and a violation of that provision is subject to a penalty under chapter 537, that penalty shall apply in lieu of a penalty provided in this chapter.

Sec. 25. **NEW SECTION.** 322.21 REMAINING BALANCE ON TRADE VEHICLE.

The extension of credit by a retail seller to a retail buyer, pursuant to a retail installment contract, of the amount actually paid or to be paid by the retail seller to discharge a purchase money security interest, as defined in section 554.9107, on a motor vehicle traded in by the retail buyer shall not subject the retail seller to the provisions of chapter 536 or 536A.

Sec. 26. Section 805.8, subsection 2, paragraph d, Code 1999, is amended to read as follows:

d. For improper equipment under section 321.404A or section 321.438, subsection 2, the scheduled fine is fifteen dollars.

Sec. 27. **DRIVER'S EDUCATION CURRICULUM — STUDY.** The legislative council is requested to establish an interim study committee consisting of members of both political parties from throughout the state. The study may include but is not limited to driver's education curriculum, certification of persons by the department of transportation to provide street and highway driving instruction, costs to students and to schools, privatizing driver's education, expansion of behind-the-wheel training, and effects on insurance rates. The committee may consult with the department of transportation, department of education, board of educational examiners, parents, educators, insurance executives, and other persons with expertise or information relevant to the study of driver's education. The committee is directed to submit its findings, together with any recommendations, in a report to the general assembly which convenes in January 2000.

Sec. 28. Sections 309.42, 309.56, and 321.21, Code 1999, are repealed.

Sec. 29. **EFFECTIVE DATE.** The following sections of this Act, being deemed of immediate importance, take effect upon enactment:

1. Section 1, amending section 321.1, subsection 32.
2. Section 10, amending section 321.166.
3. Section 17, amending section 321.449.
4. Section 19, amending section 321A.17.

5. Section 20, amending section 321E.8.
6. Section 21, amending section 321E.12.
7. Section 22, amending section 321J.13.
8. Section 28, repealing sections 309.42, 309.56, and 321.1*.

Approved April 7, 1999

CHAPTER 14
BALED SOLID WASTE DISPOSAL
H.F. 347

AN ACT relating to rulemaking duties of the department of natural resources regarding baled solid waste.

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

Section 1. Section 455D.9A, Code 1999, is amended to read as follows:

455D.9A DISPOSAL OF BALED SOLID WASTE AT A SANITARY LANDFILL — PROHIBITED.

Beginning January 1, 1992, a person shall not dispose of baled solid waste at a sanitary landfill and a sanitary landfill shall not accept baled solid waste for final disposal. Solid waste which is baled on-site may be disposed of at the sanitary landfill. ~~The department shall develop rules which define baled solid waste and provide for the safe and proper method of disposal of such waste.~~

Approved April 7, 1999

CHAPTER 15
CONSUMER CREDIT TRANSACTIONS — FEES AND CHARGES
H.F. 443

AN ACT relating to permissible fees and charges which may be assessed and collected with respect to certain consumer credit transactions.

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

Section 1. Section 535.10, subsection 3, Code 1999, is amended to read as follows:

3. a. A lender may collect in connection with establishing or renewing a home equity line of credit the costs listed in section 535.8, subsection 2, paragraph "b", charges for insurance as described in section 537.2501, subsection 2, and a loan processing fee as agreed between the borrower and the lender, and annually may collect an account maintenance fee of not more than fifteen dollars. Fees collected under this subsection shall be disregarded for purposes of determining the maximum charge permitted by subsection 4.

* Section 321.21 probably intended

b. The parties to a home equity line of credit which is not a consumer credit transaction, as defined in section 537.1301, may contract for a delinquency charge under terms no more favorable than those permitted for open-end credit under section 537.2502.

Sec. 2. NEW SECTION. 535.14 PROMPT PAYMENT ON LOANS SECURED BY RESIDENTIAL REAL PROPERTY.

A lender is subject to the requirements set forth in section 537.3206, regarding the prompt crediting of payments, with respect to a loan secured by a lien or security interest on owner-occupied residential real property. For purposes of this section, "residential real property" means residential real property as defined in section 535B.1.

Sec. 3. Section 537.2502, subsections 1, 2, and 3, Code 1999, are amended to read as follows:

1. With respect to a ~~precomputed~~ consumer credit transaction not pursuant to an open-end credit arrangement and other than a consumer lease or consumer rental purchase agreement, the parties may contract for a delinquency charge on any installment not paid in full within ten days after its due date, as originally scheduled or as deferred, in an amount ~~not exceeding the greater of either of the following as follows:~~

a. For a precomputed transaction, an amount not exceeding the greater of either of the following:

~~a-~~ (1) Five percent of the unpaid amount of the installment, or a maximum of twenty dollars.

~~b-~~ (2) The deferral charge that would be permitted to defer the unpaid amount of the installment for the period that it is delinquent.

b. For an interest-bearing transaction, an amount not exceeding five percent of the unpaid amount of the installment, or a maximum of fifteen dollars.

2. A delinquency charge under subsection 1, ~~paragraph "a"~~, may be collected only once on an installment however long it remains in default. No delinquency charge may be collected with respect to a deferred installment unless the installment is not paid in full within ten days after its deferred due date. A delinquency charge may be collected at the time it accrues or at any time afterward.

3. ~~No~~ A delinquency charge ~~may~~ shall not be collected under subsection 1, ~~paragraph "a"~~, on an installment which is paid in full within ten days after its scheduled or deferred installment due date even though an earlier maturing installment or a delinquency or deferral charge on an earlier installment may not have been paid in full. For purposes of this subsection payments are applied first to current installments and then to delinquent installments.

Sec. 4. Section 537.3206, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 4. a. A creditor shall credit a payment to the consumer's account as of the date of receipt, except when a delay in crediting does not result in a finance or other charge, including a late charge, or except as provided in paragraph "b". For purposes of this subsection, a delay in posting does not violate this subsection so long as the payment is credited as of the date of receipt.

b. If a creditor specifies requirements for the consumer to follow in making payments on the contract, payment coupon book, payment coupon or statement, or periodic statement, but accepts a payment that does not conform to the requirements, the creditor shall credit the payment within two days of receipt of such payment.

c. If a creditor fails to credit a payment as required by this subsection in time to avoid the imposition of a finance or other charge, including a delinquency charge, the creditor shall adjust the consumer's account so that the charges imposed are credited to the consumer's account during the next payment period.

CHAPTER 16**TELECOMMUNICATIONS — SERVICE CHANGES***H.F. 588*

AN ACT prohibiting unauthorized changes in telecommunications service, prohibiting certain acts in the advertisement or solicitation of changes in telecommunications service, and providing remedies and penalties.

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

Section 1. NEW SECTION. 476.103 UNAUTHORIZED CHANGE IN SERVICE — CIVIL PENALTY.

1. Notwithstanding the deregulation of a communications service or facility under section 476.1D, the board may adopt rules to protect consumers from unauthorized changes in telecommunications service. Such rules shall not impose undue restrictions upon competition in telecommunications markets.

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

a. "Change in service" means the designation of a new provider of a telecommunications service to a consumer, including the initial selection of a service provider, and includes the addition or deletion of a telecommunications service for which a separate charge is made to a consumer account.

b. "Consumer" means a person other than a service provider who uses a telecommunications service.

c. "Executing service provider" means, with respect to any change in telecommunications service, a service provider who executes an order for a change in service received from another service provider.

d. "Service provider" means a person providing a telecommunications service.

e. "Submitting service provider" means a service provider who requests another service provider to execute a change in service.

f. "Telecommunications service" means a local exchange or long distance telephone service other than commercial mobile radio service.

3. The board shall adopt rules prohibiting an unauthorized change in telecommunications service. The rules shall be consistent with federal communications commission regulations regarding procedures for verification of customer authorization of a change in service. The rules, at a minimum, shall provide for all of the following:

a. (1) A submitting service provider shall obtain verification of customer authorization of a change in service before submitting such change in service.

(2) Verification appropriate under the circumstances for all other changes in service.

(3) The verification may be in written, oral, or electronic form and may be performed by a qualified third party.

(4) The reasonable time period during which the verification is to be retained, as determined by the board.

b. A customer shall be notified of any change in service.

c. Appropriate compensation for a customer affected by an unauthorized change in service.

d. Board determination of potential liability, including assessment of damages, for unauthorized changes in service among the customer, previous service provider, executing service provider, and submitting service provider.

e. A provision encouraging service providers to resolve customer complaints without involvement of the board.

f. The prompt reversal of unauthorized changes in service.

g. Procedures for a customer, service provider, or the consumer advocate to submit to the board complaints of unauthorized changes in service.

4. a. In addition to any applicable civil penalty set out in section 476.51, a service provider who violates a provision of this section, a rule adopted pursuant to this section, or an order lawfully issued by the board pursuant to this section, is subject to a civil penalty, which, after notice and opportunity for hearing, may be levied by the board, of not more than ten thousand dollars per violation. Each violation is a separate offense.

b. A civil penalty may be compromised by the board. In determining the amount of the penalty, or the amount agreed upon in a compromise, the board may consider the size of the service provider, the gravity of the violation, any history of prior violations by the service provider, remedial actions taken by the service provider, the nature of the conduct of the service provider, and any other relevant factors.

c. A civil penalty collected pursuant to this subsection shall be forwarded by the executive secretary of the board to the treasurer of state to be credited to the general fund of the state and to be used only for consumer education programs administered by the board.

d. A penalty paid by a rate-of-return regulated utility pursuant to this section shall be excluded from the utility's costs when determining the utility's revenue requirement, and shall not be included either directly or indirectly in the utility's rates or charges to its customers.

e. The board shall not commence an administrative proceeding to impose a civil penalty under this section for acts subject to a civil enforcement action pending in court under section 714D.7.

5. If the board determines, after notice and opportunity for hearing, that a service provider has shown a pattern of violations of the rules adopted pursuant to this section, the board may by order do any of the following:

a. Prohibit any other service provider from billing charges to residents of Iowa on behalf of the service provider determined to have engaged in such a pattern of violations.

b. Prohibit certificated local exchange service providers from providing exchange access services to the service provider.

c. Limit the billing or access services prohibition under paragraph "a" or "b" to a period of time. Such prohibition may be withdrawn upon a showing of good cause.

d. Revoke the certificate of public convenience and necessity of a local exchange service provider.

6. The board has primary jurisdiction over a complaint pursuant to this section initiated by a service provider.

7. Subsection 6 does not preclude proceedings before the federal communications commission to enforce applicable federal law. However, a service provider or a consumer, for the same alleged acts, shall not pursue a complaint both before the federal communications commission and pursuant to this section.

8. The board shall adopt competitively neutral rules establishing procedures for the solicitation, imposition, and lifting of preferred carrier freezes. A valid preferred carrier freeze prevents a change in service unless the subscriber gives the service provider from whom the freeze was requested the subscriber's express consent.

Sec. 2. NEW SECTION. 714D.1 LEGISLATIVE INTENT.

The general assembly finds that customers of telephone services have been subjected to fraud in the sale and advertisement of telephone long distance and local service, as well as other services related to residential and business telephone service. The general assembly further finds that companies acting in a lawful manner have lost customers to companies that obtain customers through fraud and deception.

It is the intent of the general assembly to protect telephone service subscribers from fraud and to provide statutory remedies for the victims of fraud in the sale of telecommunications service. It is the intent of the general assembly to provide the attorney general with additional remedies to address the issue of fraud in the sale of telecommunications service. It is further the intent of the general assembly that this chapter does not limit the rights or remedies that are otherwise available to a consumer or the attorney general under any other law.

Sec. 3. NEW SECTION. 714D.2 DEFINITIONS.

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

1. "Advertisement" means the same as defined in section 714.16, subsection 1.
2. "Consumer" means a person who is not a telecommunications service provider and who uses telecommunications services.
3. "Deception" means the same as defined in section 714.16, subsection 1.
4. "Person" means the same as defined in section 714.16, subsection 1.
5. "Sweepstakes box" means the box or receptacle into which a person may place an entry form or document used to enter a sweepstakes, contest, or drawing of any description, and promotional materials attached to such entry form or document.
6. "Telecommunications Act" means 47 U.S.C. § 258, a portion of the federal Telecommunications Act of 1996, relating to changes in telephone service, and including regulations adopted pursuant to that section.
7. "Telecommunications service" means local exchange or long distance telephone service, and any additional service or merchandise for which any charge or assessment appears on a billing statement directed to a person by a provider of local exchange or long distance telephone service, but does not include commercial mobile radio service or charges or assessments imposed on consumers of local exchange or long distance telephone service or on such additional service or merchandise by governmental entities.
8. "Telecommunications service provider" means a person who advertises, sells, leases, or provides telecommunications services to another person.
9. "Unfair practice" means the same as defined in section 714.16, subsection 1, and also means any failure of a person to comply with the Telecommunications Act or with any statute or rule enforced by the utilities board within the utilities division of the department of commerce relating to a telecommunications service selection or change.

Sec. 4. NEW SECTION. 714D.3 UNFAIR AND DECEPTIVE PRACTICES.

The act, use, or employment by a person of deception or an unfair practice in connection with the lease, sale, or advertisement of a telecommunications service or the solicitation of authority to provide or execute a change of a telecommunications service is an unlawful practice.

Sec. 5. NEW SECTION. 714D.4 PROHIBITION OF SWEEPSTAKES BOXES.

The use of a sweepstakes box by a person to solicit authority to provide or execute a change of a consumer's telecommunications service is an unlawful practice.

Sec. 6. NEW SECTION. 714D.5 CONDITIONS ON USE OF PRIZE PROMOTIONS TO SOLICIT AUTHORITY TO PROVIDE OR CHANGE TELECOMMUNICATIONS SERVICES.

1. It is an unlawful practice for a person to use a form or document which is to be used or intended to be used by another person to enter a sweepstakes, contest, or drawing of any description as written authority to provide or execute a change of a consumer's telecommunications service.
2. It is an unlawful practice for a person to solicit the lease or sale of or to solicit the authority to provide or execute a change of a telecommunications service to another person through or in conjunction with a sweepstakes, contest, or drawing without clearly, conspicuously, and fully disclosing in all direct mail solicitations to the other person the fact that the sweepstakes, contest, or drawing is intended to solicit authority to provide or execute a change of a telecommunications service. The disclosure required shall include, at a minimum, all of the following:
 - a. A statement that an acceptance or change of telecommunications service is not required to enter the sweepstakes, contest, or drawing.
 - b. An alternative means by which a person may enter the sweepstakes, contest, or drawing without accepting or authorizing a change in a telecommunications service.

c. The name and telephone number of the entity soliciting the person to accept or to authorize a change of telecommunications service through the use of or in conjunction with the sweepstakes, contest, or drawing.

d. A brief description of the nature of the telecommunications service for which authorization is sought through the use of or in conjunction with the sweepstakes, contest, or drawing.

Sec. 7. NEW SECTION. 714D.6 PRIVATE ACTION.

1. In addition to any other remedy, a consumer may bring an action against a person who commits an unlawful practice under this chapter to recover from the person all of the following:

a. The amount of any moneys or property acquired by the person from the consumer by means of an unlawful practice under this section, or two hundred dollars, whichever is greater.

b. If a court finds that the consumer prevails in the action and that the unlawful practice was an intentional violation of this chapter, five hundred dollars or twice the amount of the consumer's actual damages, whichever is greater.

c. Costs and reasonable attorney fees.

2. A cause of action under this section shall not apply unless, prior to filing the action, the consumer has submitted a complaint to the utilities board within the utilities division of the department of commerce, the utilities board has failed to resolve the complaint to the consumer's satisfaction within one hundred twenty days of the date the complaint was submitted, and the consumer dismisses the complaint before the utilities board. The requirement that a consumer complaint be submitted to the utilities board and resolved by the utilities board to the consumer's satisfaction within one hundred twenty days of filing before the consumer may file an action pursuant to this section shall not apply to an action by the attorney general to recover moneys for the consumer pursuant to section 714D.7 or any other law. A finding by the utilities board that a respondent has complied with rules governing carrier selection procedures adopted by the utilities board shall be an affirmative defense to any claim brought under this section or section 476.103 or 714D.7 that an unauthorized change in service has occurred.

Sec. 8. NEW SECTION. 714D.7 CIVIL ENFORCEMENT.

1. A violation of this chapter or a rule adopted pursuant to this chapter is a violation of section 714.16, subsection 2, paragraph "a". The remedies and penalties provided by section 714.16, including but not limited to injunctive relief and civil penalties, apply to violations of this chapter.

2. In seeking reimbursement pursuant to section 714.16, subsection 7, from a person who has committed an unlawful practice under this chapter, the attorney general may seek an order from the court that the person pay to the attorney general on behalf of consumers the amounts for which the person would be liable under section 714D.6 for each consumer who has a cause of action pursuant to section 714D.6. Section 714.16, as it relates to consumer reimbursement, applies to amounts recovered by the attorney general as reimbursement under this chapter. However, a consumer who is awarded monetary damages pursuant to section 714D.6 is not eligible for monetary relief under this section for the same unlawful practice.

3. The remedies provided pursuant to this chapter are in addition to any other remedies provided to the state or to a person under other law.

4. The attorney general shall not file a civil enforcement action under this chapter or under section 714.16 against a person for an act which is the subject of an administrative proceeding to impose a civil penalty which has been initiated against the person by the utilities board within the utilities division of the department of commerce. This subsection shall not be construed to limit the authority of the attorney general to file a civil enforcement or other enforcement action against a person for violating a prior agreement entered into by the person with the attorney general or a court order obtained by the attorney general

against the person. This subsection shall not be construed to limit the authority of the attorney general to file a civil enforcement or other enforcement action against the person for acts which are not the subject of an administrative proceeding which has been initiated against the person by the utilities board.

Approved April 7, 1999

CHAPTER 17

ELECTIONS — SAC AND FOX SETTLEMENT PRECINCT

H.F. 679

AN ACT relating to drawing the Sac and Fox Indian settlement precinct in Tama county.

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

Section 1. Section 49.3, subsection 3, Code 1999, is amended to read as follows:

3. ~~Precincts~~ Except as provided in section 49.4, subsection 3, precincts established after July 1, 1994, shall be composed of contiguous territory within a single county. The boundaries of all precincts shall follow the boundaries of areas for which official population figures are available from the most recent federal decennial census.

Sec. 2. Section 49.4, subsection 3, Code 1999, is amended to read as follows:

3. Notwithstanding any other provision of this chapter, Indian settlement land held in trust by the secretary of the interior of the United States for the Sac and Fox tribe of the Mississippi in Iowa and its trust land contiguous to the Indian settlement lying in Tama, Toledo and Indian Village townships of Tama county shall be an election precinct, and the ~~The~~ polling place of that precinct shall be located ~~in the structure commonly called the Indian school located in section 19, township 83 north, range 15 west, or on the Indian settlement in such a structure as designated by the election commissioner of Tama county.~~

The Indian settlement precinct shall be redrawn to include land contiguous to the Indian settlement when such land is purchased by the settlement and added to the Indian settlement land held in trust by the secretary of the interior of the United States. Upon recording of the deed transferring the land to the United States in trust, the county recorder shall notify the county commissioner of that fact. If the commissioner is notified more than seventy days before the next scheduled election, the commissioner shall redraw the precinct for that election. The commissioner shall notify the board of supervisors of the redrawn precinct boundaries and shall certify the redrawn boundaries to the state commissioner. Land completely surrounded by the boundaries of the Indian settlement precinct, but not included in the settlement precinct, shall be included in the precinct in which such land was located prior to redrawing of the Indian settlement precinct. The commissioner shall notify registered voters in each of the redrawn precincts of the change in the precincts and the proper polling place for those affected voters.

Sec. 3. Section 49.8, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 7. When territory contiguous to the Indian settlement is added to the Indian settlement land held in trust by the secretary of the interior of the United States.

Approved April 7, 1999

CHAPTER 18

EDUCATION BLOCK GRANTS — EARLY INTERVENTION AND SCHOOL IMPROVEMENT TECHNOLOGY

H.F. 743

AN ACT relating to the establishment of an Iowa early intervention block grant program, providing for a school improvement technology block grant program, and making appropriations.

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

Section 1. NEW SECTION. 256E.1 IOWA EARLY INTERVENTION BLOCK GRANT PROGRAM ESTABLISHED — GOALS.

1. An Iowa early intervention block grant program is established within the department of education. The program's goals for kindergarten through grade three are to provide the resources needed to reduce class sizes in basic skills instruction to the state goal of seventeen students for every one teacher; provide direction and resources for early intervention efforts by school districts to achieve a higher level of student success in the basic skills, especially reading skills; and increase communication and accountability regarding student performance. The Iowa early intervention block grant program shall consist of the following:

a. Class size management. School districts shall develop a class size management strategy to work toward, or to maintain, class sizes in basic skills instruction for kindergarten through grade three that are at the state goal of seventeen students for every one teacher.

b. Improving instruction in the basics. The department of education shall identify diagnostic assessment tools that can be used to assist teachers in measuring reading accuracy and fluency skills, including but not limited to, phonemic awareness, oral reading ability, and comprehensive skills, to improve student achievement in kindergarten through grade three. The department, in collaboration with the area education agencies, school districts, and institutions with approved practitioner preparation programs, shall identify and serve as a clearinghouse on intensive, research-based strategies and programs for training teachers in both diagnosis and appropriate instruction interventions.

(1) A school district shall at a minimum biannually inform parents of their individual child's performance on the diagnostic assessments in kindergarten through grade three. If intervention is appropriate, the school district shall inform the parents of the actions the school district intends to take to improve the child's reading skills and provide the parents with strategies to enable the parents to improve their child's skills. The board of directors of each school district shall adopt a policy indicating the methods the school district will use to inform parents of their individual child's performance.

(2) The department shall also identify for school districts programs and materials by which parents may support classroom reading instruction.

2. A school district shall integrate its specific early intervention block grant program goals and activities into the comprehensive school improvement plan required under section 256.7, subsection 21, paragraph "a".

3. For purposes of this chapter, unless the context otherwise requires, "parent" means a biological or adoptive parent, a stepparent, or a legal guardian or custodian of a student.

Sec. 2. NEW SECTION. 256E.2 PROGRAM EXPENDITURES.

A school district shall expend funds received pursuant to section 256E.4 at the kindergarten through grade three levels to reduce class sizes to the state goal of seventeen students for every one teacher and to achieve a higher level of student success in the basic skills, especially reading. In order to support these efforts, school districts may expend funds received pursuant to section 256E.4 at the kindergarten through grade three level on programs,

instructional support, and materials that include, but are not limited to, the following: additional licensed instructional staff; additional support for students, such as before and after school programs, tutoring, and intensive summer programs; the acquisition and administration of diagnostic reading assessments; the implementation of research-based instructional intervention programs for students needing additional support; the implementation of all-day, everyday kindergarten programs; and the provision of classroom teachers with intensive training programs to improve reading instruction and professional development in best practices, including but not limited to training programs related to instruction to increase students' phonemic awareness, reading abilities, and comprehension skills.

Sec. 3. NEW SECTION. 256E.3 ANNUAL REPORTS.

1. A school district shall report annually to its school community the proportion of fourth grade students who are proficient in reading in accordance with section 256.7, subsection 21, paragraph "c". School districts are encouraged to submit to their communities composite information concerning the reading proficiency of their kindergarten through grade three enrollments, by grade level.

2. The annual report submitted to the department of education in accordance with section 256.7, subsection 21, paragraph "c", shall include the district's current class sizes for kindergarten through grade three.

3. Beginning January 15, 2001, the department shall submit an annual report to the chairpersons and ranking members of the senate and house education committees that includes the statewide average school district class size in basic skills instruction in kindergarten through grade three, by grade level and by district size, and describes school district progress toward achieving early intervention block grant program goals and the ways in which school districts are using moneys received pursuant to section 256E.4.

Sec. 4. NEW SECTION. 256E.4 PROGRAM ALLOCATION.

1. For each fiscal year in the fiscal period beginning July 1, 1999, and ending June 30, 2001, moneys appropriated pursuant to section 256E.5, subsection 1, paragraph "a" or "b", shall be allocated to school districts in accordance with the following formula:

a. Fifty percent of the allocation shall be based upon the proportion that the kindergarten through grade three enrollment of a district bears to the sum of the kindergarten through grade three enrollments of all school districts in the state as reported for the base year.

b. Fifty percent of the allocation shall be based upon 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 grades one through three of a school district 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 grades one through three in all school districts in the state for the base year.

2. For each fiscal year in the fiscal period beginning July 1, 2001, and ending June 30, 2003, moneys appropriated pursuant to section 256E.5, subsection 1, paragraph "c", shall be allocated to school districts as follows:

a. Allocation of the sum of twenty million dollars shall be based upon the proportion that the kindergarten through grade three enrollment of a district bears to the sum of the kindergarten through grade three enrollments of all school districts in the state as reported for the base year.

b. Allocation of the sum of ten million dollars shall be based upon 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 grades one through three of a school district 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 grades one through three in all school districts in the state for the base year.

3. For each year in which an appropriation is made to the Iowa early intervention block grant program, the department of education shall notify the department of revenue and finance of the amount of the allocation to be paid to each school district as provided in subsections 1 and 2. The allocation to each school district shall be made in one payment on or about October 15 of the fiscal year for which the appropriation is made, taking into consideration the relative budget and cash position of the state resources. Moneys received under this section shall not be commingled with state aid payments made under section 257.16 to a school district and shall be accounted for by the local school district separately from state aid payments. Payments made to school districts under this section are miscellaneous income for purposes of chapter 257. A school district shall maintain a separate listing within its budget for payments received and expenditures made pursuant to this section. A school district shall certify to the department of education that moneys received under this section were used to supplement, not supplant, moneys otherwise received and used by the school district.

4. For purposes of this section, unless the context otherwise requires, "kindergarten through grade three enrollment" means the enrollment as reported in the basic educational data survey for the base year.

Sec. 5. NEW SECTION. 256E.5 APPROPRIATIONS.

1. There is appropriated from the general fund of the state to the department of education, the following amounts, for the following fiscal years, for the Iowa early intervention block grant program:

a. For the fiscal year beginning July 1, 1999, and ending June 30, 2000, the sum of ten million dollars.

b. For the fiscal year beginning July 1, 2000, and ending June 30, 2001, the sum of twenty million dollars.

c. For each fiscal year of the fiscal period beginning July 1, 2001, and ending June 30, 2003, the sum of thirty million dollars.

2. There is appropriated from the general fund of the state to the department of education for each fiscal year of the fiscal period beginning July 1, 2001, and ending June 30, 2003, the sum of thirty million dollars for the school improvement technology block grant program.

Sec. 6. NEW SECTION. 256E.6 DISTRIBUTION OF SCHOOL IMPROVEMENT TECHNOLOGY BLOCK GRANT FUNDS.

1. From the moneys appropriated in section 256E.5, subsection 2, other than the moneys allocated in subsection 2 of this section, 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 6, a district shall not receive less than ten 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 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.

2. From the moneys appropriated in section 256E.5, subsection 2, for each fiscal year in which moneys are appropriated, the sum of one hundred fifty thousand dollars shall be divided among the area education agencies based upon each area education agency's percentage of the total full-time equivalent elementary and secondary teachers employed in the school districts in this state. An area education agency may contract with an appropriate accredited institution of higher education in Iowa to provide staff development and training in accordance with section 256E.7.

3. For each year in which an appropriation is made to the school improvement technology block grant program, the department of education shall notify the department of revenue and finance of the amount to be paid to each school district and area education agency based upon the distribution plan set forth for the appropriation made pursuant to this section. The allocation to each school district and area education agency under this section shall be made in one payment on or about October 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. Payments made to school districts and area education agencies under this section are miscellaneous income for purposes of chapter 257. Moneys received under this section shall not be commingled with state aid payments made under sections 257.16 and 257.35 to a school district or area education agency and shall be accounted for by the local school district or area education agency separately from state aid payments.

5. 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.

6. For purposes of this section and section 256E.8, "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, 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 1, 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 twenty thousand dollars for each fiscal year, to be distributed proportionately between the four institutions by the department of education.

Sec. 7. NEW SECTION. 256E.7 SCHOOL IMPROVEMENT TECHNOLOGY PLANNING.

1. Commencing with the fiscal year beginning July 1, 2001, each school district shall include a technology plan as a component of the annual report submitted to the department of education in accordance with section 256.7, subsection 21, paragraphs "a" and "c". 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 on academic and other core indicators, consider the district's interconnectivity with the Iowa communications network, and demonstrate how the board will utilize technology to improve student achievement. 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.

2. 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 the school improvement technology block grant program. The plan shall describe how the area education agency intends to support school districts with instructional technology staff development and training. 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 area education agency may submit a plan that meets the requirements of chapter 295, Code 2001. An annual progress report shall be submitted to the department of education.

3. Prior to receiving funds pursuant to section 256E.5, subsection 2, 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 submit to the state board of regents and the department of education a technology plan that supports and improves student achievement, demonstrates how technology will be utilized to improve student achievement, and includes an evaluation component. 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. Prior to receiving funds pursuant to section 256E.5, subsection 2, 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, shall each submit to the departments of education and human services 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. Each institution developing a plan under this subsection needs to develop only one plan to send to the departments of education and human services while this chapter is effective. Each institution shall submit an annual progress report to the departments of education and human services. Each institution shall submit an annual progress report to the departments of education and human services.*

Sec. 8. NEW SECTION. 256E.8 SCHOOL IMPROVEMENT TECHNOLOGY BLOCK GRANT EXPENDITURES.

1. Except as provided in subsection 2, a school district shall expend funds received pursuant to section 256E.5, subsection 2, for the acquisition, lease, lease-purchase, installation, and maintenance of instructional technology equipment, including hardware and software, materials and supplies related to instructional technology, and staff development and training related to instructional technology, and shall establish priorities for the use of the funds. However, funds received by a school district pursuant to section 256E.5, subsection 2, shall not be expended to add a full-time equivalent position or otherwise increase staffing.

2. A school district may expend up to two-thirds of the funds received annually pursuant to section 256E.5, subsection 2, for any of the purposes described in section 256E.2, including for the employment of additional licensed instructional staff.

3. Funds received by an area education agency pursuant to section 256E.6, subsection 2, shall be expended for the costs related to supporting school districts within the area served with technology planning and equipment, including hardware and software, materials and supplies related to instructional technology, and staff development and training related to instructional technology.

Sec. 9. NEW SECTION. 256E.9 FUTURE REPEAL.

This chapter is repealed effective July 1, 2003.

Approved April 13, 1999

CHAPTER 19

BOARD OF NURSING EXAMINERS — COMPOSITION

S.F. 99

AN ACT providing for a change in the composition requirement for nurses on the Iowa board of nursing examiners.

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

Section 1. Section 147.14, subsection 3, Code 1999, is amended to read as follows:

3. For nursing examiners, four registered nurses, ~~one~~ two of whom shall be actively engaged in practice, ~~three~~ two of whom shall be nurse educators from nursing education programs; of these, one in higher education, ~~one in diploma education~~, and one in area community and vocational-technical registered nurse education; one licensed practical nurse actively engaged in practice; and two members not registered nurses or licensed practical nurses and who shall represent the general public. The representatives of the general public

* See chapter 208, §51 herein

shall not be members of health care delivery systems. A majority of the members of the board constitutes a quorum.

Approved April 14, 1999

CHAPTER 20

UTILITIES — COST OF BOARD PROCEEDINGS — COMPETITIVE UTILITY SERVICES

S.F. 224

AN ACT relating to proceedings before the utilities board and the provision of competitive utility services by allocating costs incurred by the utilities board and the office of consumer advocate to certain persons in certain proceedings related to providing competitive utility services, and by providing for the certification of competitive natural gas providers and aggregators, and providing an effective date.

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

Section 1. Section 475A.6, Code 1999, is amended to read as follows:

475A.6 CERTIFICATION OF EXPENSES TO UTILITIES DIVISION.

The consumer advocate shall determine the advocate's expenses, including a reasonable allocation of general office expenses, directly attributable to ~~participation in proceedings~~ the performance of the advocate's duties involving specific utilities persons subject to direct assessment, and shall certify the expenses to the utilities division not less than quarterly. The expenses shall then be includable in the expenses of the division subject to direct assessment under section 476.10.

The consumer advocate shall annually, within ninety days after the close of each fiscal year, determine the advocate's expenses, including a reasonable allocation of general office expenses, attributable to ~~participation in proceedings involving public utilities~~ the performance of the advocate's duties generally, and shall certify the expenses to the utilities division. The expenses shall then be includable in the expenses of the division subject to remainder assessment under section 476.10.

The consumer advocate is entitled to notice and opportunity to be heard in any utilities board proceeding on objection to an assessment for expenses certified by the consumer advocate. Expenses assessed under this section shall not exceed the amount appropriated for the consumer advocate division of the department of justice.

The office of consumer advocate may expend additional funds, including funds for outside consultants, if those additional expenditures are actual expenses which exceed the funds budgeted for ~~utilities investigations and directly result from investigations of utilities~~ the performance of the advocate's duties. Before the office expends or encumbers an amount in excess of the funds budgeted ~~for investigations~~, 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 ~~investigation~~ expenses exceed the funds budgeted by the general assembly to the office of consumer advocate and that the office does not have other funds from which ~~investigation~~ such expenses can be paid. Upon approval of the director of the department of management, the office may expend and encumber funds for excess ~~investigation~~ expenses. The amounts necessary to fund the excess ~~investigation~~ expenses shall be collected from those utilities ~~being investigated~~ or persons which caused the excess expenditures, and the collections shall be treated as repayment receipts as defined in section 8.2, subsection 8.

Sec. 2. NEW SECTION. 476.86 DEFINITIONS.

As used* this section and section 476.87, unless the context otherwise requires:

1. "Aggregator" means a person who combines retail end users into a group and arranges for the acquisition of competitive natural gas services without taking title to those services.

2. "Competitive natural gas provider" means a person who takes title to natural gas and sells it for consumption by a retail end user in the state of Iowa. "Competitive natural gas provider" includes an affiliate of an Iowa gas utility.

"Competitive natural gas provider" does not include the following:

a. A public utility which is subject to rate regulation under chapter 476.

b. A municipally owned utility which provides natural gas service within its incorporated area or within the municipal natural gas competitive service area, as defined in section 437A.3, subsection 19, paragraph "a", subparagraph (1), in which the municipally owned utility is located.

Sec. 3. NEW SECTION. 476.87 CERTIFICATION OF COMPETITIVE NATURAL GAS PROVIDERS.

1. The board shall certify all competitive natural gas providers and aggregators providing natural gas services in this state. In an application for certification, a competitive natural gas provider or aggregator must reasonably demonstrate managerial, technical, and financial capability sufficient to obtain and deliver the services such provider or aggregator proposes to offer. The board may establish reasonable conditions or restrictions on the certificate at the time of issuance. The board shall adopt rules to establish specific criteria for certification. The board shall make a determination on an application for certification within ninety days of its submission, unless the board determines that additional time is necessary to consider the application, in which case the board may extend the time for making a determination for an additional sixty days.

2. The board may resolve disputes involving the provision of natural gas services by a competitive natural gas provider or aggregator.

3. The board shall allocate the costs and expenses reasonably attributable to certification and dispute resolution in this section to persons identified as parties to such proceeding who are engaged in or who seek to engage in providing natural gas services or other persons identified as participants in such proceeding. The funds received for the costs and the expenses of certification and dispute resolution shall be remitted to the treasurer of state for deposit in the general fund of the state as provided in section 476.10.

Sec. 4. Section 476.101, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 10. In a proceeding associated with the granting of a certificate under section 476.29, approving maps and tariffs for competitive local exchange providers provided for in this section, or in resolving a complaint filed pursuant to subsection 8 and proceedings under 47 U.S.C. § 251-254, the board shall allocate the costs and expenses of the proceedings to persons identified as parties in the proceeding who are engaged in or who seek to engage in providing telecommunications services or other persons identified as participants in the proceeding. The funds received for the costs and the expenses shall be remitted to the treasurer of state for deposit in the general fund of the state as provided in section 476.10.

Sec. 5. CODE EDITOR DIRECTIONS. The Code editor shall codify new sections 476.86 and 476.87, as enacted in this Act, as a new division in chapter 476 relating to competitive natural gas providers.

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

Approved April 14, 1999

* See chapter 208, §57 herein

CHAPTER 21

WORKFORCE DEVELOPMENT DEPARTMENT — MISCELLANEOUS PROVISIONS

S.F. 281

AN ACT concerning the workforce development department, by providing for the establishment of a workforce development corporation, expenses for members of the regional advisory board to the workforce development board, authority to charge fees for certain services of the department, and Iowa conservation corps employee rights.

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

Section 1. NEW SECTION. 84A.1C WORKFORCE DEVELOPMENT CORPORATION.

1. **NONPROFIT CORPORATION FOR RECEIVING AND DISBURSING FUNDS.** The Iowa workforce development board may organize a corporation under the provisions of chapter 504A for the purpose of receiving and disbursing funds from public or private sources to be used to further workforce development in this state and to accomplish the mission of the board.

2. **INCORPORATORS.** The incorporators of the corporation organized pursuant to this section shall be the chairperson of the Iowa workforce development board, the director of the department of workforce development, and a member of the Iowa workforce development board selected by the chairperson.

3. **BOARD OF DIRECTORS.** The board of directors of the corporation organized pursuant to this section shall be the members of the Iowa workforce development board or their successors in office.

4. **ACCEPTING GRANTS IN AID.** The corporation organized pursuant to this section may accept grants of money or property from the federal government or any other source and may upon its own order use its money, property, or other resources for any of the purposes identified in section 84A.1B.

Sec. 2. Section 84A.4, subsection 3, Code 1999, is amended to read as follows:

3. Section 84A.1A, subsections 2, 3, and 5, apply to the members of a regional advisory board except that the board shall meet if a majority of the members of the board, and not five, file a written request with the chairperson for a meeting. Members of a regional advisory board shall be allowed their actual and necessary expenses incurred in the performance of their duties. All expenses shall be paid from appropriations for those purposes and the department is subject to the budget requirements of chapter 8.

Sec. 3. Section 84A.5, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 10. The director of the department may adopt rules pursuant to chapter 17A to charge and collect fees for enhanced or value-added services provided by the department which are not required by law to be provided by the department and are not generally available from the department. Fees shall not be charged to provide a free public labor exchange. Fees established by the director shall be based upon the costs of administering the service, with due regard to the anticipated time spent, and travel costs incurred, by personnel performing the service. The collection of fees authorized by this subsection shall be treated as repayment receipts as defined in section 8.2.

Sec. 4. Section 84A.7, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 5. **PARTICIPANT ELIGIBILITY.** Notwithstanding any contrary provision of chapters 19A and 96, a person employed through an Iowa conservation corps program shall be exempt from merit system requirements and shall not be eligible to receive unemployment compensation benefits.

Approved April 14, 1999

CHAPTER 22

REAL ESTATE LICENSEES AND CLIENTS — PAYMENT FOR SERVICES

S.F. 404

AN ACT relating to a relationship involving real estate licensees and real estate clients, and establishing restrictions on the payment of commissions or other consideration.

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

Section 1. Section 543B.34, subsection 9, Code 1999, is amended to read as follows:

9. a. Paying a commission or other valuable consideration or any part of a such commission or consideration for performing any of the acts specified in this chapter to a person who is not a licensed broker or salesperson under this chapter or who is not engaged in the real estate business in another state or foreign country, or paying a commission or other valuable consideration for performing any of the acts specified in this chapter to a licensee knowing that the licensee will pay a portion of or all of such commission or consideration to a person or party who is not licensed pursuant to this chapter, provided that the provisions of this section shall not be construed to prohibit the payment of earned commissions or consideration to any of the following:

(1) The estate or heirs of a deceased real estate licensee when such licensee had a valid real estate license in effect at the time the commission or consideration was earned.

(2) A citizen of another country acting as a referral agent if that country does not license real estate brokers and if the Iowa licensee paying the commission or ~~compensation~~ consideration obtains and maintains reasonable written evidence that the payee is a citizen of the other country, is not a resident of this country, and is in the business of brokering real estate in that other country.

(3) A corporation pursuant to paragraph "b".

b. A broker may pay a commission to a corporation which is wholly owned, or owned with a spouse, by a salesperson or broker associate employed by or otherwise associated with the broker, if all of the following conditions are met:

(1) The corporation does not engage in real estate transactions as a third-party agent or in any other activity requiring a license under this chapter.

(2) The employing broker is not relieved of any obligation to supervise the employed licensee or any other requirement of this chapter or the rules adopted pursuant to this chapter.

(3) The employed broker associate or salesperson is not relieved from any personal civil liability for any licensed activities by interposing the corporate form.

Sec. 2. NEW SECTION. 543B.60A RESTRICTIONS ON PAYMENT OF COMMISSION TO OTHERS.

1. A licensee shall not require that a person, party, client, or customer negotiate a listing or purchase agreement or contract of real estate through a particular broker or group of brokers, salesperson or group of salespersons, or agent or group of agents.

2. A licensee shall not pay a commission, or portion of a commission, or other valuable consideration to a person or other licensee as described in subsection 1.

3. A licensee shall not request a referral fee after a bona fide offer to purchase is accepted.

4. A licensee shall not request a referral fee after a bona fide listing agreement has been signed.

5. A violation of this section shall be considered a violation under section 543B.34, subsection 4. In addition to any other penalty applicable, a license to practice the profession of real estate broker or salesperson may be revoked or suspended for a violation of this section.

Approved April 14, 1999

CHAPTER 23

SEX OFFENDER REGISTRY — OFFENSES COVERED

H.F. 136

AN ACT relating to the criminal offenses that require registration as provided in the sex offender registry law and providing an effective date.

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

Section 1. Section 692A.1, subsection 3, Code 1999, is amended by adding the following new paragraphs before paragraph a and redesignating paragraphs a through k as c through m:

NEW PARAGRAPH. a. Kidnapping of a minor, except for the kidnapping of a minor in the third degree committed by a parent.

NEW PARAGRAPH. b. False imprisonment of a minor, except if committed by a parent.

Sec. 2. Section 692A.1, subsection 3, paragraph l, Code 1999, is amended to read as follows:

l n. An indictable offense committed in another jurisdiction which would constitute an indictable offense under paragraphs "a" through "~~k~~" "m".

Sec. 3. Section 692A.1, subsection 7, paragraph d, Code 1999, is amended to read as follows:

d. Any of the following offenses, if the offense involves sexual abuse or attempted sexual abuse: murder, attempted murder, kidnapping, ~~false imprisonment~~, burglary, or manslaughter.

Sec. 4. Section 692A.13, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 8A. A criminal or juvenile justice agency shall not initiate affirmative public notification regarding an individual who has been convicted of kidnapping or false imprisonment, and the crime did not involve attempted sexual abuse or sexual abuse, and the person has not committed another offense that would require the person to register.

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

Approved April 14, 1999

CHAPTER 24

DISTRIBUTION OF CERTIFIED SCHOOL TO CAREER PROGRAM TRUST MONEYS

H.F. 144

AN ACT relating to the distribution of moneys held in trust for a participant in the certified school to career program.

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

Section 1. Section 15.364, subsection 9, paragraph b, Code 1999, is amended to read as follows:

b. That if a participant does not complete the certified program contemplated by the agreement prior to entering a postsecondary education program, one-half of the moneys being held in trust for the participant's postsecondary education shall be paid either to a postsecondary education institution as defined in section 261C.3 of the participant's choice or, notwithstanding any provision of this part to the contrary, to an apprenticeship program of the participant's choice which has been approved under 29 C.F.R., subtit. A, pt. 29, to pay tuition or expenses of the participant. The other one-half of the trust moneys shall be paid back to the employer. Any moneys to be transferred for the benefit of the participant which are not transferred within five years for purposes of education at the designated postsecondary institution, shall be paid back to the employer.

Approved April 14, 1999

CHAPTER 25

TAXPAYER COMMUNICATIONS — CONFIDENTIALITY

H.F. 387

AN ACT relating to confidentiality for certain taxpayer communications.

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

Section 1. NEW SECTION. 622.10A TAX ADVICE — CONFIDENTIAL COMMUNICATIONS.

1. With respect to communications involving tax advice between a taxpayer and a federally authorized tax practitioner, the same protections of confidentiality which apply to a communication between a taxpayer and an attorney shall also apply to that communication to the extent the communication would be considered a privileged communication if it were between a taxpayer and an attorney.

2. The confidentiality privilege under this section applies to either of the following:

- a. A noncriminal tax matter before the Iowa department of revenue and finance.
- b. A noncriminal tax proceeding in federal or state court brought by or against the state of Iowa.

3. As used in this section:

a. "Federally authorized tax practitioner" means an individual who is authorized under federal law to practice before the Internal Revenue Service if such practice is subject to federal regulation under 31 U.S.C. § 330.

b. "Tax advice" means advice given by an individual with respect to a matter which is within the scope of the individual's authority to practice described in paragraph "a".

4. The confidentiality privilege under this section shall not apply to a written communication between a federally authorized tax practitioner and a director, shareholder, officer, employee, agent, or representative of a corporation in connection with the promotion of the direct or indirect participation of that corporation in a tax shelter as defined in section 6662(d)(2)(C)(iii) of the Internal Revenue Code.

Approved April 14, 1999

CHAPTER 26**LEGALIZATION OF SALE OF PROPERTY BY BLACK HAWK AND
BUCHANAN JOINT COUNTY SYSTEM***S.F. 55*

AN ACT to legalize the transfer of certain property by the joint county system of Black Hawk and Buchanan counties to the Independence community school district, and providing an effective date.

WHEREAS, 1974 Iowa Acts, chapter 1273, was enacted by the general assembly, approved by the governor, and became law; and

WHEREAS, 1974 Iowa Acts, chapter 1273, legalized, validated, and confirmed all acts and proceedings taken by the board of directors of the joint county system of Black Hawk and Buchanan counties in connection with the transfer from the joint county system of Black Hawk and Buchanan counties to the Independence community school district of property described as follows:

Commencing at a point thirty-nine (39) rods west of the southeast corner of the southeast quarter (SE 1/4) of section thirty-three (33), township eighty-nine (89) north, range nine (9) west of the 5th P.M. in Buchanan county, Iowa, running thence north three hundred thirty (330) feet, thence west two hundred (200) feet to the place of beginning; and

WHEREAS, 1974 Iowa Acts, chapter 1273, incorrectly described the property; and

WHEREAS, it is deemed advisable and necessary to enact a legalizing act to correct the error in the description to put to rest any doubts that may arise concerning the transfer of the property to the Independence community school district; NOW THEREFORE,

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

Section 1. All acts and proceedings taken by the board of directors of the joint county system of Black Hawk and Buchanan counties in connection with the transfer from the joint county system of Black Hawk and Buchanan counties to the Independence community school district of the following described property are legalized, validated, and confirmed:

Commencing at a point thirty-nine (39) rods west of the southeast corner of the southeast quarter (SE 1/4) of section thirty-three (33), township eighty-nine (89) north, range nine (9) west of the 5th P.M. in Buchanan county, Iowa, running thence north three hundred thirty (330) feet, thence west two hundred (200) feet, thence south three hundred thirty (330) feet, thence east two hundred (200) feet, to the place of beginning.

Sec. 2. The quitclaim deed for the transfer of the property described in section 1 of this Act, signed by the president of the board of directors of the joint county system of Black Hawk and Buchanan counties, and which has been recorded, is legalized, validated, and confirmed.

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

Approved April 15, 1999

CHAPTER 27**MID-AMERICA PORT COMMISSION — COUNTIES INCLUDED***S.F. 68*

AN ACT relating to counties included in the mid-America port commission.

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

Section 1. Section 28K.3, Code 1999, is amended to read as follows:
28K.3 JURISDICTION.

The Iowa counties which shall be included in the jurisdiction of the mid-America port commission agreement are Jefferson, Van Buren, Wapello, Lee, Henry, and Des Moines counties.

Sec. 2. Section 28K.5, Code 1999, is amended to read as follows:
28K.5 COUNTY ELECTION OF PORT COMMISSION MEMBERS.

The chairpersons of the Jefferson, Van Buren, Wapello, Lee, Henry, and Des Moines county boards of supervisors shall jointly elect two members to serve on the port commission.

Approved April 15, 1999

CHAPTER 28**VOCATIONAL REHABILITATION SERVICES ELIGIBILITY***S.F. 173*

AN ACT relating to the description of disabilities of individuals receiving vocational rehabilitation services.

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

Section 1. Section 259.4, subsections 6 and 7, Code 1999, are amended to read as follows:

6. Do those things necessary to secure the rehabilitation of those individuals entitled to the benefits of this chapter, including those individuals with **severe significant** disabilities.

7. Provide rehabilitation services to individuals with **severe significant** disabilities who are homebound, and other individuals with **severe significant** disabilities, who can wholly or substantially achieve an ability to live independently.

Approved April 15, 1999

CHAPTER 29**ABANDONED PROPERTY — DELINQUENT TAXES —
PURCHASE BY CITY OR COUNTY**

S.F. 448

AN ACT relating to the purchase of certain parcels with delinquent taxes by a city or county, and providing effective and applicability dates.

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

Section 1. Section 446.19A, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

446.19A PURCHASE BY COUNTY OR CITY FOR LOW OR MODERATE INCOME HOUSING.

1. The board of supervisors of a county may adopt an ordinance authorizing the county and each city in the county to bid on and purchase delinquent taxes and to assign tax sale certificates of abandoned property. This section may only be used by a county or by a city in the county if such an ordinance is in effect.

2. On the day of the regular tax sale or any continuance or adjournment of the tax sale, the county or a city may bid for abandoned property assessed as residential property or as commercial multifamily housing property a sum equal to the total amount due. Money shall not be paid by the county or city for the purchase, but each of the tax-levying and tax-certifying bodies having any interest in the taxes shall be charged with the total amount due the tax-levying or tax-certifying body as its just share of the purchase price. Prior to the purchase, the county or city shall file with the county treasurer a verified statement that a parcel to be purchased is abandoned and deteriorating in condition or is, or is likely to become, a public nuisance, and that the parcel is suitable for use for low or moderate income housing following rehabilitation.

3. If after the date that a parcel is sold pursuant to this chapter, or after the date that a parcel is sold under section 446.18, 446.38, or 446.39, the parcel assessed as residential property or as commercial multifamily housing property is identified as abandoned pursuant to a verified statement filed with the county treasurer by a city or county in the form set forth in subsection 2, a city or county may require the assignment of the tax sale certificate that had been issued for such parcel by paying to the holder of such certificate the total amount due on the date the assignment of the certificate is made to the county or city and recorded with the county treasurer. If the certificate is not assigned by the county or city pursuant to subsection 4, the county or city, whichever is applicable, is liable for the tax sale interest that was due the certificate holder pursuant to section 447.1, as of the date of assignment.

4. a. The city or county may assign the tax sale certificate obtained pursuant to this section. Preference shall be given to purchasers who are low or moderate income families or organizations which assist low or moderate income families to obtain housing. Persons who purchase certificates from the city or county under this subsection are liable for the total amount due the certificate holder pursuant to section 447.1.

b. All persons who purchase certificates from the city or county under this subsection shall demonstrate the intent to rehabilitate the property for habitation if the property is not redeemed. In the alternative, the county or city may, if title to the property has vested in the county or city under section 448.1, dispose of the property in accordance with section 331.361 or 364.7, as applicable.

5. For the purposes of this section, "abandoned" means the same as in section 657A.1. For the purposes of this section, "low or moderate income families" has the same meaning as in section 403.17.

Sec. 2. Section 447.9, subsection 1, Code 1999, is amended to read as follows:

1. 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, ~~446.19A~~, 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, 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 notice shall be served by both regular mail and certified mail to the person's last known address and such notice is deemed completed when the notice by certified mail is deposited in the mail and postmarked for delivery. 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. 3. **EFFECTIVE AND APPLICABILITY DATE.** This Act, being deemed of immediate importance, takes effect upon enactment and applies to parcels first offered for sale at the tax sale held in June 1999, and in subsequent years.

Approved April 15, 1999

CHAPTER 30

SOUTHERN IOWA DEVELOPMENT AND CONSERVATION AUTHORITY

H.F. 208

AN ACT establishing a southern Iowa development and conservation authority, specifying membership, powers, and duties, creating a southern Iowa development and conservation fund, and providing for other properly related matters.

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

Section 1. **NEW SECTION.** 161D.11 SOUTHERN IOWA DEVELOPMENT AND CONSERVATION AUTHORITY CREATED — MEMBERSHIP AND DUTIES.

1. A southern Iowa development and conservation authority is created. The counties of Appanoose, Clarke, Davis, Decatur, Jefferson, Lucas, Monroe, Van Buren, Wapello, and Wayne are entitled to one voting member each on the authority, but membership or participation in projects of the authority is not required. Each member of the authority shall be appointed by the respective board of supervisors for a term to be determined by each board of supervisors, but the term shall not be for less than one year. An appointee shall serve without compensation, but an appointee may be reimbursed for actual expenses incurred while performing the duties of the authority as determined by each board of supervisors. The authority shall meet, organize, and adopt rules of procedures as deemed necessary to carry out its duties. The authority may appoint working committees that include other individuals in addition to voting members.

2. The mission of the authority is to develop and coordinate plans for projects related to the unique natural resources, rural development, and infrastructure problems of counties in the most fragile areas of the southern Iowa drift plain. The authority's mission is established in part as a response to the erosion of soils, degradation of water resources, and the destabilization of stream channels in the fragile glacial till soils of southern Iowa that have occurred in a large part due to unchecked conversion of grassland to cropland. This land use conversion was brought about by the economic pressures of past federal agricultural policies that disregarded the fragile nature of the southern Iowa soil resource and the incompatibility of these soils with the subsidized commodities. The resulting erosion of the land has damaged the rural infrastructure of this area, destroyed public roads and bridges, adversely impacted stream water quality and riparian habitat, affected other public and private improvements, and severely threatens the potable water supply of the region. Reducing soil erosion, preventing sedimentation, and stopping nutrients and pesticides from entering water resources are all necessary to protect the rural infrastructure in the southern area of the state. Important protection measures include structural improvements and the reestablishment of grasslands for sustainable economic uses.

3. The authority shall cooperate with the division of soil conservation of the department of agriculture and land stewardship, the affected soil and water conservation districts, the department of natural resources, and the state department of transportation in carrying out its mission and duties. The authority shall also cooperate with appropriate federal agencies, including the United States environmental protection agency, the United States department of interior, and the United States department of agriculture natural resources conservation service. The authority shall make use of technical resources available through member counties and cooperating agencies.

4. The authority shall administer the southern Iowa development and conservation fund created under section 161D.12 and shall deposit and expend moneys in the fund for the planning, development, and implementation of development and conservation activities or measures in the member counties.

5. This section is not intended to affect the authority of the department of natural resources in its acquisition, development, and management of public lands within the counties represented by the authority.

Sec. 2. NEW SECTION. 161D.12 SOUTHERN IOWA DEVELOPMENT AND CONSERVATION FUND.

A southern Iowa development and conservation fund is created in the state treasury, to be administered by the southern Iowa development and conservation authority. The proceeds of the fund shall be used for the purposes specified in section 161D.11. The southern Iowa development and conservation authority may accept gifts, bequests, other moneys including, but not limited to, state or federal moneys, and in-kind contributions for deposit in the fund. The gifts, grants, bequests from public and private sources, state and federal moneys, and other moneys received by the authority shall be deposited in the fund and any interest earned on moneys in the fund shall be credited to the fund to be used for the purposes specified in section 161D.11. Notwithstanding section 8.33, any unexpended or unencumbered moneys remaining in the fund at the end of the fiscal year shall not revert to the general fund of the state, but the moneys shall remain available for expenditure by the authority in succeeding fiscal years.

Approved April 15, 1999

CHAPTER 31**ELUDING A LAW ENFORCEMENT VEHICLE**

H.F. 209

AN ACT relating to increasing the penalty for eluding or attempting to elude an official law enforcement vehicle.

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

Section 1. Section 321.279, Code 1999, is amended to read as follows:

321.279 ELUDING OR ATTEMPTING TO ELUDE PURSUING LAW ENFORCEMENT VEHICLE.

1. The driver of a motor vehicle commits a serious misdemeanor if the driver willfully fails to bring the motor vehicle to a stop or otherwise eludes or attempts to elude a marked official law enforcement vehicle driven by a uniformed peace officer after being given a visual ~~or~~ and audible signal to stop ~~and in doing so exceeds the speed limit by twenty-five miles per hour or more~~. The signal given by the peace officer shall be by flashing red light ~~or~~ and siren. For purposes of this section, "peace officer" means those officers designated under section 801.4, subsection 11, paragraphs "a," "b," "c," "g," and "h".

2. The driver of a motor vehicle commits an aggravated misdemeanor if the driver willfully fails to bring the motor vehicle to a stop or otherwise eludes or attempts to elude a marked official law enforcement vehicle that is driven by a uniformed peace officer after being given a visual and audible signal as provided in this section and in doing so exceeds the speed limit by twenty-five miles per hour or more.

3. The driver of a motor vehicle commits ~~an aggravated misdemeanor~~ a class "D" felony if, ~~while participating in a public offense, as defined in section 702.13, that is a felony,~~ the driver willfully fails to bring the motor vehicle to a stop or otherwise eludes or attempts to elude a marked official law enforcement vehicle that is driven by a uniformed peace officer after being given a visual ~~or~~ and audible signal as provided in this section, and in doing so exceeds the speed limit by twenty-five miles per hour or more, and if any of the following occurs:

a. The driver is participating in a public offense, as defined in section 702.13, that is a felony.

b. The driver is in violation of section 321J.2 or 124.401.

c. The offense results in bodily injury to a person other than the driver.

Approved April 15, 1999

CHAPTER 32**FIRE SAFETY — BED AND BREAKFAST INNS**

H.F. 518

AN ACT relating to the fire safety provisions applicable to a bed and breakfast inn.

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

Section 1. Section 137C.35, unnumbered paragraph 2, Code 1999, is amended to read as follows:

A bed and breakfast inn is subject to regulation, licensing, and inspection under this chapter, but separate toilet and lavatory facilities shall not be required for each guest room. Additionally, a bed and breakfast inn is exempt from fire safety rules adopted pursuant to section 100.35 and applicable to hotels, but is subject to fire safety rules which the state fire marshal shall specifically adopt for bed and breakfast inns.

Approved April 15, 1999

CHAPTER 33

CITY CABLE COMMUNICATION UTILITIES — REQUIREMENTS

S.F. 190

AN ACT relating to the requirements for establishing and operating a city cable communication utility.

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

Section 1. Section 364.3, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 7. A city which operates a cable communications system shall manage the right of way on a competitively neutral and nondiscriminatory basis. Additionally, a city-operated cable communications system shall be required to pay the same fees and charges and comply with other requirements as may be imposed by the city by ordinance or by the terms of a franchise granted by the city, or as may otherwise be imposed by the city, upon any other cable provider. This subsection does not prohibit a city from making an equitable apportionment of franchise requirements between or among cable television providers, in order to eliminate duplication. This subsection shall not be construed to prohibit a city-operated cable communications system from making transfers of surplus as otherwise allowed or from making in-kind contributions as otherwise allowed.

Approved April 16, 1999

CHAPTER 34

RECORDS OF FINANCIAL INSTITUTIONS — PRESERVATION

S.F. 233

AN ACT relating to the preservation of records held by financial institutions.

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

Section 1. Section 524.221, subsection 1, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A copy is deemed to be an original and shall be treated as an original record in a judicial or administrative proceeding for purposes of

admissibility in evidence. A facsimile, exemplification, or certified copy of any such copy reproduced from a film record is deemed to be a facsimile, exemplification, or certified copy of the original. A printout or other tangible output readable by sight shown to accurately reflect data contained in a promissory note, negotiable instrument, or letter of credit, which contains a signature made or created by electronic or digital means such that it is stored by a computer or similar device, is deemed to be an original of such note, instrument, or letter for purposes of presenting such note, instrument, or letter for payment, acceptance, or honor, or for purposes of a judicial proceeding involving a claim based upon such note, instrument, or letter.

Sec. 2. Section 533.26, Code 1999, is amended to read as follows:

533.26 PRESERVATION OF RECORDS.

The superintendent shall prescribe by rule the period of preservation of records or files for credit unions. A copy of an original may be kept in lieu of any original records. For purposes of this section, a copy includes any duplicate, rerecording or reproduction of an original record from any photograph, photostat, microfilm, microcard, miniature or microphotograph, computer printout, electronically stored data or image, or other process which accurately reproduces or forms a durable medium for accurately and legibly reproducing an unaltered image or reproduction of the original record. A copy is deemed to be an original and shall be treated as an original record in a judicial or administrative proceeding for purposes of admissibility in evidence. A facsimile, exemplification, or certified copy of any such copy reproduced from a film record is deemed to be a facsimile, exemplification, or certified copy of the original.

Sec. 3. Section 533.28, Code 1999, is amended to read as follows:

533.28 PHOTOGRAPHIC RECORDS.

1. Any writing or record, or a photostatic or photographic reproduction thereof ~~of such writing or record~~, of ~~any a~~ credit union whether in the form of an entry in a book or otherwise, made as a memorandum or record of any act, transaction, occurrence, or event, shall be admissible in evidence in proof of ~~said the~~ act, transaction, occurrence, or event, if made in the regular course of business.

2. A printout or other tangible output readable by sight shown to accurately reflect data contained in a promissory note, negotiable instrument, or letter of credit, which contains a signature made or created by electronic or digital means such that it is stored by a computer or similar device, is deemed to be an original of such note, instrument, or letter for purposes of presenting such note, instrument, or letter for payment, acceptance, or honor, or for purposes of a judicial proceeding involving a claim based upon such note, instrument, or letter.

Sec. 4. Section 534.106, subsection 7, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A printout or other tangible output readable by sight shown to accurately reflect data contained in a promissory note, negotiable instrument, or letter of credit, which contains a signature made or created by electronic or digital means such that it is stored by a computer or similar device, is deemed to be an original of such note, instrument, or letter for purposes of presenting such note, instrument, or letter for payment, acceptance, or honor, or for purposes of a judicial proceeding involving a claim based upon such note, instrument, or letter.

Approved April 16, 1999

CHAPTER 35**NONSTATUTORY LIENS — CONFIRMATION OF NOTICE TO AFFECTED PARTIES***S.F. 303*

AN ACT requiring that the clerk of the district court confirm that notice has been given to required parties prior to the filing of a nonstatutory lien.

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

Section 1. Section 575.1, Code 1999, is amended to read as follows:

575.1 NONSTATUTORY LIENS.

1. A person claiming a common law lien, an equitable servitude lien, or a lien of similar nature which is other than a statutory lien, shall first give notice to any legal and equitable owners and persons in possession of the real or personal property against which the lien is sought.

a. If the lien is filed by an owner of the real or personal property, notice shall first be given to any person with a lien or other interest in the property.

b. The notice shall be given pursuant to the Iowa rules of civil procedure.

2. Prior to the filing of the lien in any office of record in the county where the real or personal property is located, the following shall occur:

a. The clerk of the district court shall confirm that all notices required pursuant to subsection 1 have been given.

b. The district court in such county shall hold a hearing to determine the validity of the lien.

(1) Pendency of such a proceeding shall not be indexed under section 617.10 and shall not constitute lis pendens or constructive notice to third persons under sections 617.11 through 617.15.

(2) A bona fide purchaser takes title to the real or personal property free of any claims arising from such proceeding unless proper filing is made in the office of the county recorder as provided in this section.

(3) The person claiming the lien is required to prove the validity of the lien by a preponderance of the evidence.

(4) If the court determines the person claiming the lien has willfully and maliciously proceeded, a judgment may be entered against the person claiming the lien in favor of any resisting party for reasonable damages, including actual damages, costs, and reasonable attorneys' fees incurred by the resisting party.

3. A lien, as described in this section, shall not be filed in any office of record other than as provided in this section and if such lien is filed other than as provided in this section, the lien shall be null and void and of no force or effect.

4. If, after hearing the district court enters an order determining the lien to be valid, the person claiming the lien shall file a certified copy of the order in the office of the county recorder where the real or personal property is located.

5. An appeal from the district court arising from such proceeding is by certiorari.

Approved April 16, 1999

CHAPTER 36**PUBLIC HOSPITAL AND HEALTH CARE FACILITY OPERATIONS***H.F. 224*

AN ACT relating to qualifications and terms of commissioners and the management and operation of certain public hospitals.

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

Section 1. Section 37.9, unnumbered paragraphs 1 and 5, Code 1999, are amended to read as follows:

When the proposition to erect any such building or monument has been carried by a majority vote, the board of supervisors or the city council, as the case may be, shall appoint a commission consisting of five or seven members, in the manner and with the qualifications provided in this chapter, which shall have charge and supervision of the erection of the building or monument, and when erected, the management and control of the building or monument.

Commencing with the commissioners appointed to take office after January 1, 1952, ~~one commissioner shall be appointed for a term of one year, two commissioners shall be appointed for a term of two years, and two commissioners shall be appointed for a term of three years, or in each instance until a successor is appointed and qualified~~ the terms of office of the commissioners shall be staggered so that all commissioners' terms will not end in the same year. Thereafter, the successors in each instance shall hold office for a term of three years or until a successor is appointed and qualified.

Sec. 2. Section 37.10, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Each commissioner, except for a memorial hospital*, shall be an honorably discharged soldier, sailor, marine, airman, or coast guard member and be a resident of the county in which the memorial hall or monument is located. Each commissioner for a memorial hospital shall be a resident of the county in which the memorial hospital is located.

Sec. 3. Section 347.9, Code 1999, is amended to read as follows:

347.9 TRUSTEES — APPOINTMENT — TERMS OF OFFICE.

When it has been determined by the voters of a county to establish a county public hospital, the board shall appoint seven trustees chosen from among the resident citizens of the county with reference to their fitness for office, and not more than four of the trustees shall be residents of the city at which the hospital is located. The trustees shall hold office until the following general election, at which time their successors shall be elected, two for a term of two years, two for four years, and three for six years, and they shall determine by lot their respective terms, and thereafter their successors shall be elected for regular terms of six years each. A person or spouse of a person with medical or special staff privileges in the county public hospital or who receives direct or indirect compensation in an amount greater than one thousand five hundred dollars in a calendar year from the county public hospital or direct or indirect compensation in an amount greater than one thousand five hundred dollars in a calendar year from a person contracting for services with the hospital shall not be eligible to serve as a trustee for that county public hospital.

Sec. 4. Section 347.12, unnumbered paragraph 3, Code 1999, is amended to read as follows:

The secretary of the hospital board of trustees shall file monthly on or before the ~~tenth~~ thirtieth day of each month with such board a complete statement of all receipts and disbursements from all funds during the preceding month, and also the balance remaining on hand in such funds at the close of the period covered by said statement.

* See chapter 208, §47 herein

Sec. 5. Section 347.13, subsection 7, Code 1999, is amended by striking the subsection.

Sec. 6. Section 347.13, subsection 11, Code 1999, is amended by striking the subsection and inserting in lieu thereof the following:

11. Make available to the board of supervisors a statement of all receipts and expenditures from the preceding fiscal year.

Sec. 7. Section 347.14, subsection 11, Code 1999, is amended to read as follows:

11. Do all things necessary for the management, control and government of said hospital and exercise all the rights and duties pertaining to hospital trustees generally, including but not limited to authorizing delivery of any health care service, assisted or independent living service, or other ancillary service, unless such rights of hospital trustees generally are specifically denied by this chapter, or unless such duties are expressly charged by this chapter.

Sec. 8. Section 347.14, Code 1999, is amended by adding the following new subsection: NEW SUBSECTION. 16. Borrow moneys to be secured solely by hospital revenues for the purposes of improvement, maintenance, or replacement of the hospital or for hospital equipment.

Sec. 9. Section 347.30, Code 1999, is amended to read as follows:

347.30 NOTICE AND HEARING.

A county or city hospital shall serve notice and hold a public hearing before selling or leasing any real property pursuant to sections 347.28 and 347.29. The notice shall definitely describe the property, indicate the date and location of the hearing, and shall be published by at least one insertion each week for two consecutive weeks in a newspaper having general circulation in the county where the property is located. The hearing shall not take place prior to two weeks after the second publication.

A county or city hospital shall serve notice before selling or leasing any personal property pursuant to sections 347.28 and 347.29. The notice shall definitely describe the property and shall be published by at least one insertion each week for two consecutive weeks in a newspaper having general circulation in the county where the property is located.

Sec. 10. Section 347A.1, unnumbered paragraph 1, Code 1999, is amended to read as follows:

A county having a population less than one hundred fifty thousand may issue revenue bonds for a county hospital as provided in section 331.461, subsection 2, paragraph "e". The administration and management of the hospital shall be vested in a board of hospital trustees consisting of five or seven members appointed. Appointments for a five-member board shall be made by the board of supervisors from among the resident citizens of the county with reference to their fitness for office, and not more than two of the trustees shall be residents of the same township. Expansion from a five-member to a seven-member board of trustees shall occur only on approval of a majority of the five-member board of trustees. The five-member board of trustees shall appoint members to the additional vacancies; one appointee shall serve until the succeeding general election and the other appointee shall serve until the second succeeding general election at which times successors shall be elected.

Sec. 11. Section 392.6, unnumbered paragraph 2, Code 1999, is amended to read as follows:

Cities maintaining an institution as provided for in this section which have a board of trustees consisting of three members may by ordinance increase the number of members to five or seven and provide for the appointment of one of the additional member in the expansion to a five-member board or two additional members in the expansion to a seven-member board until the next succeeding general or city election, and for the appointment of the one or two other additional member members until the second succeeding general or city election. Thereafter, the terms of office of such additional members shall be four years. However,

if a city has adopted an ordinance which increases the number of members of the board of trustees to five or seven members and the terms of office of four of the five members or six of the seven members end in the same year, the date of expiration of the term of one of the four members or two of the six members, to be determined by lot, shall be extended by an additional two years.

Approved April 16, 1999

CHAPTER 37

FINGERPRINTING AND CRIMINAL DISPOSITION REPORT PROCEDURES

H.F. 403

AN ACT relating to the fingerprinting of persons or juveniles who have been arrested or taken into custody and changing the procedures for the collection of a criminal disposition report.

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

Section 1. Section 232.148, subsection 2, Code 1999, is amended to read as follows:

2. Fingerprints ~~and photographs~~ of a child who has been taken into custody ~~may~~ shall be taken and filed by a criminal or juvenile justice agency investigating the commission of a public offense other than a simple misdemeanor. In addition, photographs of a child who has been taken into custody may be taken and filed by a criminal or juvenile justice agency investigating the commission of a public offense other than a simple 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. 2. Section 690.2, Code 1999, is amended to read as follows:

690.2 FINGER AND PALM PRINTS — PHOTOGRAPHS — DUTY OF SHERIFF AND CHIEF OF POLICE.

The sheriff of every county, and the chief of police of each city regardless of the form of government thereof, shall take the fingerprints of all unidentified dead bodies in their respective jurisdictions and all persons who are taken into custody for the commission of a serious misdemeanor, ~~other than a serious misdemeanor under chapter 321 or 321A~~, aggravated misdemeanor, or felony and shall forward such fingerprint records on such forms and in such manner as may be prescribed by the commissioner of public safety, within two working days after the fingerprint records are taken, to the department of public safety and, if appropriate, to the federal bureau of investigation. Fingerprints may be taken of a person who has been arrested for a ~~public offense~~ simple misdemeanor subject to an enhanced penalty for conviction of a second or subsequent offense. In addition to the fingerprints as herein provided, any such officer may also take the photograph and palm prints of any such person and forward them to the department of public safety. If a defendant is convicted by a court of this state of an offense which is a simple misdemeanor subject to an enhanced penalty for conviction of a second or subsequent offense, a serious misdemeanor, ~~other than a serious misdemeanor under chapter 321 or 321A~~, an aggravated misdemeanor, or a felony, the court shall determine whether such defendant has previously been fingerprinted in

connection with the criminal proceedings leading to the conviction and, if not, shall order that the defendant be fingerprinted and those prints submitted to the department of public safety. The court shall also order that a juvenile adjudicated delinquent for an offense which would be a violation of section 321J.2 or an act which would be an aggravated misdemeanor or felony an offense other than a simple misdemeanor if committed by an adult, be fingerprinted and the prints submitted to the department of public safety if the juvenile has not previously been fingerprinted in proceedings leading to the adjudication. The taking of fingerprints for a serious misdemeanor offense under chapter 321 or 321A is not required under this section.

Sec. 3. Section 692.15, subsections 3 and 4, Code 1999, are amended to read as follows:

3. The law enforcement agency making an arrest and securing fingerprints pursuant to section 690.2 or taking a juvenile into custody and securing fingerprints pursuant to section 232.148 shall fill out a final disposition report on each arrest on a form and in the manner prescribed by the commissioner of public safety. The final disposition report shall be forwarded to the county attorney in the county where the arrest or taking into custody occurred or to the juvenile court officer who received the referral.

4. The county attorney of each county or juvenile court officer who received the referral shall complete the final disposition report and submit it to the department within thirty days if a preliminary information or citation is dismissed without a new charge being filed. If an indictment is returned or a county attorney's information is filed, or a petition is filed under section 232.35, the final disposition form shall be forwarded to either the clerk of the district court or juvenile court of that county.

Approved April 16, 1999

CHAPTER 38

CHILD VISITATION RIGHTS — MURDER OF OTHER PARENT

H.F. 633

AN ACT restricting the awarding of child visitation rights to a parent convicted of murder in the first degree of the other parent.

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

Section 1. NEW SECTION. 598.41B VISITATION — RESTRICTIONS — MURDER OF PARENT.

1. Notwithstanding section 598.41, the court shall not do either of the following:

a. Enforce an existing order awarding visitation rights to a child's parent, which was obtained prior to that parent's conviction for first degree murder in the murder of the child's other parent, unless such enforcement is in the best interest of the child.

b. Award visitation rights to a child's parent who has been convicted of murder in the first degree of the child's other parent, unless the court finds that such visitation is in the best interest of the child.

2. In determining whether visitation would be in the best interest of the child pursuant to subsection 1, the court shall consider all of the following:

a. The age and level of maturity of the child.

b. If the child is developmentally mature enough to provide assent and whether the child does assent.

- c. The recommendation of the child's custodian or legal guardian.
 - d. The recommendation of a child counselor or mental health professional following evaluation of the child.
 - e. The recommendation of a guardian ad litem for the child if one has been appointed to represent the child in the proceeding.
 - f. Any other information which the court deems to be relevant.
3. Until such time as an order regarding visitation rights under subsection 1 is entered, the child of a parent who has been convicted of murder in the first degree of the child's other parent shall not visit the parent who has been convicted.

Approved April 16, 1999

CHAPTER 39

NATURAL RESOURCES DEPARTMENT AUTHORITY — SAC AND FOX TRIBE AND SETTLEMENT

S.F. 264

AN ACT relating to the regulatory authority of the natural resource commission on the Sac and Fox tribe of the Mississippi in Iowa settlement in Tama county.

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

Section 1. Section 481A.38, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The department and the commission shall exercise regulatory authority regarding seasons, bag limits, possession limits, locality, the method of taking, or the taking of fish and wildlife by members of the Sac and Fox tribe of the Mississippi in Iowa within the boundaries of the Sac and Fox tribe settlement in Tama county only to the extent provided in a written agreement between the tribal council of the Sac and Fox tribe of the Mississippi in Iowa and the department. The written agreement shall not be construed to supersede or impair the regulatory authority exercised by the commission pursuant to the federal Migratory Bird Treaty Act, the federal Migratory Bird Stamp Hunting Act, the federal Endangered Species Act, or other federal law. The department and the commission shall not unreasonably fail to enter into an agreement and shall pursue such an agreement in an expedient manner. This subsection shall become effective upon signing of the written agreement by the director of the department and the chairperson of the Sac and Fox tribe of the Mississippi in Iowa.

Approved April 20, 1999

CHAPTER 40**TAKING OF MUSKRATS BY COLONY TRAPS**

S.F. 265

AN ACT relating to the taking of muskrats by colony trap.

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

Section 1. Section 481A.92, unnumbered paragraph 1, Code 1999, is amended to read as follows:

~~Except as otherwise provided in this chapter a~~ **A** person shall not use or attempt to use colony traps in taking, capturing, trapping, or killing any game or fur-bearing animals except muskrats as determined by rule of the commission. Box traps capable of capturing more than one game or fur-bearing animal at each setting are prohibited. A valid hunting license is required for box trapping cottontail rabbits and squirrels. All traps and snares used for the taking of fur-bearing animals shall have a metal tag attached plainly labeled with the user's name and address. All traps and snares, except those which are placed entirely under water, shall be checked at least once every twenty-four hours. Officers appointed by the department may confiscate such traps and snares found in use that are not properly labeled or checked.

Approved April 21, 1999

CHAPTER 41**HEALTH CARE SERVICE AND TREATMENT COVERAGE**

S.F. 276

AN ACT relating to health care service and treatment coverage by providing for continuity of care, discussion and advocacy of treatment options, coverage of emergency room services, utilization review requirements, and an external review process, and providing an effective date.

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

Section 1. **NEW SECTION.** 514C.14 CONTINUITY OF CARE — PREGNANCY.

1. Except as provided under subsection 2 or 3, a carrier, as defined in section 513B.2, an organized delivery system, authorized under 1993 Iowa Acts, chapter 158, or a plan established pursuant to chapter 509A for public employees, which terminates its contract with a participating health care provider, shall continue to provide coverage under the contract to a covered person in the second or third trimester of pregnancy for continued care from such health care provider. Such persons may continue to receive such treatment or care through postpartum care related to the child birth and delivery. Payment for covered benefits and benefit levels shall be according to the terms and conditions of the contract.

2. A covered person who makes an involuntary change in health plans may request that the new health plan cover the services of the covered person's physician specialist who is not a participating health care provider under the new health plan, if the covered person is in the second or third trimester of pregnancy. Continuation of such coverage shall continue through postpartum care related to the child birth and delivery. Payment for covered

benefits and benefit level shall be according to the terms and conditions of the new health plan contract.

3. A carrier, organized delivery system, or plan established under chapter 509A, which terminates the contract of a participating health care provider for cause shall not be liable to pay for health care services provided by the health care provider to a covered person following the date of termination.

Sec. 2. NEW SECTION. 514C.15 TREATMENT OPTIONS.

A carrier, as defined in section 513B.2; an organized delivery system authorized under 1993 Iowa Acts, chapter 158, and licensed by the director of public health; or a plan established pursuant to chapter 509A for public employees, shall not prohibit a participating provider from, or penalize a participating provider for, doing either of the following:

1. Discussing treatment options with a covered individual, notwithstanding the carrier's, organized delivery system's, or plan's position on such treatment option.

2. Advocating on behalf of a covered individual within a review or grievance process established by the carrier, organized delivery system, or chapter 509A plan, or established by a person contracting with the carrier, organized delivery system, or chapter 509A plan.

Sec. 3. NEW SECTION. 514C.16 EMERGENCY ROOM SERVICES.

1. A carrier, as defined in section 513B.2; an organized delivery system authorized under 1993 Iowa Acts, chapter 158, and licensed by the director of public health; or a plan established pursuant to chapter 509A for public employees, which provides coverage for emergency services, is responsible for charges for emergency services provided to a covered individual, including services furnished outside any contractual provider network or preferred provider network. Coverage for emergency services is subject to the terms and conditions of the health benefit plan or contract.

2. Prior authorization for emergency services shall not be required. All services necessary to evaluate and stabilize an emergency medical condition shall be considered covered emergency services.

3. For purposes of this section, unless the context otherwise requires:

a. "Emergency medical condition" means a medical condition that manifests itself by symptoms of sufficient severity, including but not limited to severe pain, that an ordinarily prudent person, possessing average knowledge of medicine and health, could reasonably expect the absence of immediate medical attention to result in one of the following:

(1) Placing the health of the individual, or with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy.

(2) Serious impairment to bodily function.

(3) Serious dysfunction of a bodily organ or part.

b. "Emergency services" means covered inpatient and outpatient health care services that are furnished by a health care provider who is qualified to provide the services that are needed to evaluate or stabilize an emergency medical condition.

Sec. 4. NEW SECTION. 514C.17 CONTINUITY OF CARE — TERMINAL ILLNESS.

1. Except as provided under subsection 2 or 3, if a carrier, as defined in section 513B.2, an organized delivery system, authorized under 1993 Iowa Acts, chapter 158, or a plan established pursuant to chapter 509A for public employees, terminates its contract with a participating health care provider, a covered individual who is undergoing a specified course of treatment for a terminal illness or a related condition, with the recommendation of the covered individual's treating physician licensed under chapter 148, 150, or 150A, may continue to receive coverage for treatment received from the covered individual's physician for the terminal illness or a related condition, for a period of up to ninety days. Payment for covered benefits and benefit level shall be according to the terms and conditions of the contract.

2. A covered person who makes a change in health plans involuntarily may request that the new health plan cover services of the covered person's treating physician licensed under chapter 148, 150, or 150A, who is not a participating health care provider under the new health plan, if the covered person is undergoing a specified course of treatment for a terminal illness or a related condition. Continuation of such coverage shall continue for up to ninety days. Payment for covered benefits and benefit levels shall be according to the terms and conditions of the contract.

3. Notwithstanding subsections 1 and 2, a carrier, organized delivery system, or plan established under chapter 509A which terminates the contract of a participating health care provider for cause shall not be required to cover health care services provided by the health care provider to a covered person following the date of termination.

Sec. 5. NEW SECTION. 514F.4 UTILIZATION REVIEW REQUIREMENTS.

1. A third-party payor which provides health benefits to a covered individual residing in this state shall not conduct utilization review, either directly or indirectly, under a contract with a third-party who does not meet the requirements established for accreditation by the utilization review accreditation commission, national committee on quality assurance, or another national accreditation entity recognized and approved by the commissioner.

2. This section does not apply to any utilization review performed solely under contract with the federal government for review of patients eligible for services under any of the following:

- a. Title XVIII of the federal Social Security Act.
- b. The civilian health and medical program of the uniformed services.
- c. Any other federal employee health benefit plan.

3. For purposes of this section, unless the context otherwise requires:

a. "Third-party payor" means:

- (1) An insurer subject to chapter 509 or 514A.
- (2) A health service corporation subject to chapter 514.
- (3) A health maintenance organization subject to chapter 514B.
- (4) A preferred provider arrangement.
- (5) A multiple employer welfare arrangement.
- (6) A third-party administrator.
- (7) A fraternal benefit society.
- (8) A plan established pursuant to chapter 509A for public employees.
- (9) Any other benefit program providing payment, reimbursement, or indemnification for health care costs for an enrollee or an enrollee's eligible dependents.

b. "Utilization review" means a program or process by which an evaluation is made of the necessity, appropriateness, and efficiency of the use of health care services, procedures, or facilities given or proposed to be given to an individual within this state. Such evaluation does not apply to requests by an individual or provider for a clarification, guarantee, or statement of an individual's health insurance coverage or benefits provided under a health insurance policy, nor to claims adjudication. Unless it is specifically stated, verification of benefits, preauthorization, or a prospective or concurrent utilization review program or process shall not be construed as a guarantee or statement of insurance coverage or benefits for any individual under a health insurance policy.

b. "Utilization review" means a program or process by which an evaluation is made of the necessity, appropriateness, and efficiency of the use of health care services, procedures, or facilities given or proposed to be given to an individual within this state. Such evaluation does not apply to requests by an individual or provider for a clarification, guarantee, or statement of an individual's health insurance coverage or benefits provided under a health insurance policy, nor to claims adjudication. Unless it is specifically stated, verification of benefits, preauthorization, or a prospective or concurrent utilization review program or process shall not be construed as a guarantee or statement of insurance coverage or benefits for any individual under a health insurance policy.

Sec. 6. NEW SECTION. 514F.5 EXPERIMENTAL TREATMENT REVIEW.

1. A carrier, as defined in section 513B.2, an organized delivery system, authorized under 1993 Iowa Acts, chapter 158, or a plan established pursuant to chapter 509A for public employees, that limits coverage for experimental medical treatment, drugs, or devices, shall develop and implement a procedure to evaluate experimental medical treatments and shall submit a description of the procedure to the division of insurance. The procedure shall be in writing and must describe the process used to determine whether the carrier, organized

delivery system, or chapter 509A plan will provide coverage for new medical technologies and new uses of existing technologies. The procedure, at a minimum, shall require a review of information from appropriate government regulatory agencies and published scientific literature concerning new medical technologies, new uses of existing technologies, and the use of external experts in making decisions. A carrier, organized delivery system, or chapter 509A plan shall include appropriately licensed or qualified professionals in the evaluation process. The procedure shall provide a process for a person covered under a plan or contract to request a review of a denial of coverage because the proposed treatment is experimental. A review of a particular treatment need not be reviewed more than once a year.

2. A carrier, organized delivery system, or chapter 509A plan that limits coverage for experimental treatment, drugs, or devices shall clearly disclose such limitations in a contract, policy, or certificate of coverage.

Sec. 7. NEW SECTION. 514J.1 LEGISLATIVE INTENT.

It is the intent of the general assembly to provide a mechanism for the appeal of a denial of coverage based on medical necessity.

Sec. 8. NEW SECTION. 514J.2 DEFINITIONS.

1. "Carrier" means an entity subject to the insurance laws and regulations of this state, or subject to the jurisdiction of the commissioner, performing utilization review, including an insurance company offering sickness and accident plans, a health maintenance organization, a nonprofit health service corporation, a plan established pursuant to chapter 509A for public employees, or any other entity providing a plan of health insurance, health care benefits, or health care services.

2. "Commissioner" means the commissioner of insurance.

3. "Coverage decision" means a final adverse decision based on medical necessity. This definition does not include a denial of coverage for a service or treatment specifically listed in plan or evidence of coverage documents as excluded from coverage.

4. "Enrollee" means an individual, or an eligible dependent, who receives health care benefits coverage through a carrier or organized delivery system.

5. "Independent review entity" means a reviewer or entity, certified by the commissioner pursuant to section 514J.6.

6. "Organized delivery system" means an organized delivery system authorized under 1993 Iowa Acts, chapter 158, and licensed by the director of public health, and performing utilization review.

Sec. 9. NEW SECTION. 514J.3 EXCLUSIONS.

This chapter does not apply to a hospital confinement indemnity, credit, dental, vision, long-term care, disability income insurance coverage, coverage issued as a supplement to liability insurance, workers compensation or similar insurance, or automobile medical payment insurance.

Sec. 10. NEW SECTION. 514J.4 EXTERNAL REVIEW REQUEST.

1. At the time of a coverage decision, the carrier or organized delivery system shall notify the enrollee in writing of the right to have the coverage decision reviewed under the external review process.

2. The enrollee, or the enrollee's treating health care provider acting on behalf of the enrollee, may file a written request for external review of the coverage decision with the commissioner. The request must be filed within sixty days of the receipt of the coverage decision. However, the enrollee's treating health care provider does not have a duty to request external review.

3. The request for external review must be accompanied by a twenty-five dollar filing fee. The commissioner may waive the filing fee for good cause. The filing fee shall be refunded if the enrollee prevails in the external review process.

Sec. 11. NEW SECTION. 514J.5 ELIGIBILITY.

1. The commissioner shall have two business days from receipt of a request for an external review to certify the request. The commissioner shall certify the request if the following criteria are satisfied:

a. The enrollee was covered by the carrier or organized delivery system at the time the service or treatment was proposed.

b. The enrollee has been denied coverage based on a determination by the carrier or organized delivery system that the proposed service or treatment does not meet the definition of medical necessity as defined in the enrollee's evidence of coverage.

c. The enrollee, or the enrollee's treating health care provider acting on behalf of the enrollee, has exhausted all internal appeal mechanisms provided under the carrier's or the organized delivery system's contract.

d. The written request for external review was filed within sixty days of receipt of the coverage decision.

2. The commissioner shall notify the enrollee, or the enrollee's treating health care provider acting on behalf of the enrollee, and the carrier or organized delivery system in writing of the decision.

3. The carrier or organized delivery system has three business days to contest the eligibility of the request for external review with the commissioner. If the commissioner finds that the request for external review is not eligible for full review, the commissioner, within two business days, shall notify the enrollee, or the enrollee's treating health care provider acting on behalf of the enrollee, in writing of the reasons that the request for external review is not eligible for full review.

Sec. 12. NEW SECTION. 514J.6 INDEPENDENT REVIEW ENTITIES.

1. The commissioner shall solicit names of independent review entities from carriers, organized delivery systems, and medical and health care professional associations.

2. Independent review entities include, but are not limited to, the following:

a. Medical peer review organizations.

b. Nationally recognized health experts or institutions.

3. The commissioner shall certify independent review entities to conduct external reviews. An individual who conducts an external review as or as part of a certified independent review entity shall be a health care professional and satisfy both of the following requirements:

a. Hold a current unrestricted license to practice medicine or a health profession in the United States. A health care professional who is a physician shall also hold a current certification by a recognized American medical specialty board. A health care professional who is not a physician shall also hold a current certification by such professional's respective specialty board.

b. Have no history of disciplinary actions or sanctions, including, but not limited to, the loss of staff privileges or any participation restriction taken or pending by any hospital or state or federal government regulatory agency.

4. Each independent review entity shall have a quality assurance program on file with the commissioner that ensures the timeliness and quality of the reviews, the qualifications and independence of the experts, and the confidentiality of medical records and review materials.

5. The commissioner shall certify independent review entities every two years.

Sec. 13. NEW SECTION. 514J.7 EXTERNAL REVIEW.

The external review process shall meet the following criteria:

1. The carrier or organized delivery system, within three business days of a receipt of an eligible request for an external review from the commissioner, shall do all of the following:

a. Select an independent review entity from the list certified by the commissioner. The independent review entity shall be an expert in the treatment of the medical condition under

review. The independent review entity shall not be a subsidiary of, or owned or controlled by the carrier or organized delivery system, or owned or controlled by a trade association of carriers or organized delivery systems of which the carrier or organized delivery system is a member.

b. Notify the enrollee, and the enrollee's treating health care provider, of the name, address, and phone number of the independent review entity and of the enrollee's and treating health care provider's right to submit additional information. The enrollee, or the enrollee's treating health care provider acting on behalf of the enrollee, may object to the independent review entity selected by the carrier or organized delivery system by notifying the commissioner within three business days of the receipt of notice from the carrier or organized delivery system. The commissioner shall have two business days from receipt of the objection to consider the reasons set forth in support of the objection, to select an independent review entity, and to provide the notice required by this subsection to the enrollee, the enrollee's treating health care provider, and the carrier or organized delivery system.

c. Provide any information submitted to the carrier or organized delivery system by the enrollee or the enrollee's treating health care provider in support of the request for coverage of a service or treatment under the carrier's or organized delivery system's appeal procedures.

d. Provide any other relevant documents used by the carrier or organized delivery system in determining whether the proposed service or treatment should have been provided.

2. The enrollee, or the enrollee's treating health care provider, may provide any information submitted in support of the internal review, and other newly discovered relevant information. The enrollee shall have ten business days from the mailing date of the final notification of the independent review entity's selection to provide this information. Failure to provide the information within ten days shall be ground for rejection of consideration of the information by the independent review entity.

3. The independent review entity shall notify the enrollee and the enrollee's treating health care provider of any additional medical information required to conduct the review within five business days of receipt of the documentation required under subsection 1. The requested information shall be submitted within five days. Failure to provide the information shall be ground for rejection of consideration of the information by the independent review entity. The carrier or organized delivery system shall be notified of this request.

4. The independent review entity shall submit its decision as soon as possible, but not more than thirty days from the independent review entity's receipt of the request for review. The decision shall be mailed to the enrollee, or the treating health care provider acting on behalf of the enrollee, and the carrier or organized delivery system.

5. The confidentiality of any medical records submitted shall be maintained pursuant to applicable state and federal laws.

Sec. 14. NEW SECTION. 514J.8 EXPEDITED REVIEW.

An expedited review shall be conducted within seventy-two hours of notification to the commissioner if the enrollee's treating health care provider states that delay would pose an imminent or serious threat to the enrollee.

Sec. 15. NEW SECTION. 514J.9 FUNDING.

All reasonable fees and costs of the independent review entity in conducting an external review shall be paid by the carrier or organized delivery system.

Sec. 16. NEW SECTION. 514J.10 REPORTING.

Each carrier and organized delivery system shall file an annual report with the commissioner containing all of the following:

1. The number of external reviews requested.
2. The number of the external reviews certified by the commissioner.
3. The number of coverage decisions which were upheld by an independent review entity. The commissioner shall prepare a report by January 31 of each year.

Sec. 17. NEW SECTION. 514J.11 IMMUNITY.

An independent review entity conducting a review under this chapter is not liable for damages arising from determinations made under the review process. This does not apply to any act or omission by the independent review entity made in bad faith or involving gross negligence.

Sec. 18. NEW SECTION. 514J.12 STANDARD OF REVIEW.

Review by the independent review entity is de novo. The standard of review to be used by an independent review entity shall be whether the health care service or treatment denied by the carrier or organized delivery system was medically necessary as defined by the enrollee's evidence of coverage subject to Iowa law and consistent with clinical standards of medical practice. The independent review entity shall take into consideration factors identified in the review record that impact the delivery of or describe the standard of care for the medical service or treatment under review. The medical service or treatment recommended by the enrollee's treating health care provider shall be upheld upon review so long as it is found to be medically necessary and consistent with clinical standards of medical practice.

Sec. 19. NEW SECTION. 514J.13 EFFECT OF EXTERNAL REVIEW DECISION.

The review decision by the independent review entity conducting the review is binding upon the carrier or organized delivery system. The enrollee or the enrollee's treating health care provider acting on behalf of the enrollee may appeal the review decision by the independent review entity conducting the review by filing a petition for judicial review either in Polk county district court or in the district court in the county in which the enrollee resides. The petition for judicial review must be filed within fifteen business days after the issuance of the review decision. The findings of fact by the independent review entity conducting the review are conclusive and binding on appeal. The carrier or organized delivery system shall follow and comply with the review decision of the independent review entity conducting the review, or the decision of the court on appeal. The carrier or organized delivery system and the enrollee's treating health care provider shall not be subject to any penalties, sanctions, or award of damages for following and complying in good faith with the review decision of the independent review entity conducting the review or decision of the court on appeal. The enrollee or the enrollee's treating health care provider may bring an action in Polk county district court or in the district court in the county in which the enrollee resides to enforce the review decision of the independent review entity conducting the review or the decision of the court on appeal.

Sec. 20. NEW SECTION. 514J.14 RULES.

The commissioner shall adopt rules pursuant to chapter 17A as are necessary to administer this chapter.

Sec. 21. NEW SECTION. 514K.1 HEALTH CARE PLAN DISCLOSURES — INFORMATION TO ENROLLEES.

1. A health maintenance organization, an organized delivery system, or an insurer using a preferred provider arrangement shall provide to each of its enrollees at the time of enrollment, and shall make available to each prospective enrollee upon request, written information as required by rules adopted by the commissioner and the director of public health. The information required by rule shall include, but not be limited to, all of the following:

- a. A description of the plan's benefits and exclusions.
- b. Enrollee cost-sharing requirements.
- c. A list of participating providers.
- d. Disclosure of the existence of any drug formularies used and, upon request, information about the specific drugs included in the formulary.
- e. An explanation for accessing emergency care services.

- f. Any policies addressing investigational or experimental treatments.
 - g. The methodologies used to compensate providers.
 - h. Performance measures as determined by the commissioner and the director.
 - i. Information on how to access internal and external grievance procedures.
2. The commissioner and the director shall annually publish a consumer guide providing a comparison by plan on performance measures, network composition, and other key information to enable consumers to better understand plan differences.

Sec. 22. EFFECTIVE DATE. Sections 7 through 20 of this Act, which create new chapter 514J, take effect January 1, 2000.

Approved April 21, 1999

CHAPTER 42

PHYSICIAN ASSISTANTS AND ADVANCED REGISTERED NURSE PRACTITIONERS — HOSPITAL CLINICAL PRIVILEGES

S.F. 277

AN ACT relating to hospital clinical privileges of a physician assistant or advanced registered nurse practitioner.

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

Section 1. Section 135B.7, unnumbered paragraph 2, Code 1999, is amended to read as follows:

The rules shall state that a hospital shall not deny clinical privileges to physicians and surgeons, podiatric physicians, osteopaths, osteopathic surgeons, dentists, ~~or~~ certified health service providers in psychology, physician assistants, or advanced registered nurse practitioners licensed under chapter 148, ~~148C~~, 149, 150, 150A, ~~152~~, or 153, or section 154B.7, solely by reason of the license held by the practitioner or solely by reason of the school or institution in which the practitioner received medical schooling or postgraduate training if the medical schooling or postgraduate training was accredited by an organization recognized by the council on postsecondary accreditation or an accrediting group recognized by the United States department of education. A hospital may establish procedures for interaction between a patient and a practitioner. ~~Nothing in the~~ The rules shall not prohibit a hospital from limiting, restricting, or revoking clinical privileges of a practitioner for violation of hospital rules, regulations, or procedures established under this paragraph, when applied in good faith and in a nondiscriminatory manner. ~~Nothing in this~~ This paragraph shall not require a hospital to expand the hospital's current scope of service delivery solely to offer the services of a class of providers not currently providing services at the hospital. ~~Nothing in this~~ This section shall not be construed to require a hospital to establish rules which are inconsistent with the scope of practice established for licensure of practitioners to whom this paragraph applies. This section shall not be construed to authorize the denial of clinical privileges to a practitioner or class of practitioners solely because a hospital has as employees of the hospital identically licensed practitioners providing the same or similar services.

Approved April 21, 1999

CHAPTER 43
ADOPTION INFORMATION FORM
H.F. 38

AN ACT eliminating references to an obsolete federal requirement relating to the attachment of an adoption information form to an adoption petition and decree.

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

Section 1. Section 600.6, subsection 5, Code 1999, is amended by striking the subsection.

Sec. 2. Section 600.13, subsection 6, Code 1999, is amended by striking the subsection.

Approved April 21, 1999

CHAPTER 44
DISARMING A PEACE OFFICER
H.F. 313

AN ACT creating the new criminal offense of disarming a peace officer of a dangerous weapon.

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

Section 1. NEW SECTION. 708.13 DISARMING A PEACE OFFICER OF A DANGEROUS WEAPON.

1. A person who knowingly or intentionally removes or attempts to remove a dangerous weapon, as defined in section 702.7, from the possession of a peace officer, as defined in section 724.2A, when the officer is in the performance of any act which is within the scope of the lawful duty or authority of that officer and the person knew or should have known the individual to be a peace officer, commits the offense of disarming a peace officer.

2. A person who disarms or attempts to disarm a peace officer is guilty of a class "D" felony.

3. A person who discharges the dangerous weapon while disarming or attempting to disarm the peace officer commits a class "C" felony.

Approved April 21, 1999

CHAPTER 45**SOURCE WATER TESTING BY PUBLIC WATER SYSTEMS***H.F. 349*

AN ACT eliminating requirements relating to the department of natural resources adopting rules requiring public water systems to test source water.

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

Section 1. Section 455B.173, subsection 6, paragraph b, Code 1999, is amended by striking the paragraph.

Approved April 21, 1999

CHAPTER 46**INFECTIOUS WASTE REGULATION***H.F. 489*

AN ACT eliminating certain requirements relating to the regulation of infectious waste.

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

Section 1. Section 455B.501, subsection 2, Code 1999, is amended to read as follows:

2. The department shall ~~institute an infectious waste management program in cooperation with the Iowa department of public health. The program shall include all of the following elements:~~

a. ~~Recommendations to the commission for revision of the rules which refer to infectious waste as hazardous or toxic waste.~~

b. ~~Initiation, in cooperation with associations of health care providers of an information and education effort regarding the current requirements for special waste authorizations prior to the disposal of infectious wastes in a landfill. The effort shall include an attempt to compile an inventory of the number of generators and the volumes generated. The inventory shall be completed and a report regarding the results of the inventory submitted to the general assembly by no later than January 15, 1991.~~

e. ~~Upon completion of the compilation of the inventory, the department shall recommend, for adoption by the commission, standards for on-site and off-site treatment of infectious waste. In developing standards, the department shall consider factors affecting the feasibility of alternative methods of treatment and disposal, including but not limited to the volume of infectious waste generated, the availability of treatment facilities within geographic areas, and the costs of transporting infectious wastes to treatment facilities. The standards shall include monitoring requirements for treatment facilities, and training requirements for operators of facilities. The standards may include requirements for management plans dealing with the plans for management of infectious wastes in compliance with adopted standards. In cases in which an individual generator of infectious waste is served by a person treating or disposing of the infectious waste, the person treating or disposing of the waste may prepare the plan for all generators served.~~

d. ~~The department shall undertake a public information program, in conjunction with the Iowa department of public health and health care providers, to promote public understanding of the scope and features of state and private efforts to manage infectious wastes.~~

Sec. 2. Section 455B.503, Code 1999, is amended to read as follows:

455B.503 INFECTIOUS WASTE TREATMENT AND DISPOSAL FACILITIES — PERMITS REQUIRED — RULES.

The commission shall adopt rules which require a person who owns or operates an infectious waste treatment or disposal facility to obtain an operating permit before initial operation of the facility. The rules shall specify the information required to be submitted with the application for a permit and the conditions under which a permit may be issued, suspended, modified, revoked, or renewed. The rules shall address but are not limited to the areas of operator safety, recordkeeping and tracking procedures, best available appropriate technologies, emergency response and remedial action procedures, waste minimization procedures, and long-term liability. ~~The department shall submit proposed rules to the commission and notify the general assembly of the submission of the proposed rules pursuant to section 7A.11 and the commission shall adopt rules by January 15, 1994. The department shall not grant permits for the construction or operation of a commercial infectious waste treatment or disposal facility until the commission has adopted the required rules, and in no event earlier than July 1, 1994.~~

Sec. 3. Section 455B.502, Code 1999, is repealed.

Approved April 21, 1999

CHAPTER 47

IDENTITY THEFT

H.F. 659

AN ACT establishing the crime of identity theft and providing penalties.

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

Section 1. **NEW SECTION.** 714.16B IDENTITY THEFT — CIVIL CAUSE OF ACTION.

In addition to any other remedies provided by law, a person as defined under section 714.16, subsection 1, suffering a pecuniary loss as a result of an identity theft by another person under section 715A.8, may bring an action against such other person to recover the following:

1. One thousand dollars or three times the actual damages, whichever is greater.
2. Reasonable attorney fees and court costs.

Sec. 2. **NEW SECTION.** 715A.8 IDENTITY THEFT.

1. For purposes of this section, "identification information" means the name, address, date of birth, telephone number, driver's license number, nonoperator's identification number, social security number, place of employment, employee identification number, parent's legal surname prior to marriage, demand deposit account number, savings or checking account number, or credit card number of a person.

2. A person commits the offense of identity theft if the person with the intent to obtain a benefit fraudulently obtains identification information of another person and uses or attempts to use that information to obtain credit, property, or services without the authorization of that other person.

3. If the value of the credit, property, or services exceeds one thousand dollars, the person commits a class "D" felony. If the value of the credit, property, or services does not exceed one thousand dollars, the person commits an aggravated misdemeanor.

4. A violation of this section is an unlawful practice under section 714.16.

Sec. 3. NEW SECTION. 715A.9 VALUE FOR PURPOSES OF IDENTITY THEFT.

The value of property or services is its highest value by any reasonable standard at the time the identity theft is committed. Any reasonable standard includes but is not limited to market value within the community, actual value, or replacement value.

If credit, property, or services are obtained by two or more acts from the same person or location, or from different persons by two or more acts which occur in approximately the same location or time period so that the identity thefts are attributable to a single scheme, plan, or conspiracy, the acts may be considered as a single identity theft and the value may be the total value of all credit, property, and services involved.

Approved April 21, 1999

CHAPTER 48

CONSERVATION AND RECREATION PROGRAMS — COOPERATIVE EFFORTS

S.F. 51

AN ACT authorizing a county conservation board to cooperate with private, not-for-profit organizations to carry out conservation and recreation programs.

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

Section 1. Section 350.7, Code 1999, is amended to read as follows:

350.7 JOINT OPERATIONS.

Any county conservation board may ~~co-operate~~ cooperate with the federal government or the state government or any department or agency thereof to carry out the purposes and provisions of this chapter. Any county conservation board may also cooperate with a private, not-for-profit organization to carry out public projects and programs authorized under this chapter. Any county conservation board may join with any other county board or boards to carry out this chapter, and to that end may enter into agreement with each other and may do any and all things necessary or convenient to aid and ~~co-operate~~ cooperate in carrying out the chapter. Any city, village or school district may aid and ~~co-operate~~ cooperate with any county conservation board or any combination of boards in equipping, operating and maintaining museums, parks, preserves, parkways, playgrounds, recreation centers, and conservation areas, and for providing, conducting and supervising programs of activities, and may appropriate money for such purposes. The natural resource commission, county engineer, county agricultural agent, and other county officials shall render assistance which does not interfere with their regular employment. The board of supervisors may be reimbursed to the credit of the proper fund from county conservation funds for actual expense of operation of county-owned equipment, use of county equipment operators, supplies, and materials of the county, or for the reasonable value for the use of county real estate made available for the use of the county conservation board.

Approved April 22, 1999

CHAPTER 49

CHURCH BUILDINGS — ACCESSIBILITY REQUIREMENTS

S.F. 106

AN ACT providing for accessibility requirements for church buildings and providing an effective date.

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

Section 1. Section 103A.7, subsection 5, Code 1999, is amended to read as follows:

5. The accessibility and use by persons with disabilities and elderly persons, of buildings, structures and facilities which are constructed and intended for use by the general public. The rules shall be consistent with federal standards for building accessibility and shall only apply to those buildings, structures, and facilities subject to chapter 104A.

Sec. 2. Section 104A.2, Code 1999, is amended to read as follows:

104A.2 APPLICABILITY — REQUIREMENTS.

The standards and specifications adopted by the state building code commissioner and as set forth in this chapter shall apply to all public and private buildings and facilities, temporary and permanent, used by the general public. The specific occupancies and minimum extent of accessibility shall be in accordance with the conforming standards set forth in section 104A.6. In every covered multiple-dwelling-unit building containing four or more individual dwelling units the requirements of this chapter and those adopted by the state building code commissioner shall be met. However, this chapter shall not apply to a building, or to structures or facilities within the building, if the primary use of the building is to serve as a place of worship.

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

Approved April 22, 1999

CHAPTER 50

IOWA SHEEP AND WOOL PROMOTION BOARD ASSESSMENTS

H.F. 293

AN ACT providing for the administration of assessments collected by the Iowa sheep and wool promotion board.

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

Section 1. Section 182.1, subsection 1, Code 1999, is amended by striking the subsection.

Sec. 2. Section 182.1, Code 1999, is amended by adding the following new subsections:
NEW SUBSECTION. 1A. "Assessment" means an excise tax on the sale of sheep or wool as provided in this chapter.

NEW SUBSECTION. 2A. "Concentration point" means a location or facility where sheep are assembled for purposes of sale or resale for feeding, breeding, or slaughtering, and where contact may occur between groups of sheep from various sources. "Concentration

point” includes a public stockyard, auction market, street market, state or federal market, untested consignment sales location, buying station, or a livestock dealer’s yard, truck, or facility.

Sec. 3. Section 182.1, subsection 5, Code 1999, is amended to read as follows:

5. “First purchaser” means a person who ~~resells sheep or wool purchased~~ purchases sheep or wool from a producer ~~or offers for sale a product produced from the sheep or wool for any purpose.~~

Sec. 4. Section 182.1, subsection 8, Code 1999, is amended to read as follows:

8. “Sheep” means an animal of the ovine species, regardless of age, produced or marketed in this state ~~for slaughter.~~

Sec. 5. Section 182.2, Code 1999, is amended to read as follows:

182.2 PETITION FOR REFERENDUM ELECTION.

Upon receipt of a petition signed by at least fifty producers in each district requesting a referendum by election to determine whether to establish ~~an Iowa sheep and wool promotion~~ the board and to impose an assessment ~~not to exceed two cents on every pound of wool produced and sold by a producer and ten cents per head on all sheep sold for slaughter by a producer,~~ the secretary shall call a referendum to be conducted within sixty days following receipt of the petition.

Sec. 6. Section 182.14, Code 1999, is amended to read as follows:

182.14 ASSESSMENT.

1. If approved by a majority of voters at a referendum, an assessment to be set by the board at not more than two cents for each pound of wool produced and sold by a producer and not more than ten cents per head on sheep sold ~~for slaughter~~ by a producer.

2. The assessment shall be imposed on the producer as follows:

a. If the producer sells wool or sheep to the first purchaser within this state, the following shall apply:

(1) If the sale occurs at a concentration point, the assessment shall be imposed at the time of delivery to the first purchaser who will. The first purchaser shall deduct the assessment from the price paid to the producer at the time of sale.

(2) If the sale does not occur at a concentration point, the producer shall deduct the assessment from the amount received from the sale and shall forward the amount deducted to the board within thirty days following each calendar quarter.

b. If the producer sells, ships, or otherwise disposes of wool or sheep ~~for slaughter~~ to a first purchaser or other any person outside the this state of Iowa, the producer shall deduct the assessment from the amount received from the sale and shall forward the amount deducted to the board ~~within thirty days following each calendar quarter. If the producer and the first purchaser are the same person, then that person shall pay the assessment to the board within thirty days following each calendar quarter.~~

3. The assessment imposed by this section shall be remitted to the board not later than thirty days following each calendar quarter during which the assessment amount was deducted.

Sec. 7. Section 182.15, subsection 3, Code 1999, is amended to read as follows:

3. The pounds of wool or head of sheep ~~for slaughter~~ sold.

Sec. 8. Section 182.16, Code 1999, is amended to read as follows:

182.16 REMITTANCE TO BOARD—DEPOSIT AND DISBURSEMENT OF FUNDS.

~~Subject to section 182.14, the assessment imposed by this chapter shall be remitted by the purchaser to the Iowa sheep and wool promotion board not later than thirty days following each calendar quarter during which the assessment was collected. Amounts~~ The board shall deposit amounts collected from the assessment ~~shall be deposited~~ imposed pursuant to

~~section 182.14~~ in an account established pursuant to section 182.12, ~~subsection 9~~. Expenses and disbursements incurred and made pursuant to this chapter shall be made by voucher, draft, or check bearing the signature of a person designated by majority vote of the board.

Approved April 22, 1999

CHAPTER 51

PSYCHIATRIC MEDICAL INSTITUTIONS FOR CHILDREN — AUTHORIZATION REQUIREMENTS

H.F. 741

AN ACT relating to the authorization requirements for psychiatric medical institutions for children and providing an effective date.

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

Section 1. Section 135H.6, subsections 4, 5, 6, 7, and 8, Code 1999, are amended to read as follows:

4. The applicant has been awarded a certificate of need pursuant to chapter 135, unless exempt as provided in this section.

5. The department of human services has submitted written approval of the application based on the department of human services' determination of need. The department of human services shall identify the location and number of children in the state who require the services of a psychiatric medical institution for children. Approval of an application shall be based upon the location of the proposed psychiatric institution relative to the need for services identified by the department of human services and an analysis of the applicant's ability to provide services and support consistent with requirements under chapter 232, particularly regarding community-based treatment. If the proposed psychiatric institution is not freestanding from a facility licensed under chapter 135B or 135C, approval under this subsection shall not be given unless the department of human services certifies that the proposed psychiatric institution is capable of providing a resident with a living environment similar to the living environment provided by a licensee which is freestanding from a facility licensed under chapter 135B or 135C. ~~Unless a psychiatric institution was accredited to provide psychiatric services by the joint commission on the accreditation of health care organizations under the commission's consolidated standards for residential settings prior to June 1, 1989, the department of human services shall not approve an application for a license under this chapter until the federal health care financing administration has approved a state Title XIX plan amendment to include coverage of services in a psychiatric medical institution for children. In addition, either of the following conditions must be met:~~

~~a. 6.~~ The department of human services shall not give approval to an application which would cause the total number of beds licensed under this chapter for services reimbursed by the medical assistance program under chapter 249A to exceed three four hundred sixty thirty beds, except as provided in paragraph "b" and paragraph "c", with not more than three hundred of the beds licensed under chapter 237 before January 1, 1980, and not more than sixty of the beds licensed under chapter 237 on or after January 1, 1980.

~~b. The department of human services shall not give approval to an application which would cause the total number of beds licensed under this chapter after June 30, 1990, which specialize in providing substance abuse treatment to children to exceed seventy beds.~~

~~e. 7.~~ In addition to the beds authorized under subsection 6, the department of human services may establish not more than thirty beds licensed under this chapter at the state mental health institute at Independence. The beds shall be exempt from the certificate of need requirement under subsection 4.

~~6. 8.~~ The department of human services may give approval to conversion of beds ~~specializing in substance abuse treatment previously approved under subsection 56, paragraph "b",~~ to beds which are ~~not specialized as referenced in subsection 5, paragraph "a" to provide substance abuse treatment.~~ Beds converted under this subsection shall be in addition to the number of beds authorized under subsection 5, paragraph "a". However, the total number of beds approved under subsection 5 6 and this subsection shall not exceed four hundred thirty. Conversion of beds under this subsection shall not require a revision of the certificate of need issued for the psychiatric institution making the conversion.

~~7. 9.~~ The proposed psychiatric institution is under the direction of an agency which has operated a facility licensed under section 237.3, subsection 2, paragraph "a", as a comprehensive residential facility for children for three years or of an agency which has operated a facility for three years providing psychiatric services exclusively to children or adolescents and the facility meets or exceeds requirements for licensure under section 237.3, subsection 2, paragraph "a", as a comprehensive residential facility for children.

~~8. 10.~~ A psychiatric institution licensed prior to ~~January July 1, 1996 1999,~~ may exceed the number of beds authorized under ~~subsections 5 and subsection~~ subsection 6 if the excess beds are used to provide services funded from a source other than the medical assistance program under chapter 249A. Notwithstanding subsections 4, 5, and 6, the provision of services using ~~such~~ those excess beds does not require a certificate of need or a review by the department of human services.

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

Approved April 22, 1999

CHAPTER 52

MEDICAL ASSISTANCE DEBT — NOTICE PROVISIONS

S.F. 92

AN ACT relating to the notice provisions for transfer of assets which create a medical assistance debt.

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

Section 1. Section 249F.3, subsection 1, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The department of human services may issue a notice establishing and demanding payment of an accrued or accruing debt due and owing to the department of human services as provided in section 249F.2. The notice shall be sent by restricted certified mail as defined in section 618.15, to the transferee at the transferee's last known address. If service of the notice is unable to be completed by restricted certified mail, the notice shall be served upon the transferee in accordance with the rules of civil procedure. The notice shall include all of the following:

Sec. 2. Section 249F.4, subsection 2, Code 1999, is amended to read as follows:

2. The certification shall include true copies of the original notice, the return of service, if applicable, any request for an informal conference, any subsequent notices, the written request for hearing, and true copies of any administrative orders previously entered.

Approved April 23, 1999

CHAPTER 53

FINANCIAL INSTITUTIONS INVESTMENTS IN IOWA AGRICULTURAL INDUSTRY FINANCE CORPORATIONS

S.F. 280

AN ACT providing for investments by banks in Iowa agricultural industry finance corporations.

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

Section 1. Section 12C.6A, subsection 4, paragraph g, Code 1999, is amended to read as follows:

g. Participation in local community and rural development and redevelopment projects, and in state and federal business and economic development programs, including investment in an Iowa agricultural industry finance corporation formed under the Iowa agricultural industry finance Act pursuant to chapter 15E.

Approved April 23, 1999

CHAPTER 54

REAL ESTATE TRANSFERS — MORTGAGE RELEASES

S.F. 335

AN ACT relating to the transfer of real estate, the filing of a release of mortgage, and providing a remedy.

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

Section 1. NEW SECTION. 16.92 REAL ESTATE TRANSFER — MORTGAGE RELEASE CERTIFICATE.

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

a. "Division" means the title guaranty division in the Iowa finance authority.

b. "Mortgage" means a mortgage or mortgage lien on an interest in real property in this state given to secure a loan in an original principal amount of five hundred thousand dollars or less.

c. "Mortgagee" means the grantee of a mortgage. If a mortgage has been assigned of record, the mortgagee is the last person to whom the mortgage is assigned of record.

d. "Mortgage servicer" means the mortgagee or a person other than the mortgagee to whom a mortgagor or the mortgagor's successor in interest is instructed by the mortgagee to send payments on a loan secured by the mortgage. A person transmitting a payoff statement for a mortgage is the mortgage servicer for purposes of such mortgage.

e. "Mortgagor" means the grantor of a mortgage.

f. "Payoff statement" means a written statement furnished by the mortgage servicer which sets forth all of the following:

(1) The unpaid balance of the loan secured by a mortgage, including principal, interest, and any other charges properly due under or secured by the mortgage, or the amount required to be paid in order to release or partially release the mortgage.

(2) Interest on a per-day basis for an amount set forth pursuant to subparagraph (1).

(3) The address where payment is to be sent or other specific instructions for making a payment.

(4) If after payment of the unpaid balance of the loan secured by the mortgage, the mortgage continues to secure any unpaid obligation due the mortgagee or any unfunded commitment by the mortgagor to the mortgagee, the legal description of the property that will continue to be subject to the mortgage, and the legal description of the property that will be released from the mortgage.

g. "Real estate lender or closer" means a person licensed to regularly lend moneys to be secured by a mortgage on real property in this state, a licensed real estate broker, or a licensed attorney.

2. EXECUTION OF CERTIFICATE OF RELEASE. A duly authorized officer or employee of the division may execute and record a certificate of release in the real property records of each county in which a mortgage is recorded as provided in this section if all of the following are satisfied:

a. The real estate lender or closer has certified in writing to the division all of the following:

(1) That the payoff statement satisfies one of the following:

(a) The statement does not indicate that the mortgage continues to secure an unpaid obligation due the mortgagee or an unfunded commitment by the mortgagor to the mortgagee.

(b) The statement contains the legal description of the property to be released from the mortgage and the legal description of the property that will continue to be subject to the mortgage.

(2) That payment was made in accordance with the payoff statement, including a statement as to the date the payment was received by the mortgagee or mortgage servicer, as evidenced by one or more of the following in the records of the real estate lender or closer or its agent:

(a) A bank check, certified check, escrow account check, real estate broker trust account check, or attorney trust account check that was negotiated by the mortgagee or mortgage servicer.

(b) Other documentary evidence of payment to the mortgagee or mortgage servicer.

(3) That more than thirty days have elapsed since the date the payment was sent.

b. The division determines that an effective satisfaction or release of the mortgage has not been executed and recorded within thirty days after the date payment was sent or otherwise made in accordance with a payoff statement.

c. The division, at least thirty days prior to executing the certificate of release, sends by certified mail, to the last known address of the mortgage servicer, written notice of its intention to execute and record a certificate of release pursuant to this section after expiration of the thirty-day period following the sending of such notice, including instructions to notify the division of any reason why the certificate of release should not be executed and recorded. If, prior to executing and recording the certificate of release, the division receives written notification setting forth a reason satisfactory to the division why the certificate of release

should not be executed and recorded by the division, the division shall not execute and record the certificate of release.

3. CONTENTS. A certificate of release executed under this section must contain substantially the information set forth as follows:

a. The name of the mortgagor; the name of the original mortgagee, and, if applicable, the mortgage servicer; the date of the mortgage; the date of recording, including the volume and page or other applicable recording information in the real property records where the mortgage is recorded, and the same information for the last recorded assignment of the mortgage.

b. A statement that the original mortgage principal was in an amount of five hundred thousand dollars or less.

c. A statement that the person executing the certificate of release is a duly authorized officer or employee of the division.

d. A statement indicating one of the following:

(1) That the mortgage servicer provided a payoff statement that was used to make payment, and that does not indicate that the mortgage continues to secure any unpaid obligation due the mortgagee or any unfunded commitment by the mortgagor to the mortgagee.

(2) A statement that the certificate is a partial release of the mortgage, the legal description of the property that will be released from the mortgage, and the legal description of the property that will continue to be subject to the mortgage.

e. A statement that payment was made in accordance with the payoff statement, and the date the payment was received by the mortgagee or mortgage servicer, as evidenced by one or more of the following in the records of the real estate lender or closer or its agent:

(1) A bank check, certified check, escrow account check, real estate broker trust account check, or attorney trust account check that was negotiated by the mortgagee or mortgage servicer.

(2) Other documentary evidence of payment to the mortgagee or mortgage servicer.

f. A statement that more than thirty days have elapsed since the date payment in accordance with the payoff statement was sent.

g. A statement that the division has sent the thirty-day notice required under subsection 2, paragraph "c", and that thirty days have elapsed since the date the notice was sent.

h. A statement that the division has not received written notification of any reason satisfactory to the division why the certificate of release should not be executed and recorded after the expiration of the thirty-day notice period under subsection 2, paragraph "c".

4. EXECUTION. A certificate of release under this section shall be executed and acknowledged in the same manner as required by law for the execution of a deed.

5. EFFECT.

a. For purposes of a release or partial release of the mortgage, a certificate of release executed under this section that contains the information and statements required under subsection 3 is prima facie evidence of the facts contained in such release or partial release, is entitled to be recorded with the county recorder where the mortgage is recorded, operates as a release or partial release of the mortgage described in the certificate of release, and may be relied upon by any person who owns or subsequently acquires an interest in the property released from the mortgage. The county recorder shall rely upon the certificate of release to release the mortgage.

b. Recording of a wrongful or erroneous certificate of release by the division shall not relieve the mortgagor, or the mortgagor's successors or assigns on the debt, from personal liability on the loan or on other obligations secured by the mortgage.

c. In addition to any other remedy provided by law, if the division wrongfully or erroneously records a certificate of release under this section, the division is liable to the mortgagee and mortgage servicer for actual damages sustained due to the recording of the certificate of release.

d. Upon payment of a claim relating to the recording of a certificate of release, the division is subrogated to the rights of the claimant against all persons relating to the claim.

6. RECORDING. If a mortgage is recorded in more than one county and a certificate of release or partial release is recorded in one of them, a certified copy of the certificate of release may be recorded in another county with the same effect as the original. In all cases, the certificate of release or partial release shall be entered and indexed in the manner that a satisfaction of mortgage is entered and indexed.

7. PRIOR MORTGAGES. If the real estate lender or closer has notified the division that a mortgage has been paid in full by someone other than the real estate lender or closer, or was paid by the real estate lender or closer under a previous transaction, and an effective release has not been filed of record, the division may execute and record a certificate of release without certification by the real estate lender or closer that payment was made pursuant to a payoff statement and the date payment was received by the mortgagee. A certificate of release filed pursuant to this subsection is subject to the requirements of subsection 2, paragraph "c".

8. APPLICATION. This section applies only to a mortgage in an original principal amount of five hundred thousand dollars or less.

Sec. 2. NEW SECTION. 655.3 PENALTY FOR FAILURE TO DISCHARGE.

If a mortgagee, or a mortgagee's personal representative or assignee, upon full performance of the conditions of the mortgage, fails to discharge such mortgage within thirty days after a request for discharge, the mortgagee is liable to the mortgagor and the mortgagor's heirs or assigns, for all actual damages caused by such failure, including reasonable attorney fees. A claim for such damages may be asserted in an action for discharge of the mortgage. If the defendant is not a resident of this state, such action may be maintained upon the expiration of thirty days after the conditions of the mortgage have been performed, without such previous request or tender.

Sec. 3. Section 655.2, Code 1999, is repealed.

Approved April 23, 1999

CHAPTER 55

FOSTER CARE-RELATED DAMAGES — STATE LIABILITY

H.F. 311

AN ACT relating to reimbursement, payment, and coverage by the state for damages involving individuals providing foster home, guardian, or conservator services and providing an effective date.

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

Section 1. Section 237.13, subsection 3, Code 1999, is amended to read as follows:

3. Except as provided in this section, the fund shall pay, on behalf of each licensed foster home, any valid and approved claim of foster children, their parents, guardians, or guardians ad litem, for damages arising from the foster care relationship and the provision of foster care services. The fund shall also ~~reimburse~~ ~~compensate~~ licensed foster homes for property damage, ~~at replacement cost~~, or for bodily injury, as a result of the activities of the foster child, and reasonable and necessary legal fees incurred in defense of civil claims filed pursuant to subsection 7, paragraph "d", and any judgments awarded as a result of such claims.

Sec. 2. Section 237.13, subsection 4, paragraph g, Code 1999, is amended by striking the paragraph.

Sec. 3. Section 237.13, subsection 4, paragraph h, Code 1999, is amended by striking the paragraph.

Sec. 4. Section 237.13, subsection 6, Code 1999, is amended to read as follows:

6. The fund is not liable for the first ~~seventy-five~~ one hundred dollars of any claim based on a single occurrence for all claims arising out of one or more occurrences during a fiscal year related to a single foster home. The fund is not liable for damages in excess of three hundred thousand dollars for a single foster home for all claims arising out of one or more occurrences during a ~~calendar~~ fiscal year related to a single home.

Sec. 5. TRANSITION TO FISCAL YEAR. The limit on foster home liability established in section 237.13, subsection 6, in effect for the calendar year beginning January 1, 1999, shall apply through June 30, 1999. This section of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 23, 1999

CHAPTER 56

ESTATES AND TRUSTS — MISCELLANEOUS ISSUES

H.F. 662

AN ACT relating to estate issues by modifying the warranty by a trustee, jurisdiction of the probate court, fees payable on certain trusts, notice provisions relating to claims against estates, and disclaimers made by beneficiaries.

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

Section 1. Section 614.14, subsection 4, paragraph b, Code 1999, is amended to read as follows:

b. That, to the knowledge of the trustee, the person creating the trust was under no disability or infirmity at the time the trust was created.

Sec. 2. Section 633.10, subsection 4, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. A trust that is administered solely or jointly by an individual trustee or trustees is not subject to the jurisdiction of the court unless jurisdiction is invoked by a trustee or beneficiary, or if otherwise provided by the governing instrument. Upon application of all trustees administering a trust which is subject to the court's jurisdiction, and following notice to beneficiaries as provided in section 633.40, subsection 4, the court shall release the trust from further jurisdiction unless one or more beneficiaries object, on the condition that jurisdiction may thereafter be invoked by a trustee or beneficiary. The provisions of this paragraph shall be effective for applications filed on or after July 1, 1997.

Sec. 3. Section 633.31, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The fee set forth in subsection 2, paragraph "k", shall not be charged on any property transferred to a testamentary trust from an estate that has been administered in this state and for which court costs have been assessed and paid.

Sec. 4. NEW SECTION. 633.357 CUSTODIAL INDIVIDUAL RETIREMENT ACCOUNTS.

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

a. "Custodial independent retirement account" means an individual retirement account in accordance with section 408(a) of the Internal Revenue Code or a Roth individual retirement account in accordance with section 408A of the Internal Revenue Code, the assets of which are not held in trust.

b. "Designator" means a person entitled to designate the beneficiary or beneficiaries of a custodial independent retirement account.

2. The assets of a custodial independent retirement account shall pass on or after the death of the designator of the custodial independent retirement account to the beneficiary or beneficiaries specified in the custodial independent retirement account agreement signed by the designator or designated by the designator in writing pursuant to the custodial independent retirement account agreement. Assets that pass to a beneficiary pursuant to this section shall not be considered part of the designator's probate estate except to the extent that the designator's estate is a beneficiary. The designation of a beneficiary shall not be considered testamentary and does not have to be witnessed.

3. This section applies to a custodial independent retirement account established and a beneficiary designation made prior to, on, or after the effective date of this Act. This section shall be considered to be declarative of the law as the law existed immediately prior to the effective date of this Act.

4. This section shall not be construed to imply that assets or benefits that are payable upon the death of a person to a beneficiary or beneficiaries designated in or pursuant to a written arrangement not described in this section, other than a will, are part of the person's probate estate or that the arrangement is testamentary.

Sec. 5. Section 633.440, Code 1999, is amended to read as follows:

633.440 CONTENTS OF NOTICE OF DISALLOWANCE.

Such a notice of disallowance shall advise the claimant that the claim has been disallowed and will be forever barred unless the claimant shall within twenty days after the date of mailing the notice, file a request for hearing on the claim with the clerk, and mail a copy of such request for hearing to the personal representative and the attorney of record, if any, by certified mail.

Sec. 6. Section 633.704, subsection 3, paragraph a, Code 1999, is amended to read as follows:

a. **PASSAGE OF DISCLAIMED INTEREST OR PROPERTY.** Unless the transferor has otherwise provided, the property, interest, or right disclaimed, and any future interest which is to take effect in possession or enjoyment at or after the termination of the interest or right disclaimed, descends or shall be distributed as if the disclaimant has died prior to the date of the transfer, or if the disclaimant is one designated to take pursuant to a power of appointment exercised by testamentary instrument, then as if the disclaimant has predeceased the donee of the power unless the donee of the power has otherwise provided. In every case, the disclaimer relates back for all purposes to the date of the transfer. ~~In the case of a disclaiming beneficiary under a will, other than a spouse, the property, interest, or right disclaimed passes to the heirs of the disclaimant unless from the terms of the transferor's will the intent is clear and explicit to the contrary, in which event the property, interest, or right disclaimed passes pursuant to the will.~~ In the case of a disclaimer under a will by a spouse the property, interest, or right disclaimed lapses unless from the terms of the transferor's will the intent is clear and explicit to the contrary.

Approved April 23, 1999

CHAPTER 57

DOMESTIC ABUSE PROTECTIVE ORDERS

H.F. 713

AN ACT relating to protective orders for domestic abuse.

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

Section 1. Section 236.5, subsection 2, paragraph e, unnumbered paragraph 2, Code 1999, is amended to read as follows:

An order for counseling, a protection order, or approved consent agreement shall be for a fixed period of time not to exceed one year. The court may amend or extend its order or a consent agreement at any time upon a petition filed by either party and after notice and hearing. The court may extend the order if the court, after hearing, at which the defendant has the opportunity to be heard, finds that the defendant continues to pose a threat to the safety of the victim, persons residing with the victim, or members of the victim's immediate family. At the time of the extension, the parties need not meet the requirement in section 236.2, subsection 2, paragraph "d", that the parties lived together during the last year if the parties met the requirements of section 236.2, subsection 2, paragraph "d", at the time of the original order. The number of extensions that can be granted by the court is not limited.

Sec. 2. Section 236.19, subsection 2, Code 1999, is amended to read as follows:

2. A copy of a permanent foreign protective order authenticated in accordance with the statutes of this state may be filed with the clerk of the district court ~~of the~~ in any county in which the person in whose favor the order was entered ~~resides~~ may be present. The clerk shall provide copies of the order as required by section 236.5.

Approved April 23, 1999

CHAPTER 58

ILLEGAL TAKING OF SWANS OR CRANES — DAMAGES

S.F. 67

AN ACT relating to the assessment of civil damages for the illegal taking of a swan or a crane.

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

Section 1. Section 481A.130, subsection 1, paragraph h, Code 1999, is amended to read as follows:

h. For each deer, except as provided in paragraph "g", and for each swan or crane, one thousand five hundred dollars.

Approved April 23, 1999

CHAPTER 59

SALES AND USE TAX EXEMPTION ON RURAL WATER DISTRICT BUILDING MATERIALS, SUPPLIES, OR EQUIPMENT

S.F. 9

AN ACT relating to the exemption of the sales and use tax on building materials, supplies, or equipment of certain rural water districts, and providing retroactive applicability and effective dates.

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

Section 1. Section 422.45, Code 1999, is amended by adding the following new subsection: **NEW SUBSECTION. 7B.** The gross receipts from the sale of building materials, supplies, or equipment sold to rural water districts organized under chapter 504A as provided in chapter 357A and used for the construction of facilities of a rural water district.

Sec. 2. **APPLICABILITY AND EFFECTIVE DATES.**

1. This Act applies retroactively to July 1, 1998, for sales made or uses occurring on or after that date.

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

Approved April 26, 1999

CHAPTER 60

DRUG AND ALCOHOL TESTING — PRIVATE SECTOR EMPLOYMENT

S.F. 115

AN ACT relating to alcohol testing of private sector employees and prospective employees and providing an effective date.

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

Section 1. Section 730.5, subsection 7, paragraph b, Code 1999, is amended to read as follows:

b. Sample collection for testing of current employees, except for the collection of a sample for alcohol testing conducted pursuant to paragraph "f", subparagraph (2), shall be performed so that the specimen is split into two components at the time of collection in the presence of the individual from whom the sample or specimen is collected. The second portion of the specimen or sample shall be of sufficient quantity to permit a second, independent confirmatory test as provided in paragraph "i". If the specimen is urine, the sample shall be split such that the primary sample contains at least thirty milliliters and the secondary sample contains at least fifteen milliliters. Both portions of the sample shall be forwarded to the laboratory conducting the initial confirmatory testing. In addition to any requirements for storage of the initial sample that may be imposed upon the laboratory as a condition for certification or approval, the laboratory shall store the second portion of any sample until receipt of a confirmed negative test result or for a period of at least forty-five calendar days following the completion of the initial confirmatory testing, if the first portion yielded a confirmed positive test result.

Sec. 2. Section 730.5, subsection 7, paragraph c, subparagraph (1), Code 1999, is amended to read as follows:

(1) ~~Samples, except for samples collected for alcohol testing conducted pursuant to paragraph "f", subparagraph (2), shall be labeled so as to reasonably preclude the possibility of misidentification of the person tested in relation to the test result provided, and samples shall be handled and tracked in a manner such that control and accountability are maintained from initial collection to each stage in handling, testing, and storage, through final disposition.~~

Sec. 3. Section 730.5, subsection 7, paragraph f, Code 1999, is amended to read as follows:

f. Drug or alcohol testing shall include confirmation of any initial positive test results. ~~For drug or alcohol testing, confirmation shall be by use of a different chemical process than was used in the initial screen for drugs or alcohol. The confirmatory drug or alcohol test shall be a chromatographic technique such as gas chromatography or mass spectrometry, or another comparably reliable analytical method.~~ An employer may take adverse employment action, including refusal to hire a prospective employee, based on a confirmed positive drug or alcohol test.

(1) ~~For drug or alcohol testing, except for alcohol testing conducted pursuant to subparagraph (2), confirmation shall be by use of a different chemical process than was used in the initial screen for drugs or alcohol. The confirmatory drug or alcohol test shall be a chromatographic technique such as gas chromatography/mass spectrometry, or another comparably reliable analytical method.~~

(2) ~~Notwithstanding any provision of this section to the contrary, alcohol testing, including initial and confirmatory testing, may be conducted pursuant to requirements established by the employer's written policy. The written policy shall include requirements governing evidential breath testing devices, alcohol screening devices, and the qualifications for personnel administering initial and confirmatory testing, which shall be consistent with regulations adopted as of January 1, 1999, by the United States department of transportation governing alcohol testing required to be conducted pursuant to the federal Omnibus Transportation Employee Testing Act of 1991.~~

Sec. 4. Section 730.5, subsection 7, paragraph g, Code 1999, is amended to read as follows:

g. A medical review officer shall, prior to the results being reported to an employer, review and interpret any confirmed positive test results, including both quantitative and qualitative test results, to ensure that the chain of custody is complete and sufficient on its face and that any information provided by the individual pursuant to paragraph "c", subparagraph (2), is considered. ~~However, this paragraph shall not apply to alcohol testing conducted pursuant to paragraph "f", subparagraph (2).~~

Sec. 5. Section 730.5, subsection 9, paragraph c, subparagraph (2), Code 1999, is amended to read as follows:

(2) If an employer does not have an employee assistance program, the employer must maintain a resource file of ~~employee assistance services providers~~, alcohol and other drug abuse programs certified by the Iowa department of public health, mental health providers, and other persons, entities, or organizations available to assist employees with personal or behavioral problems. The employer shall provide all employees information about the existence of the resource file and a summary of the information contained within the resource file. The summary should contain, but need not be limited to, all information necessary to access the services listed in the resource file. ~~In addition, the employer shall post in conspicuous places a listing of multiple employee assistance providers in the area.~~

Sec. 6. Section 730.5, subsection 9, paragraph g, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Upon receipt of a confirmed positive alcohol test which indicates an alcohol concentration greater than the concentration level established by the employer pursuant to this section ~~but less than the concentration level in section 321J.2 for operating while under the influence of alcohol~~, and if the employer has at least fifty employees, and if the employee has been employed by the employer for at least twelve of the preceding eighteen months, and if rehabilitation is agreed upon by the employee, and if the employee has not previously violated the employer's substance abuse prevention policy pursuant to this section, the written policy shall provide for the rehabilitation of the employee pursuant to subsection 10, paragraph "a", subparagraph (1), and the apportionment of the costs of rehabilitation as provided by this paragraph.

Sec. 7. Section 730.5, subsection 9, paragraph h, Code 1999, is amended to read as follows:

h. In order to conduct drug or alcohol testing under this section, an employer shall require supervisory personnel of the employer involved with drug or alcohol testing under this section to attend a minimum of two hours of initial training and to attend, on an annual basis thereafter, a minimum of one hour of subsequent training. The training shall include, but is not limited to, information concerning the recognition of evidence of employee alcohol and other drug abuse, the documentation and corroboration of employee alcohol and other drug abuse, and the referral of employees who abuse alcohol or other drugs to the employee assistance program or to the resource file ~~of employee assistance services providers maintained by the employer pursuant to paragraph "c", subparagraph (2).~~

Sec. 8. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 26, 1999

CHAPTER 61

COMMITMENT OF SEXUALLY VIOLENT PREDATORS

S.F. 216

AN ACT relating to the commitment of sexually violent predators, by changing the deadline for filing a petition by the attorney general; providing for waiver or continuance of the probable cause hearing; granting greater enforcement power to the prosecuting attorney; extending the time to hold a trial; establishing supervised release for sexually violent persons who have been rehabilitated; providing for the preservation of certain child abuse reports; providing the department of justice with access to such reports; and providing an effective date.

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

Section 1. Section 229A.2, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 1A. "Appropriate secure facility" means a state facility that is designed to confine but not necessarily to treat a sexually violent predator.

Sec. 2. Section 229A.4, subsection 1, Code 1999, is amended to read as follows:

1. If it appears that a person presently confined may be a sexually violent predator and the prosecutor's review committee has determined that the person meets the definition of a sexually violent predator, the attorney general may file a petition, ~~within seventy-five days of the date the attorney general received the written notice by the agency of jurisdiction pursuant to section 229A.3,~~ alleging that the person is a sexually violent predator and stating sufficient facts to support such an allegation.

Sec. 3. Section 229A.5, subsection 2, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Within seventy-two hours after being taken into custody or being transferred to an appropriate secure facility, a hearing shall be held to determine whether probable cause exists to believe the detained person is a sexually violent predator. The hearing may be waived by the respondent. The hearing may be continued upon the request of either party and a showing of good cause, or by the court on its own motion in the due administration of justice, and if the respondent is not substantially prejudiced. At the probable cause hearing, the detained person shall have the following rights:

Sec. 4. Section 229A.5, subsection 5, Code 1999, is amended to read as follows:

5. If the court determines that probable cause does exist, the court shall direct that the respondent be transferred to an appropriate secure facility, ~~including, but not limited to, a county jail,~~ for an evaluation as to whether the respondent is a sexually violent predator. The evaluation shall be conducted by a person deemed to be professionally qualified to conduct such an examination.

Sec. 5. NEW SECTION. 229A.5A POWERS OF INVESTIGATIVE PERSONNEL BEFORE A PETITION IS FILED.

1. The prosecuting attorney or attorney general is authorized upon the occurrence of a recent overt act, or upon receiving written notice pursuant to section 229A.3, or before the filing of a petition under this chapter, to subpoena and compel the attendance of witnesses, examine the witnesses under oath, and require the production of documentary evidence for inspection, reproduction, or copying. Except as otherwise provided by this section, the prosecuting attorney or attorney general shall have the same powers and limitations, subject to judicial oversight and enforcement, as provided by this chapter and by the Iowa rules of civil procedure. Any person compelled to appear under a demand for oral testimony under this section may be accompanied, represented, and advised by counsel at their own expense.

2. The examination of all witnesses under this section shall be conducted by the prosecuting attorney or attorney general before an officer authorized to administer oaths under section 63A.1. The testimony shall be taken by a certified shorthand reporter or by a sound recording device and shall be transcribed or otherwise preserved in the same manner as provided for the preservation of depositions under the Iowa rules of civil procedure. The prosecuting attorney or attorney general may exclude from the examination all persons except the witness, witness's counsel, the officer before whom the testimony is to be taken, law enforcement officials, and a certified shorthand reporter. Prior to oral examination, the person shall be advised by the prosecuting attorney or attorney general of the person's right to refuse to answer any questions on the basis of the privilege against self-incrimination. The examination shall be conducted in a manner consistent with the rules dealing with the taking of depositions.

Sec. 6. Section 229A.7, subsection 2, Code 1999, is amended to read as follows:

2. Within ~~sixty~~ ninety days after either the entry of the order waiving the probable cause hearing or completion of the probable cause hearing held pursuant to under section 229A.5, the court shall conduct a trial to determine whether the respondent is a sexually violent predator. The trial may be continued upon the request of either party and a showing of good

cause, or by the court on its own motion in the due administration of justice, and when the respondent will not be substantially prejudiced. The respondent, the attorney general, or the judge shall have the right to demand that the trial be before a jury. Such demand for the trial to be before a jury shall be filed, in writing, at least ~~four~~ ten days prior to trial. The number and selection of jurors shall be determined as provided in chapter 607A. If no demand is made, the trial shall be before the court.

Sec. 7. Section 229A.7, subsection 5, Code 1999, is amended to read as follows:

5. If the court or jury is not satisfied beyond a reasonable doubt that the respondent is a sexually violent predator, the court shall direct the respondent's release. Upon a mistrial, the court shall direct that the respondent be held at an appropriate secure facility, ~~including, but not limited to, a county jail,~~ until another trial is conducted. Any subsequent trial following a mistrial shall be held within ninety days of the previous trial, unless such subsequent trial is continued as provided in subsection 1.

Sec. 8. Section 229A.10, Code 1999, is amended to read as follows:

229A.10 PETITION FOR DISCHARGE — PROCEDURE.

1. If the director of human services determines that the person's mental abnormality has so changed that the person is not likely to commit predatory acts or sexually violent offenses if discharged, the director shall authorize the person to petition the court for discharge. The petition shall be served upon the court and the attorney general. The court, upon receipt of the petition for discharge, shall order a hearing within thirty days. The attorney general shall represent the state, and shall have the right to have the petitioner examined by an expert or professional person of the attorney general's choice. The hearing shall be before a jury if demanded by either the petitioner or the attorney general. The burden of proof shall be upon the attorney general to show beyond a reasonable doubt that the petitioner's mental abnormality or personality disorder remains such that the petitioner is not safe to be at large and that if discharged is likely to commit predatory acts or sexually violent offenses.

2. Upon a finding that the state has failed to meet its burden of proof under this section, or a stipulation by the state, the court shall authorize the release of the committed person. Release may be ordered with or without supervision. If supervised release is ordered, the department of human services shall prepare a plan addressing the person's needs for counseling, medication, community support services, residential services, vocational services, alcohol and other drug abuse treatment, and any other treatment or supervision necessary. If the court orders the release of the committed person with supervision, the court shall order supervision by an agency with jurisdiction that is familiar with the placement of criminal offenders in the community.

Sec. 9. Section 229A.12, Code 1999, is amended to read as follows:

229A.12 DIRECTOR OF HUMAN SERVICES — RESPONSIBILITY FOR COSTS — DUTIES — REIMBURSEMENT.

The director of human services shall be responsible for all costs relating to the evaluation ~~and, treatment of, and services provided to~~ persons committed to the director's custody after the court or jury determines that the respondent is a sexually violent predator and pursuant to commitment under any provision of this chapter. If supervision is ordered pursuant to section 229A.10, the director shall also be responsible for all costs related to the supervision of any person. Reimbursement may be obtained by the director from the patient and any person legally liable or bound by contract for the support of the patient for the cost of care and treatment provided. As used in this section, "any person legally liable" does not include a political subdivision.

Sec. 10. Section 235A.15, subsection 2, paragraph d, Code 1999, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (6) To the department of justice for purposes of review by the prosecutor's review committee or the commitment of sexually violent predators as provided in chapter 229A.

Sec. 11. Section 235A.15, subsection 3, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. The department of justice for purposes of review by the prosecutor's review committee or the commitment of sexually violent predators as provided in chapter 229A.

Sec. 12. Section 235A.15, subsection 4, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. The department of justice for purposes of review by the prosecutor's review committee or the commitment of sexually violent predators as provided in chapter 229A.

Sec. 13. Section 235A.18, subsection 1, paragraphs a and b, Code 1999, are amended to read as follows:

a. Report and disposition data relating to a particular case of alleged child abuse shall be sealed ten years after the initial placement of the data in the registry unless good cause be shown why the data should remain open to authorized access. If a subsequent report of an alleged case of child abuse involving the child named in the initial data placed in the registry as the victim of abuse or a person named in the data as having abused a child is received by the department within this ten-year period, the data shall be sealed ten years after receipt of the subsequent report unless good cause be shown why the data should remain open to authorized access. However, such report and disposition data shall be made available to the department of justice if the department requests access to the alleged child abuse records for purposes of review by the prosecutor's review committee or commitment of sexually violent predators under chapter 229A.

b. Data sealed in accordance with this section shall be expunged eight years after the date the data was sealed. However, if the report data and the disposition data involve child abuse as defined in section 232.68, subsection 2, paragraphs "c" and "e", the data shall not be expunged for a period of thirty years. Sealed data shall be made available to the department of justice upon request if the prosecutor's review committee is reviewing records or if a prosecuting attorney has filed a petition to commit a sexually violent predator under chapter 229A.

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

Approved April 26, 1999

CHAPTER 62**SALES AND USE TAX EXEMPTION FOR HOSPICES**

S.F. 231

AN ACT providing a sales and use tax exemption for hospices.

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

Section 1. Section 422.45, Code 1999, is amended by adding the following new subsection: **NEW SUBSECTION.** 54A. The gross receipts from the sale or rental of tangible personal property or from services performed, rendered, or furnished to a freestanding nonprofit hospice facility which operates a hospice program as defined in 42 C.F.R., ch. IV, § 418.3, which property or services are to be used in the hospice program.

Approved April 26, 1999

CHAPTER 63**TELECOMMUNICATIONS — CITY UTILITIES**

S.F. 392

AN ACT relating to telecommunications systems or services which may be provided by a city utility, establishing certain requirements on such city, and including effective date and retroactive applicability provisions.

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

Section 1. **LEGISLATIVE INTENT.** It is the intent of the general assembly to specifically provide that cities of Iowa which create city utilities in the manner provided by law are authorized to provide on a competitively neutral basis with existing local exchange carriers separate or combined cable communications or television, telephone, telecommunications systems or services, including wireless systems or services, through the ownership of systems or offering of the services.

Sec. 2. Section 362.2, subsection 6, Code 1999, is amended to read as follows:

6. "City utility" means all or part of a waterworks, gasworks, sanitary sewage system, storm water drainage system, electric light and power plant and system, heating plant, cable communication or television system, telephone or telecommunications systems or services offered separately or combined with any system or service specified in this subsection or authorized by other law, any of which are owned by a city, including all land, easements, rights of way, fixtures, equipment, accessories, improvements, appurtenances, and other property necessary or useful for the operation of the utility.

Sec. 3. **NEW SECTION.** 388.9 **COMPETITIVE INFORMATION.**

1. Notwithstanding section 21.5, subsection 1, the governing body of a city utility or combined utility system, or a city enterprise or combined city enterprise as defined in section 384.80, by a vote of two-thirds of the members of the body or all of the members present at the meeting, may hold a closed session to discuss marketing and pricing strategies or proprietary information if its competitive position would be harmed by public disclosure not

required of potential or actual competitors, and if no public purpose would be served by such disclosure. The minutes and a tape recording of a session closed under this subsection shall be available for public examination at that point in time when the public disclosure would no longer harm the utility's competitive position.

2. Notwithstanding section 22.2, subsection 1, public records of a city utility or combined utility system, or a city enterprise or combined city enterprise as defined in section 384.80, which shall not be examined or copied as of right, include proprietary information, records of customer names and accounts, records associated with marketing or pricing strategies, preliminary working papers, spreadsheet scenarios, and cost data, if the competitive position of the city utility, combined utility system, city enterprise, or combined city enterprise would be harmed by public disclosure not required of a potential or actual competitor, and if no public purpose would be served by such disclosure. A public record not subject to examination or copying under this subsection shall be available for public examination and copying at that point in time when public disclosure would no longer harm the competitive position of the city utility, combined utility system, city enterprise, or combined city enterprise.

Sec. 4. NEW SECTION. 388.10 MUNICIPAL UTILITY PROVIDING LOCAL EXCHANGE SERVICES.

1. a. A city that owns or operates a municipal utility providing local exchange services pursuant to chapter 476 or the municipal utility shall not do, directly or indirectly, any of the following:

(1) Use general fund moneys for the ongoing support or subsidy of a telecommunications system.

(2) Provide any city facilities, equipment, or services to provide telecommunications systems or services at a cost for such facilities, equipment, or services which is less than the reasonable cost of providing such city facilities, equipment, or services.

(3) Provide any other city service, other than a communications service, to a telecommunications customer at a cost which is less than would be paid by the same person receiving such other city service if the person was not a telecommunications customer.

(4) Use funds or revenue generated from electric, gas, water, sewage, or garbage services provided by the city for the ongoing support of that portion of a system or service used to provide local exchange services.

b. For purposes of this section, "telecommunications system" means only that portion of a system or facilities which is used to provide local exchange services.

2. A city that owns or operates a municipal utility providing local exchange services pursuant to chapter 476 or the municipal utility shall do the following:

a. Prepare and maintain records which record the full cost accounting of providing local exchange service. The records shall show the amount and source of capital for initial construction or acquisition of the local exchange system or facilities. This section shall not prohibit a municipal utility from utilizing capital from any lawful source, provided that the reasonable cost of such capital is accounted for as a cost of providing the service.

b. Adopt rates for the provision of local exchange services that reflect the actual cost of providing the local exchange service. However, this paragraph shall not prohibit the municipal utility from establishing market-based prices for competitive local exchange services.

c. Be subject to all requirements of the city which would apply to any other provider of local exchange services in the same manner as such requirements would apply to such other provider.

3. This section shall not prohibit the marketing or bundling of other products or services, in addition to local exchange services. However, a city shall include on a billing statement sent to a person receiving services from the city, a separate charge for each service provided to the person. This subsection does not prohibit the city from also including on the billing statement a total amount to be paid by the person.

Sec. 5. Section 427.1, subsection 2, Code 1999, is amended to read as follows:

2. MUNICIPAL AND MILITARY PROPERTY. The property of a county, township, city, school corporation, levee district, drainage district or military company of the state of Iowa, when devoted to public use and not held for pecuniary profit, except property of a municipally owned electric utility held under joint ownership and property of an electric power facility financed under chapter 28F which shall be subject to taxation under chapter 437A and facilities of a municipal utility that are used for the provision of local exchange services pursuant to chapter 476, but only to the extent such facilities are used to provide such services, which shall be subject to taxation under chapter 433, except that section 433.11 shall not apply. The exemption for property owned by a city or county also applies to property which is operated by a city or county as a library, art gallery or museum, conservatory, botanical garden or display, observatory or science museum, or as a location for holding athletic contests, sports or entertainment events, expositions, meetings or conventions, or leased from the city or county for any such purposes. Food and beverages may be served at the events or locations without affecting the exemptions, provided the city has approved the serving of food and beverages on the property if the property is owned by the city or the county has approved the serving of food and beverages on the property if the property is owned by the county.

Sec. 6. Section 433.12, Code 1999, is amended to read as follows:

433.12 "COMPANY" DEFINED.

"Company" as used in this chapter means any person, copartnership, association, corporation, or syndicate that owns or operates, or is engaged in operating, any telegraph or telephone line, whether formed or organized under the laws of this state or elsewhere. "Company" includes a city that owns or operates a municipal utility providing local exchange services pursuant to chapter 476.

Sec. 7. Section 476.1B, subsection 3, Code 1999, is amended to read as follows:

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, 476.100, 476.101, and 476.102.

Sec. 8. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY. This Act, being deemed of immediate importance, takes effect upon enactment, and applies retroactively to July 1, 1993. City elections held after June 30, 1993, for the purpose of voting on the question of offering communications or telecommunications systems or services offered separately or combined with any system or service specified under section 362.2, subsection 6, are deemed to have been held in accordance with this Act and are valid for the purpose of offering such systems or services. Actions of the utilities board taken in reliance on the results of the city elections held as specified in this section are deemed to have been taken in accordance with this Act and are valid. Financing measures taken by a city prior to January 1, 1999, are not a violation of this Act.

Approved April 26, 1999

CHAPTER 64**ASSAULTS ON JAILERS OR CORRECTIONAL STAFF**

H.F. 386

AN ACT relating to increasing the penalties for an assault on a jailer or correctional staff.

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

Section 1. Section 708.3A, Code 1999, is amended to read as follows:

708.3A ASSAULTS ON PEACE OFFICERS, JAILERS, CORRECTIONAL STAFF, FIRE FIGHTERS, AND HEALTH CARE PROVIDERS.

1. A person who commits an assault, as defined in section 708.1, against a peace officer, jailer, correctional staff, health care provider, or fire fighter, whether paid or volunteer, with the knowledge that the person against whom the assault is committed is a peace officer, jailer, correctional staff, health care provider, or fire fighter and with the intent to inflict a serious injury upon the peace officer, jailer, correctional staff, health care provider, or fire fighter, is guilty of a class "D" felony.

2. A person who commits an assault, as defined in section 708.1, against a peace officer, jailer, correctional staff, health care provider, or fire fighter, whether paid or volunteer, who knows that the person against whom the assault is committed is a peace officer, jailer, correctional staff, health care provider, or fire fighter and who uses or displays a dangerous weapon in connection with the assault, is guilty of a class "D" felony.

3. A person who commits an assault, as defined in section 708.1, against a peace officer, jailer, correctional staff, health care provider, or fire fighter, whether paid or volunteer, who knows that the person against whom the assault is committed is a peace officer, jailer, correctional staff, health care provider, or fire fighter, and who causes bodily injury or mental illness, is guilty of an aggravated misdemeanor.

4. Any other assault, as defined in section 708.1, committed against a peace officer, jailer, correctional staff, health care provider, or fire fighter, whether paid or volunteer, by a person who knows that the person against whom the assault is committed is a peace officer, jailer, correctional staff, health care provider, or fire fighter, is a serious misdemeanor.

5. As used in this section, "health care provider" means an emergency medical care provider as defined in chapter 147A or a person licensed or registered under chapter 148, 148C, 148D, 150, 150A, or 152 who is providing or who is attempting to provide emergency medical services, as defined in section 147A.1, or who is providing or who is attempting to provide health services as defined in section 135.61 in a hospital. A person who commits an assault under this section against a health care provider in a hospital, or at the scene or during out-of-hospital patient transportation in an ambulance, is presumed to know that the person against whom the assault is committed is a health care provider.

6. As used in this section, "correctional staff" means a person who is not a peace officer but who is employed by the department of corrections or a judicial district department of correctional services to work at or in a correctional institution, community-based correctional facility, or an institution under the management of the Iowa department of corrections which is used for the purposes of confinement of persons who have committed public offenses.

7. As used in this section, "jailer" means a person who is employed by a county or other political subdivision of the state to work at a county jail or other facility used for purposes of the confinement of persons who have committed public offenses, but who is not a peace officer.

Approved April 26, 1999

CHAPTER 65**FELONY PENALTIES AND DEFINITIONS — ASSAULT AND WILLFUL INJURY***H.F. 501*

AN ACT relating to the definitions and penalties applicable to conviction of certain felonies, by making changes related to the offenses of assault and willful injury and making changes in the mandatory minimum penalties for certain felony offenses.

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

Section 1. Section 124.401, subsection 1, paragraph d, Code 1999, is amended to read as follows:

d. Violation of this subsection, with respect to any other controlled substances, counterfeit substances, or simulated controlled substances classified in schedule IV or V is an aggravated misdemeanor. However, violation of this subsection involving fifty kilograms or less of marijuana is a class “D” felony, ~~and in addition to the provisions of section 902.9, subsection 4, shall be punished by a fine of not less than one thousand dollars nor more than seven thousand five hundred dollars.~~

Sec. 2. Section 702.11, Code 1999, is amended to read as follows:

702.11 FORCIBLE FELONY.

1. A “forcible felony” is any felonious child endangerment, assault, murder, sexual abuse, kidnapping, robbery, arson in the first degree, or burglary in the first degree. ~~However, sexual~~

2. Notwithstanding subsection 1, the following offenses are not forcible felonies:

a. Willful injury in violation of section 708.4, subsection 2.

b. ~~Sexual~~ abuse in the third degree committed between spouses, ~~sexual,~~

c. ~~Sexual~~ abuse in violation of section 709.4, subsection 2, paragraph “c”, subparagraph (4), ~~or sexual,~~

d. ~~Sexual~~ exploitation by a counselor or therapist in violation of section 709.15, ~~is not a “forcible felony”.~~

Sec. 3. Section 708.2, Code 1999, is amended by adding the following new subsection: NEW SUBSECTION. 3A. A person who commits an assault, as defined in section 708.1, and who causes serious injury, is guilty of a class “D” felony.

Sec. 4. Section 708.2A, subsection 6, paragraph b, Code 1999, is amended to read as follows:

b. A person convicted of violating subsection 4 shall be sentenced as provided under section 902.9, subsection 4, ~~committed to the custody of the director of the department of corrections, and shall be assessed a fine of at least seven hundred fifty dollars. The person and shall be denied parole or work release until the person has served a minimum of one year of the person’s sentence. Notwithstanding section 901.5, subsection 3, and section 907.3, subsection 3, the person cannot receive a suspended or deferred sentence or a deferred judgment; however, the person sentenced shall receive credit for any time the person was confined in a jail or detention facility following arrest.~~

Sec. 5. Section 708.4, Code 1999, is amended to read as follows:

708.4 WILLFUL INJURY.

Any person who does an act which is not justified and which is intended to cause ~~and does cause~~ serious injury to another commits a the following:

1. A class “C” felony, if the person causes serious injury to another.

2. A class “D” felony, if the person causes bodily injury to another.

Sec. 6. Section 902.9, subsection 3, Code 1999, is amended to read as follows:

3. A class "C" felon, not an habitual offender, shall be confined for no more than ten years, and in addition ~~may~~ shall be sentenced to a fine of at least ~~five hundred~~ one thousand dollars but not more than ten thousand dollars.

Sec. 7. Section 902.9, subsection 4, Code 1999, is amended to read as follows:

4. A class "D" felon, not an habitual offender, shall be confined for no more than five years, and in addition ~~may~~ shall be sentenced to a fine of at least ~~five~~ seven hundred ~~fifty~~ dollars but not more than seven thousand five hundred dollars. A class "D" felon, such felony being for a violation of section 321J.2, may be sentenced to imprisonment for up to one year in the county jail.

Approved April 26, 1999

CHAPTER 66

IOWA AGRICULTURAL INDUSTRY FINANCE ACT — MISCELLANEOUS PROVISIONS

H.F. 676

AN ACT amending provisions in the Iowa agricultural industry finance Act.

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

Section 1. Section 15E.205, subsection 1, paragraph a, Code 1999, is amended to read as follows:

a. ~~At Agricultural producers must hold at least fifty-one percent of the corporation's common stock must be held by agricultural producers. At and at least fifty-one percent of the corporation's voting stock must be held by agricultural producers. The status of an agricultural producer shall be determined at the time of the transfer of stock from the corporation to the shareholder in a manner and as provided in the corporation's articles of incorporation or bylaws.~~

Sec. 2. Section 15E.208, subsection 5, paragraph d, subparagraph (5), unnumbered paragraph 1, Code 1999, is amended to read as follows:

The execution of an agreement between the corporation and an eligible recipient as required by the department as a condition of providing financing, in which the eligible recipient agrees to become a shareholder in the corporation. If the eligible recipient is an agricultural producer as provided in section 15E.209, the agreement shall ~~not be executed unless the agricultural producer holds~~ provide that the agricultural producer becomes a shareholder of voting common stock in the corporation equal to at least five percent of the financing provided to the agricultural producer pursuant to the agreement. The agreement shall be for a period of not less than ten years. An agreement shall at least provide all of the following:

Approved April 26, 1999

CHAPTER 67

ACCOMMODATION OFFENSES — MARIJUANA

H.F. 705

AN ACT to change the penalties for the criminal offense of accommodation involving marijuana.

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

Section 1. Section 124.410, Code 1999, is amended to read as follows:
124.410 ACCOMMODATION OFFENSE.

In a prosecution for unlawful delivery or possession with intent to deliver marijuana, if the prosecution proves that the defendant violated the provisions of section 124.401, subsection 1, by proving that the defendant delivered or possessed with intent to deliver ~~one~~ one-half ounce or less of marijuana which was not offered for sale, the defendant is guilty of an accommodation offense and rather than being sentenced as if convicted for a violation of section 124.401, subsection 1, paragraph "d", shall be sentenced as if convicted of a violation of section 124.401, subsection 5. An accommodation offense may be proved as an included offense under a charge of delivering or possessing with the intent to deliver marijuana in violation of section 124.401, subsection 1. This section does not apply to hashish, hashish oil, or other derivatives of marijuana as defined in section 124.101, subsection 17.

Approved April 26, 1999

CHAPTER 68

REGULATION OF WORKER AND PUBLIC SAFETY AND PROTECTION

S.F. 146

AN ACT relating to worker and public safety and protection laws administered by the labor services division of Iowa workforce development.

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

Section 1. Section 84A.5, subsection 3, Code 1999, is amended to read as follows:

3. The division of labor services is responsible for the administration of the laws of this state ~~relating to occupational health and safety, the inspection of amusement rides, the removal and encapsulation of asbestos, the inspection of boilers, wage payment collection, registration of construction contractors, the minimum wage, non-English speaking employees, child labor, employment agency licensing, boxing and wrestling, inspection of elevators, and hazardous chemical risks under chapters 88, 88A, 88B, 89, 89A, 89B, 90A, 91, 91A, 91C, 91D, 91E, 92, 94, and 95, and sections 30.7 and 85.68.~~ The executive head of the division is the labor commissioner, appointed pursuant to section 91.2.

Sec. 2. Section 88.3, subsection 2, Code 1999, is amended to read as follows:

2. "Commissioner" means the labor commissioner appointed pursuant to section 91.2, or the commissioner's designee.

Sec. 3. Section 88.8, subsections 1 and 2, Code 1999, are amended to read as follows:

1. POSTINSPECTION PENALTY NOTICE. If, after an inspection or an investigation, the commissioner issues a citation under section 88.7, the commissioner shall, within a

reasonable time after the termination of ~~such the~~ inspection or investigation, notify the employer by service in the same manner as an original notice or by certified mail of the penalty, if any, proposed to be assessed under section 88.14 and that the employer has fifteen working days within which to notify the commissioner that the employer wishes to contest the citation or proposed assessment of penalties. If, within fifteen working days from the receipt of the notice issued by the commissioner, the employer fails to notify the commissioner that the employer intends to contest the citation or proposed assessment of penalty, and no notice is filed by any employees or authorized employee representative under subsection 3 of this section within ~~such the~~ time specified, the citation and the assessment, as proposed, shall be deemed a final order of the appeal board and not subject to review by any court or agency.

2. NONCOMPLIANCE NOTICE. If the commissioner has reason to believe that an employer has failed to correct the violation for which a citation has been issued within the period permitted for its correction (which period shall not begin to run until the entry of a final order by the appeal board in the case of any review proceedings under this section initiated by the employer in good faith and not solely for delay or avoidance of penalties), the commissioner shall notify the employer by service in the same manner as an original notice or by certified mail of the failure and of the penalty proposed to be assessed under section 88.14 by reason of the failure, and that the employer has fifteen working days within which to notify the commissioner that the employer wishes to contest the commissioner's notification or the proposed assessment of penalty. If, within fifteen working days from the receipt of notification issued by the commissioner, the employer fails to notify the commissioner that the employer intends to contest the notification or proposed assessment of penalty, the notification and assessment, as proposed, shall be deemed the final order of the appeal board and not subject to review by any court or agency.

Sec. 4. Section 89A.1, subsections 5 and 11, Code 1999, are amended to read as follows:

5. "Dormant facility" means an a facility whose power feed lines have been disconnected from the mainline disconnect switch and is one of the following:

a. An electric elevator, material lift, or dumbwaiter whose cables suspension ropes have been removed, whose car and counterweight rest at the bottom of the shaftway hoistway, and whose shaftway hoistway doors are have been permanently boarded up or barricaded such that entry into the shaft through each door or other entryway is substantially precluded, or an or sealed in the closed position on the hoistway side.

b. A hydraulic elevator, material lift, or dumbwaiter whose car rests at the bottom of the hoistway, whose pressure piping has been disassembled and a section removed from the premises; whose hoistway doors have been permanently barricaded or sealed in the closed position on the hoistway side; and, if provided, whose suspension ropes have been removed and the counterweights landed at the bottom of the hoistway.

c. An escalator, or moving walk, or lift, the main power feed lines of which have been disconnected, and the top and bottom whose entrances of which have been permanently boarded up or barricaded.

d. A rack and pinion or screw column facility, whose motor has been removed, platform lowered to the bottom, and entrances barricaded.

11. "Inclined or vertical wheelchair lift" means a lift used as part of an accessible route in or at a public building as specified in the American ~~national standard~~ society of mechanical engineers safety code codes for elevators and escalators, A17.1.

Sec. 5. Section 89A.3, subsection 2, Code 1999, is amended to read as follows:

2. ~~Insofar as applicable, rules adopted for facilities installed after January 1, 1975, shall be based on the American National Standard Safety Code for Elevators, Dumbwaiters, Escalators, and Moving Walks, and supplements to the Code, A17.1. The commissioner shall adopt rules for facilities installed prior to January 1, 1975, according to the applicable provisions of such the American National Standard Safety Code society of mechanical~~

~~engineers safety codes for elevators and escalators, A17.1 and A17.3, as the commissioner deems necessary. In adopting rules the commissioner may adopt the American National Standard Safety Code society of mechanical engineers safety codes, or any part of the Code codes, by reference.~~

The commissioner may adopt rules permitting existing passenger and freight elevators to be modified into material lift elevators.

Sec. 6. Section 89A.3, subsection 3, Code 1999, is amended by striking the subsection and inserting in lieu thereof the following:

3. A rule adopted pursuant to this section which adopts standards by reference to another publication shall be exempt from the requirements of section 17A.6, subsection 4, if the following conditions exist:

- a. The cost of the publication is an unreasonable expense when compared to the anticipated usage of the publication.
- b. A copy of the publication is available from an entity located within the state capitol complex.
- c. The rule identifies the location where the publication is available.
- d. The administrative rules coordinator approves the exemption.

Sec. 7. Section 89A.5, Code 1999, is amended to read as follows:
89A.5 REGISTRATION OF FACILITIES.

~~Within three months after the date of adoption of rules under this chapter relating to registration of facilities, the~~ The owner of every existing facility, whether or not dormant, shall register ~~each such~~ the facility with the commissioner, giving type, contract load and speed, name of manufacturer, its location and the purpose for which it is used, and ~~such~~ other information as the commissioner may require. Registration shall be made ~~on a form to be furnished in a format required~~ by the division ~~upon request~~. ~~Facilities the construction of which is commenced subsequent to the date of adoption of those rules shall be registered in the manner prescribed by the commissioner.~~

Sec. 8. Section 89A.6, subsection 5, Code 1999, is amended to read as follows:

5. A report of every inspection shall be filed with the commissioner by the inspector or special inspector, ~~on in a form approved by and containing all information~~ format required by the commissioner, after the inspection has been completed and within the time provided by rule, but not to exceed thirty days. The report shall include all information required by the commissioner to determine whether the ~~owner of the facility has complied~~ is in compliance with applicable rules. For the inspection required by subsection 1, the report shall indicate whether the facility has been installed in accordance with the detailed plans and specifications approved by the commissioner, and meets the requirements of the applicable rules. The failure of a special inspector to inform the commissioner of violations shall not subject the commissioner to liability for any damages incurred.

Sec. 9. Section 89A.7, Code 1999, is amended to read as follows:
89A.7 ALTERATION PERMITS.

~~On and after the effective date of rules relating to alterations,~~ The owner shall submit to the commissioner detailed plans, ~~of specifications, and other information the commissioner may require for~~ each facility to be altered shall be submitted to the commissioner, together with an application for an alteration permit, ~~on forms to be furnished or approved in a format required~~ by the commissioner. Repairs or replacements necessary for normal maintenance are not alterations, and may be made on existing installations with parts equivalent in material, strength and design to those replaced and no plans or specifications or application need be filed for ~~such~~ the repairs or replacements. However, ~~nothing in~~ this section shall does not authorize the use of any facility contrary to an order issued pursuant to section 89A.10, subsections 2 and 3.

Sec. 10. Section 89A.8, unnumbered paragraph 3, Code 1999, is amended to read as follows:

~~Plans~~ The owner shall be submitted submit plans in triplicate ~~and shall be accompanied by, together with~~ an application for the permit ~~on a form to be furnished, in a format required~~ by the commissioner. The plans shall include:

Sec. 11. Section 89A.10, subsection 2, unnumbered paragraph 1, Code 1999, is amended to read as follows:

If the owner does not make the changes necessary for compliance as required in subsection 1 within the period specified by the commissioner, the commissioner, upon notice, may suspend or revoke the operating permit, or may refuse to issue the operating permit for the facility. The commissioner shall notify the owner of any action to suspend, revoke, or refuse to issue an operating permit and the reason for the action by service in the same manner as an original notice or by certified mail. An owner may appeal the commissioner's initial decision. The appeal shall be heard by an administrative law judge of the department of inspections and appeals. An owner who, after a hearing before an administrative law judge, is aggrieved by a suspension, revocation, or refusal to issue an operating permit may appeal to the employment appeal board created under section 10A.601. Notice of appeal shall be filed with the appeal board within thirty calendar days from receipt of the notice of the commissioner's action.

Sec. 12. Section 89A.12, Code 1999, is amended to read as follows:

89A.12 ACCESS TO FACILITIES.

Every owner of a facility subject to regulation by this chapter shall grant access to that facility to the commissioner and personnel of the division ~~of labor services administering the provisions of this chapter~~. Inspections shall be permitted at reasonable times, with or without prior notice.

Sec. 13. Section 90A.1, subsection 2, Code 1999, is amended to read as follows:

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

Sec. 14. Section 91.4, subsection 2, Code 1999, is amended to read as follows:

2. To collect, assort, and systematize statistical details relating to ~~all departments of labor in the state~~ programs of the division of labor services.

Sec. 15. Section 91.4, subsection 5, Code 1999, is amended to read as follows:

5. The director of the department of workforce development, in consultation with the labor commissioner, shall, at the time provided by law, make an annual report to the governor setting forth in appropriate form the business and expense of the division of labor services for the preceding year, the number of disputes or violations processed by the division and the disposition of the disputes or violations, and other matters pertaining to the division which are of public interest, together with recommendations for change or amendment of the laws in this chapter and chapters 88, 88A, 88B, 89, 89A, 89B, 90A, 91A, 91C, 91D, 91E, 92, 94, and 95, and sections 30.7 and 85.68, and the recommendations, if any, shall be transmitted by the governor to the first general assembly in session after the report is filed.

Sec. 16. Section 91.10, Code 1999, is amended to read as follows:

91.10 POWER TO SECURE EVIDENCE.

The labor commissioner ~~and the commissioner's deputy, or the commissioner's designee~~ may issue subpoenas, administer oaths, and take testimony in all matters relating to the duties required of them. Witnesses subpoenaed and testifying before the commissioner or the commissioner's ~~deputy designee~~ shall be paid the same fees as witnesses under section 622.69, payment to be made out of the funds appropriated to the division of labor services.

Sec. 17. Section 91.11, Code 1999, is amended to read as follows:

91.11 PROSECUTIONS FOR VIOLATIONS.

If the commissioner ~~or an inspector shall learn~~ learns of any violation of any law administered by the division, the commissioner, or neglect to comply with the law in respect to the employment of children, or in respect to fire escapes, or the safety of employees, or for the preservation of health, such officer may give the county attorney of the county in which ~~such factory or building is situated~~ the violation occurred, written notice of the facts, whereupon that officer shall institute the proper proceedings against the person guilty of such charged with the offense or neglect.

If the commissioner ~~or inspector~~ is of the opinion that ~~such the violation or neglect~~ is not willful, or is an oversight or of a trivial nature, the commissioner ~~or inspector~~ may ~~in at~~ the commissioner's ~~or inspector's~~ discretion fix a time within which the ~~defect or evil may violation shall~~ be corrected and notify the owner, operator, superintendent, or person in charge, and if corrected within the time fixed, then the commissioner ~~or inspector~~ shall not cause prosecution to be begun.

Sec. 18. Section 91A.3, subsection 7, Code 1999, is amended to read as follows:

7. ~~A~~ If a farm labor contractor ~~who~~ contracts with a person engaged in the production of seed or feed grains to remove unwanted or genetically deviant plants or corn tassels or to hand pollinate plants ~~shall file with the commissioner a bond of at least twenty thousand dollars on behalf of, and fails to pay all wages due the employees of the farm labor contractor,~~ the person engaged in the production of seed or feed grains, ~~with a corporate surety approved by the commissioner, securing the payment of all wages due the employees of the farm labor contractor. The total and aggregate liability of the surety on the bond is limited to the amount specified in the bond. If the bond is not filed as required or if the farm labor contractor fails to pay all wages due the employees of the farm labor contractor, the person engaged in the production of seed or feed grains shall also be liable to the employees for wages not paid by the farm labor contractor.~~

Sec. 19. Section 91C.8, subsection 4, Code 1999, is amended to read as follows:

4. If a citation is issued, the commissioner shall, within seven days, notify the contractor by service in the same manner as an original notice or by certified mail of the administrative penalty, if any, proposed to be assessed and that the contractor has fifteen working days within which to notify the commissioner that the employer wishes to contest the citation or proposed assessment of penalty.

Approved April 27, 1999

CHAPTER 69

MOTOR VEHICLE WARRANTY CLAIMS — SERVICE OR WARRANTY FACILITIES

S.F. 149

AN ACT establishing a time limit for disallowance or reduction of motor vehicle warranty claims, relating to establishment of motor vehicle service or warranty facilities, and making a penalty applicable.

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

Section 1. Section 322.3, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 13. A manufacturer, distributor, or importer of motor vehicles or agent or representative of such manufacturer, distributor, or importer shall not reduce the amount of compensation for, or disallow a claim for, warranty parts, repairs, or service

supplied by a motor vehicle dealer if twelve months or more have passed since the warranty claim was submitted to the manufacturer, distributor, or importer of motor vehicles or agent or representative thereof. The twelve-month limitation shall not apply if a court of competent jurisdiction in this state finds the warranty claim was fraudulent.

Sec. 2. Section 322A.1, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 0A. "Additional motor vehicle dealership" includes a facility providing manufacturer-authorized or distributor-authorized service or warranty work for motor vehicles, except motor homes, of a line-make in a community in which the same line-make is represented.

Approved April 27, 1999

CHAPTER 70

LAW ENFORCEMENT OFFICER CERTIFICATION — SUSPENSION OR REVOCATION

H.F. 100

AN ACT relating to the revocation or suspension of a law enforcement officer's certification.

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

Section 1. Section 80B.11, subsection 7, Code 1999, is amended to read as follows:

7. Grounds for revocation or suspension of a law enforcement officer's certification.

Sec. 2. Section 80B.13, subsection 8, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Revoke a law enforcement officer's certification for the conviction of a felony or revoke or suspend a law enforcement officer's certification for a violation of rules adopted pursuant to section 80B.11, subsection 7. In addition the council may consider revocation or suspension proceedings when an employing agency recommends to the council that revocation or suspension would be appropriate with regard to a current or former employee. If a law enforcement officer resigns, the employing agency shall notify the council that an officer has resigned and state the reason for the resignation if a substantial likelihood exists that the reason would result in the revocation or suspension of an officer's certification for a violation of the rules.

Sec. 3. Section 80B.13, subsection 8, unnumbered paragraph 3, Code 1999, is amended to read as follows:

The council shall establish a process for the protest and appeal of a revocation or suspension made pursuant to this subsection.

Sec. 4. Section 80B.13, subsection 9, Code 1999, is amended to read as follows:

9. In accordance with chapter 17A, conduct investigations, hold hearings, appoint hearing examiners, administer oaths and issue subpoenas enforceable in district court on matters relating to the revocation or suspension of a law enforcement officer's certification.

Approved April 27, 1999

CHAPTER 71
FELONY STALKING — BAIL
H.F. 296

AN ACT to restrict the posting of bond for the offense of felony stalking.

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

Section 1. Section 811.1, subsection 3, Code 1999, is amended to read as follows:

3. Notwithstanding subsections 1 and 2, a defendant awaiting judgment of conviction and sentencing following either a plea or verdict of guilty of, or appealing a conviction of, any felony offense included in section 708.11, subsection 3 or a felony offense under chapter 124 not provided for in subsection 1 or 2 is presumed to be ineligible to be admitted to bail unless the court determines that such release reasonably will not result in the person failing to appear as required and will not jeopardize the personal safety of another person or persons.

Approved April 27, 1999

CHAPTER 72
AGRICULTURAL DRAINAGE WELLS — CLOSING DEADLINE
H.F. 339

AN ACT extending the deadline for closing agricultural drainage wells and making penalties applicable.

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

Section 1. Section 455I.3, subsection 1, Code 1999, is amended to read as follows:

1. Not later than December 31, ~~1999~~ 2001, 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.

Approved April 27, 1999

CHAPTER 73

OPEN-END CREDIT AND CREDIT CARD DISCLOSURES — REPORTS ELIMINATED

H.F. 375

AN ACT eliminating the requirement that information relating to open-end credit accounts and credit cards be filed with the treasurer of state.

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

Section 1. Sections 12.27 and 535.15, Code 1999, are repealed.

Approved April 27, 1999

CHAPTER 74

UNDERGROUND STORAGE TANKS — CORRECTIVE ACTION COSTS OF GOVERNMENTAL SUBDIVISIONS

H.F. 442

AN ACT relating to payments from the remedial account of the Iowa comprehensive petroleum underground storage tank fund to governmental subdivisions for costs of corrective actions taken due to certain releases from underground storage tanks and allowing the Iowa comprehensive petroleum underground storage tank fund board to seek reimbursement from responsible parties for expenses incurred by governmental subdivisions for costs of corrective actions taken due to certain releases from underground storage tanks.

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

Section 1. Section 455G.9, subsection 1, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. j. One hundred percent of the costs of corrective action for a governmental subdivision in connection with a tank if the governmental subdivision did not own or operate the tank from which the release occurred, and the property was acquired pursuant to eminent domain after the release occurred. A governmental subdivision which acquires property pursuant to eminent domain in order to obtain benefits under this paragraph is not a responsible party for a release in connection with property which it acquired, and does not become a responsible party by sale or transfer of property so acquired.

Sec. 2. Section 455G.9, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 10. EXPENSES INCURRED BY GOVERNMENTAL SUBDIVISIONS. The board may adopt rules for reimbursement for reasonable expenses incurred by a governmental subdivision for treating, handling, or disposing, as required by the department, of petroleum-contaminated soil and groundwater encountered in a public right-of-way during installation, maintenance, or repair of a public improvement. The board may seek full recovery from a responsible party liable for the release for such expenses and for all other costs and reasonable attorney fees and costs of litigation for which moneys are expended by the fund. Any expense described in this subsection incurred by the fund constitutes a lien upon the property from which the release occurred. A lien shall be recorded and an expense shall be collected in the same manner as provided in section 424.11.

Approved April 27, 1999

CHAPTER 75**HEALTH INSURANCE COVERAGE OF DIABETES****S.F. 8**

AN ACT relating to coverage under a policy or contract providing for third-party payment or prepayment of health or medical expenses by providing coverage for costs associated with equipment, supplies, and education for the treatment of diabetes.

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

Section 1. **NEW SECTION. 514C.14 DIABETES COVERAGE.**

1. Notwithstanding the uniformity of treatment requirements of section 514C.6, a policy or contract providing for third-party payment or prepayment of health or medical expenses shall provide coverage benefits for the cost associated with equipment, supplies, and self-management training and education for the treatment of all types of diabetes mellitus when prescribed by a physician licensed under chapter 148, 150, or 150A. Coverage benefits shall include coverage for the cost associated with all of the following:

a. Blood glucose meter and glucose strips for home monitoring.

b. Payment for diabetes self-management training and education only under all of the following conditions:

(1) The physician managing the individual's diabetic condition certifies that such services are needed under a comprehensive plan of care related to the individual's diabetic condition to ensure therapy compliance or to provide the individual with necessary skills and knowledge to participate in the management of the individual's condition.

(2) The diabetic self-management training and education program is certified by the Iowa department of public health. The department shall consult with the American diabetes association, Iowa affiliate, in developing the standards for certification of diabetes education programs as follows:

(a) Initial training shall cover up to ten hours of initial outpatient diabetes self-management training within a continuous twelve-month period for each individual that meets any of the following conditions:

(i) A new onset of diabetes.

(ii) Poor glycemic control as evidenced by a glycosylated hemoglobin of nine and five-tenths or more in the ninety days before attending the training.

(iii) A change in treatment regimen from no diabetes medications to any diabetes medication, or from oral diabetes medication to insulin.

(iv) High risk for complications based on poor glycemic control; documented acute episodes of severe hypoglycemia or acute severe hyperglycemia occurring in the past year during which the individual needed third-party assistance for either emergency room visits or hospitalization.

(v) High risk based on documented complications of a lack of feeling in the foot or other foot complications such as foot ulcer or amputation, pre-proliferative or proliferative retinopathy or prior laser treatment of the eye, or kidney complications related to diabetes, such as macroalbuminuria or elevated creatinine.

(b) An individual who receives the initial training shall be eligible for a single follow-up training session of up to one hour each year.

2. a. This section applies to the following classes of third-party payment provider contracts or policies delivered, issued for delivery, continued, or renewed in this state on or after July 1, 1999:

(1) Individual or group accident and sickness insurance providing coverage on an expense-incurred basis.

(2) An individual or group hospital or medical service contract issued pursuant to chapter 509, 514, or 514A.

(3) An individual or group health maintenance organization contract regulated under chapter 514B.

(4) Any other entity engaged in the business of insurance, risk transfer, or risk retention, which is subject to the jurisdiction of the commissioner.

(5) A plan established pursuant to chapter 509A for public employees.

(6) An organized delivery system licensed by the director of public health.

b. This chapter* shall not apply to accident only, specified disease, short-term hospital or medical, hospital confinement indemnity, credit, dental, vision, Medicare supplement, long-term care, basic hospital and medical-surgical expense coverage as defined by the commissioner, disability income insurance coverage, coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, or automobile medical payment insurance.

Sec. 2. Section 509.3, subsection 6, Code 1999, is amended by striking the subsection.

Sec. 3. Section 514.7, unnumbered paragraph 3, Code 1999, is amended by striking the unnumbered paragraph.

Sec. 4. Section 514B.1, subsection 5, paragraph c, Code 1999, is amended by striking the paragraph.

Approved April 28, 1999

CHAPTER 76
COUNTY ENTERPRISES
S.F. 186

AN ACT providing that a county enterprise includes housing for persons who are elderly or persons with physical disabilities and certain county hospitals.

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

Section 1. Section 331.461, subsection 2, paragraph e, Code 1999, is amended to read as follows:

e. In a county with a population of less than one hundred fifty thousand, a county hospital established under chapter 37 or 347A, including its acquisition, construction, equipment, enlargement, and improvement, and including necessary lands, rights of way, and other property. However, bonds issued under this paragraph shall mature in not more than thirty years from date of issuance, and are subject to the notice and election requirements of bonds issued under paragraph "d".

Sec. 2. Section 331.461, subsection 2, Code 1999, is amended by adding the following new lettered paragraph:

NEW PARAGRAPH. g. Housing for persons who are elderly or persons with physical disabilities.

Approved April 28, 1999

* See chapter 208, §58 herein

CHAPTER 77**OPEN CONTAINERS IN MOTOR VEHICLES**

S.F. 192

AN ACT relating to open containers in motor vehicles and providing a penalty.

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

Section 1. Section 321.284, Code 1999, is amended to read as follows:

321.284 OPEN CONTAINERS IN MOTOR VEHICLES — DRIVERS.

~~A person driving a motor vehicle~~ driver of a motor vehicle upon a public street or highway shall not knowingly possess in a the passenger area of the motor vehicle upon a public street or highway an open or unsealed bottle, can, jar, or other receptacle containing an alcoholic beverage, wine, or beer with the intent to consume the alcoholic beverage, wine, or beer while the motor vehicle is upon a public street or highway. ~~Evidence that an open or unsealed receptacle containing an alcoholic beverage, wine, or beer was found during an authorized search in the glove compartment, utility compartment, console, front passenger seat, or any unlocked portable device and within the immediate reach of the driver while the motor vehicle is upon a public street or highway is evidence from which the court or jury may infer that the driver intended to consume the alcoholic beverage, wine, or beer while upon the public street or highway if the inference is supported by corroborative evidence. However, an "Passenger area" means the area designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including the glove compartment. An open or unsealed receptacle containing an alcoholic beverage, wine, or beer may be transported at any time in the trunk of the motor vehicle or in some other area of the interior of the motor vehicle not designed or intended to be occupied by the driver and not readily accessible to the driver while the motor vehicle is in motion. An unsealed receptacle containing an alcoholic beverage may be transported behind the last upright seat of the motor vehicle if the motor vehicle does not have a trunk.~~ A person convicted of a violation of this section is guilty of a simple misdemeanor punishable as a scheduled violation under section 805.8, subsection 10, paragraph "b".

Sec. 2. **NEW SECTION. 321.284A OPEN CONTAINERS IN MOTOR VEHICLES — PASSENGERS.**

1. A passenger in a motor vehicle upon a public street or highway shall not possess in the passenger area of the motor vehicle an open or unsealed bottle, can, jar, or other receptacle containing an alcoholic beverage. "Passenger area" means the area of a motor vehicle designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including the glove compartment. An open or unsealed receptacle containing an alcoholic beverage may be transported in the trunk of the motor vehicle. An unsealed receptacle containing an alcoholic beverage may be transported behind the last upright seat of the motor vehicle if the motor vehicle does not have a trunk.

2. This section does not apply to a passenger being transported in a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation, or a passenger being transported in the living quarters of a motor home, mobile home, travel trailer, or fifth-wheel travel trailer.

3. A person convicted of a violation of this section is guilty of a simple misdemeanor punishable as a scheduled violation under section 805.8, subsection 10, paragraph "b".

4. The department shall not include a conviction for a violation of this section on the individual driving record of the person committing the violation and the conviction shall not be considered by the department in any proceeding for suspension, revocation, barring, or denying of the person's driver's license or upon any application for renewal of driving privileges.

Sec. 3. Section 805.8, subsection 10, paragraph b, Code 1999, is amended to read as follows:

b. For violations of ~~section~~ under sections 321.284 and 321.284A, the scheduled fine is fifty dollars.

Approved April 28, 1999

CHAPTER 78

INTERCEPTION OF COMMUNICATIONS

S.F. 309

AN ACT relating to the interception of communications and providing penalties.

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

Section 1. Section 808B.1, subsections 1 and 2, Code 1999, are amended to read as follows:

1. "Aggrieved person" means a person who was a party to an intercepted wire, ~~communication or oral, or electronic~~ communication or a person against whom the interception was directed.

2. "Contents", when used with respect to a wire, ~~communication or oral, or electronic~~ communication, includes any information concerning the identity of the parties to the communication or the existence, substance, purpose, or meaning of that communication.

Sec. 2. Section 808B.1, Code 1999, is amended by adding the following new subsection: NEW SUBSECTION. 3A. "Electronic communication" means any transfer of signals, signs, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photooptical system that affects intrastate, interstate, or foreign commerce, but excludes the following:

- a. Wire or oral communication.
- b. Communication made through a tone only paging device.
- c. Communication from a tracking device.

Sec. 3. Section 808B.1, subsection 4, unnumbered paragraph 1, Code 1999, is amended to read as follows:

"Electronic, mechanical, or other device" means a device or apparatus which can be used to intercept a wire, ~~communication or oral, or electronic~~ communication other than either of the following:

Sec. 4. Section 808B.1, subsection 5, Code 1999, is amended to read as follows:

5. "Intercept" or "interception" means the aural acquisition of the contents of a wire, ~~communication or oral, or electronic~~ communication through the use of an electronic, mechanical, or other device.

Sec. 5. Section 808B.1, Code 1999, is amended by adding the following new subsections:

NEW SUBSECTION. 7A. "Pen register" means a device which records or decodes electronic or other impulses which identify the numbers dialed or otherwise transmitted on the telephone line to which such device is attached. However, such term excludes any device used by a provider or customer of a wire or electronic communication service for billing, or recording as an incident to billing, for communications services provided by such provider

of any device used by a provider, or any device used by a provider or customer of a wire communication service for cost accounting or other like purposes in the ordinary course of its business.

NEW SUBSECTION. 8A. “Trap and trace device” means a device which captures the incoming electronic or other impulses which identify the originating number of an instrument or device from which a wire or electronic communication was transmitted.

Sec. 6. Section 808B.2, subsection 1, paragraph a, Code 1999, is amended to read as follows:

a. Willfully intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept, a wire, ~~communication or oral,~~ or electronic communication.

Sec. 7. Section 808B.2, subsection 1, paragraphs c and d, Code 1999, are amended to read as follows:

c. Willfully discloses, or endeavors to disclose, to any other person the contents of a wire, ~~communication or oral,~~ or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, ~~communication or oral,~~ or electronic communication in violation of this subsection.

d. Willfully uses, or endeavors to use, the contents of a wire, ~~communication or oral,~~ or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, ~~communication or oral,~~ or electronic communication in violation of this subsection.

Sec. 8. Section 808B.2, subsection 2, paragraphs b and c, Code 1999, are amended to read as follows:

b. It is not unlawful under this chapter for a person acting under color of law to intercept a wire, ~~communication or oral,~~ or electronic communication, if the person is a party to the communication or one of the parties to the communication has given prior consent to the interception.

c. It is not unlawful under this chapter for a person not acting under color of law to intercept a wire, ~~communication or oral,~~ or electronic communication if the person is a party to the communication or if one of the parties to the communication has given prior consent to the interception, unless the communication is intercepted for the purpose of committing a criminal or tortious act in violation of the Constitution or laws of the United States or of any state or for the purpose of committing any other injurious act.

Sec. 9. Section 808B.2, subsection 3, Code 1999, is amended to read as follows:

3. An operator of a switchboard, or an officer, employee, or agent of a communications common carrier, whose facilities are used in the transmission or interception of a wire, ~~or~~ or electronic communication shall not disclose the existence of any transmission or interception or the device used to accomplish the transmission or interception with respect to a court order under this chapter, except as may otherwise be required by legal process or court order. Violation of this subsection is a class “D” felony.

Sec. 10. Section 808B.3, Code 1999, is amended to read as follows:

808B.3 COURT ORDER FOR INTERCEPTION BY SPECIAL AGENTS.

The attorney general shall authorize and prepare any application for an order authorizing the interception of wire, ~~communications or oral,~~ or electronic communications. The attorney general may apply to any district court of this state, or request that the county attorney in the district where application is to be made deliver the application of the attorney general, for an order authorizing the interception of wire, ~~communications or oral,~~ or electronic communications, and the court may grant, subject to this chapter, an order authorizing the interception of wire, ~~communications or oral,~~ or electronic communications by special state agents having responsibility for the investigation of the offense as to which application is made, when the interception may provide or has provided evidence of the ~~commission of~~

~~felony offenses involving dealing in controlled substances, as defined in section 124.101, subsection 5, following:~~

- ~~1. A felony offense involving dealing in controlled substances, as defined in section 124.101.~~
- ~~2. A felony offense involving money laundering, in violation of chapter 706B.~~

Sec. 11. Section 808B.4, Code 1999, is amended to read as follows:
808B.4 PERMISSIBLE DISCLOSURE AND USE.

1. A special state agent who, by any means authorized by this chapter, has obtained knowledge of the contents of a wire, ~~communication or oral, or electronic~~ communication, or has obtained evidence derived from a wire, ~~communication or oral, or electronic~~ communication, may disclose the contents to another investigative or law enforcement officer to the extent that the disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure.

2. An investigative or law enforcement officer who, by any means authorized by this chapter, has obtained knowledge of the contents of a wire, ~~communication or oral, or electronic~~ communication or has obtained evidence derived from a wire, ~~communication or oral, or electronic~~ communication may use the contents to the extent the use is appropriate to the proper performance of the officer's official duties.

3. A person who has received, by any means authorized by this chapter, any information concerning a wire, ~~communication or oral, or electronic~~ communication, or evidence derived from a wire, ~~communication or oral, or electronic~~ communication intercepted in accordance with this chapter may disclose the contents of that communication or derivative evidence while giving testimony under oath or affirmation in a criminal proceeding in any court of the United States or of this state or in any federal or state grand jury proceeding.

4. An otherwise privileged wire, ~~communication or oral, or electronic~~ communication intercepted in accordance with, or in violation of, the provisions of this chapter does not lose its privileged character.

5. If a special state agent, while engaged in intercepting a wire, ~~communication or oral, or electronic~~ communication in the manner authorized, intercepts a communication relating to an offense other than those specified in the order of authorization, the contents of the communication, and the evidence derived from the communication, may be disclosed or used as provided in subsections 1 and 2. The contents of and the evidence derived from the communication may be used under subsection 3 when authorized by a court if the court finds on subsequent petition that the contents were otherwise intercepted in accordance with this chapter. The petition shall be made as soon as practicable.

Sec. 12. Section 808B.5, subsection 1, unnumbered paragraph 1, Code 1999, is amended to read as follows:

An application for an order authorizing or approving the interception of a wire, ~~communication or oral, or electronic~~ communication shall be made in writing upon oath or affirmation to a court and shall state the applicant's authority to make the application. An application shall include the following information:

Sec. 13. Section 808B.5, subsection 1, paragraph e, Code 1999, is amended to read as follows:

e. A full and complete statement of the facts concerning all previous applications known to the individuals authorizing and making the application, made to any court for authorization to intercept, or for approval of interceptions of, wire, ~~communications or oral, or electronic~~ communications involving any of the same persons, facilities or places specified in the application, and the action taken by the court on those applications.

Sec. 14. Section 808B.5, subsection 3, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Upon application the court may enter an ex parte order, as requested or as modified, authorizing interception of wire, ~~communications~~ or oral, or electronic communications within the territorial jurisdiction of the court, if the court finds on the basis of the facts submitted by the applicant all of the following:

Sec. 15. Section 808B.5, subsection 3, paragraph d, Code 1999, is amended to read as follows:

d. There is probable cause for belief that the facilities from which, or the place where, the wire, ~~communications~~ or oral, or electronic communications are to be intercepted are being used, or are about to be used, in connection with the commission of the offense, or are leased to, listed in the name of, or commonly used by the person whose communications are to be intercepted.

Sec. 16. Section 808B.5, subsection 4, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Each order authorizing the interception of a wire, ~~communication~~ or oral, or electronic communication shall specify all of the following:

Sec. 17. Section 808B.5, subsections 5 and 6, Code 1999, are amended to read as follows:

5. Each order authorizing the interception of a wire, ~~communication~~ or oral, or electronic communication shall, upon request of the applicant, direct that a communications common carrier, landlord, custodian, or other person shall furnish to the applicant all information, facilities, and technical assistance necessary to accomplish the interception inconspicuously and with a minimum of interference with the services that the carrier, landlord, custodian, or person is giving to the person whose communications are to be intercepted. Any communications common carrier, landlord, custodian, or other person furnishing facilities or technical assistance shall be compensated by the applicant at the prevailing rates.

6. An order entered under this section shall not authorize the interception of a wire, ~~communication~~ or oral, or electronic communication for a period longer than is necessary to achieve the objective of the authorized interception, or in any event longer than thirty days. The thirty-day period shall commence on the date specified in the order upon which the commencement of the interception is authorized or ten days after the order is entered, whichever is earlier. An extension of an order may be granted, but only upon application for an extension made in accordance with subsection 1 and the court making the findings required by subsection 3. The period of extension shall be no longer than the authorizing court deems necessary to achieve the purposes for which it was granted and in no event longer than thirty days. Every order and its extension shall contain a provision that the authorization to intercept shall be executed as soon as practicable, shall be conducted in such a way as to minimize the interception of communications not otherwise subject to interception under this section and sections 808B.1 through 808B.4, 808B.6, and 808B.7, and shall terminate upon attainment of the authorized objective, or in any event in thirty days.

Sec. 18. Section 808B.5, subsection 8, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The contents of a wire, ~~communication~~ or oral, or electronic communication intercepted by a means authorized by this chapter shall, if possible, be recorded on tape or wire or other comparable device. The recording of the contents of a wire, ~~communication~~ or oral, or electronic communication under this subsection shall be done in a way which will protect the recording from editing or other alterations. Immediately upon the expiration of the period of the order, or extensions of it, the recordings shall be made available to the court issuing the order and shall be sealed under the court's directions. Custody of the recordings shall be in accordance with the court order. Recordings shall be kept for five years and shall then be destroyed unless it is necessary to keep the recordings due to a continued legal

process or court order, but the recordings shall not be kept for longer than ten years. Duplicate recordings may be made for disclosure or use pursuant to section 808B.4, subsections 1 and 2. The presence of a seal, or a satisfactory explanation for its absence, is a prerequisite for the disclosure or use of the contents of a wire, ~~communication or oral, or electronic~~ communication or evidence derived from a communication under section 808B.4, subsection 3.

Sec. 19. Section 808B.5, subsection 9, paragraph b, subparagraph (3), Code 1999, is amended to read as follows:

(3) Whether, during the period, wire, ~~or oral, or electronic~~ communications were or were not intercepted.

Sec. 20. Section 808B.5, subsection 10, Code 1999, is amended to read as follows:

10. The contents of an intercepted wire, ~~communication or oral, or electronic~~ communication or evidence derived from the wire, ~~communication or oral, or electronic~~ communication shall not be received in evidence or otherwise disclosed in a trial, hearing, or other proceeding in a federal or state court unless each party, not less than ten days before the trial, hearing, or proceeding, has been furnished with a copy of the court order, and accompanying application, under which the interception was authorized. This ten-day period may be waived by the court if it finds that it was not possible to furnish the party with the above information ten days before the trial, hearing, or proceeding and that the party will not be prejudiced by the delay in receiving the information. If the ten-day period is waived by the court, the court may grant a continuance, or enter such other order as it deems just under the circumstances.

Sec. 21. Section 808B.5, subsection 11, Code 1999, is amended to read as follows:

11. An aggrieved person in a trial, hearing, or proceeding in or before any court, department, officer, agency, regulatory body, or other authority of this state, may move to suppress the contents of an intercepted wire, ~~communication or oral, or electronic~~ communication, or evidence derived from the wire, ~~communication or oral, or electronic~~ communication, on the grounds that the communication was unlawfully intercepted, the order of authorization under which it was intercepted was insufficient on its face, or the interception was not made in conformity with the order of authorization. The motion shall be made before the trial, hearing, or proceeding unless there was no opportunity to make the motion or the person was not aware of the grounds of the motion. If the motion is granted, the contents of the intercepted wire, ~~communication or oral, or electronic~~ communication, or evidence derived from the wire communication or oral communication,* shall be treated as having been obtained in violation of this chapter.

Sec. 22. Section 808B.7, Code 1999, is amended to read as follows:

808B.7 CONTENTS OF INTERCEPTED WIRE, ~~OR ORAL, OR ELECTRONIC~~ COMMUNICATION AS EVIDENCE.

The contents or any part of the contents of an intercepted wire, ~~communication or oral, or electronic~~ communication and any evidence derived from the wire, ~~communication or oral, or electronic~~ communication shall not be received in evidence in a trial, hearing, or other proceeding in or before a court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the United States, a state, or political subdivision of a state if the disclosure of that information would be in violation of this chapter.

Sec. 23. Section 808B.8, subsection 1, unnumbered paragraph 1, Code 1999, is amended to read as follows:

A person whose wire, ~~communication or oral, or electronic~~ communication is intercepted, disclosed, or used in violation of this chapter shall:

Sec. 24. Section 808B.8, subsection 3, Code 1999, is amended to read as follows:

* See chapter 208, §63 herein

3. A person whose wire, ~~communication~~ or oral, or electronic communication is intercepted, disclosed, or used in violation of this chapter may seek an injunction, either temporary or permanent, against any person who violates this chapter.

Sec. 25. NEW SECTION. 808B.10 RESTRICTIONS ON USE AND INSTALLATION OF A PEN REGISTER OR A TRAP AND TRACE DEVICE.

1. A person shall not install or use a pen register or a trap and trace device without first obtaining a court order pursuant to either section 808B.11 or 808B.12. However, a pen register or a trap and trace device may be used or installed without court order if any of the following apply:

a. It relates to the operation, maintenance, and testing of a wire or electronic communication service or to the protection of the rights or property of the provider of the service, or to the protection of users of the service from abuse of the service or unlawful use of the service.

b. If a wire or electronic communication was initiated or completed in order to protect the provider of the wire or electronic communication service, another provider furnishing service toward the completion of the wire or electronic communication, or a user of the service, from fraudulent, unlawful, or abusive use of the service.

c. If consent was obtained from the user of the electronic or wire communication service.

2. A person who knowingly violates this section commits a serious misdemeanor.

Sec. 26. NEW SECTION. 808B.11 APPLICATION AND ORDER TO INSTALL AND USE A PEN REGISTER OR TRAP AND TRACE DEVICE.

1. An application for an order or an extension of an order authorizing or approving the installation and use of a pen register or a trap and trace device shall be made in writing upon oath or affirmation to a district court. A special state agent may only conduct an investigation authorized under this section or section 808B.12. An application shall include the following information:

a. The identity of the prosecuting attorney, and the identity of the special state agent authorized to conduct the investigation.

b. A certified statement by the special state agent that the information likely to be obtained is relevant to an ongoing criminal investigation of an offense listed under section 808B.3 or an offense that may lead to immediate death or serious bodily injury of a person.

2. Upon application the court may enter an ex parte order or an ex parte extension of an order, authorizing the installation and use of a pen register or trap and trace device within the territorial jurisdiction of the court, if the court finds that the special state agent has certified to the court that the information likely to be obtained by the use of a pen register or trap and trace device is relevant to an ongoing criminal investigation of an offense listed under section 808B.3 or an offense that may lead to the immediate death of or serious bodily injury of a person.*

3. Each order authorizing the interception of a communication under this section shall specify all of the following:

a. The identity of the person, if known, who owns or leases the telephone line where the pen register or trap and trace device will be attached.

b. The identity of the person, if known, who is the subject of the criminal investigation.

c. The telephone number if known, and the physical location of the telephone line where the pen register or trap and trace device will be attached, and the geographic limits of the trap and trace device.

d. Upon request of the applicant, direct the furnishing of information, facilities, and technical assistance necessary to accomplish the installation of a pen register or trap and trace device.

e. The period of time during which the use of the pen register or trap and trace device is authorized, which shall be no greater than sixty days.

f. If the application is for the extension of an order and after a judicial finding required under subsection 2, authorize the extension of an order. Each extension of an order shall not exceed sixty days.

* See chapter 208, §64 herein

4. Any order granted under this section shall be sealed until otherwise ordered by the court.

a. Any person owning or leasing the telephone line to which the pen register or trap and trace device is attached, or who has been ordered by the court to furnish information, facilities, or technical assistance to the applicant, shall not disclose the existence of the pen register or trap and trace device or the existence of the investigation of the listed subscriber, to any person, unless or until otherwise ordered by the court.

b. Notwithstanding subsection 4, a prosecuting attorney or special state agent may utilize or share any information obtained from the use of a pen register or trap and trace device with other prosecuting attorneys or law enforcement agencies while acting within the scope of their employment.

c. A violation of this subsection may be punished as contempt of court.*

Sec. 27. NEW SECTION. 808B.12 EMERGENCY APPLICATION AND ORDER.

1. Notwithstanding any other provision of this chapter, the issuance of an order under this section may be based upon sworn oral testimony communicated by the director of the division of criminal investigation, the director of the division of narcotics enforcement, a special state agent authorized by the prosecuting attorney, or the prosecuting attorney, via the telephone, if the judge who is asked to issue the order is satisfied that the circumstances make it reasonable to dispense with a written affidavit. A pen register or trap and trace device may only be installed and used if both of the following occur:

a. The court reasonably determines that an emergency situation exists that involves immediate danger of death or serious bodily injury to any person.**

b. A written order approving the installation or use of a pen register or trap and trace device is obtained under section 808B.11 within forty-eight hours of the issuance of an order under this section.

2. In the absence of an authorizing order, under section 808B.11, an emergency order shall immediately terminate upon the earlier of obtainment of the information sought, denial of the application under section 808B.11, or the lapse of forty-eight hours after the authorization of the installation of the pen register or trap and trace device under subsection 1.

3. An investigative or law enforcement officer who knowingly uses a pen register or trap and trace device pursuant to this section after the effectiveness of the authorizing*** order has terminated pursuant to subsection 2 due to the lapse of the forty-eight hours commits a serious misdemeanor.

4. A provider for a wire or electronic communication service, landlord, custodian, or other person who furnishes facilities or technical assistance pursuant to this section shall be reasonably compensated for such reasonable expenses incurred in providing such facilities and assistance.

Sec. 28. NEW SECTION. 808B.13 ASSISTANCE IN INSTALLATION AND USE OF A PEN REGISTER OR A TRAP AND TRACE DEVICE.

1. Upon the request of the prosecuting attorney or the special state agent authorized to install and use a pen register under this chapter, and as directed by court order, a provider of a wire or electronic communication service, landlord, custodian, or other person shall furnish such investigative or law enforcement officer forthwith with all information, facilities, and technical assistance necessary to accomplish the installation of the pen register unobtrusively and with a minimum of interference with the service that the person so ordered by the court accords the party with respect to whom the installation and use is to take place.

2. Upon the request of the prosecuting attorney or the special state agent authorized to receive the results of a trap and trace device under this chapter, and as directed by court order, a provider of a wire or electronic communication service, landlord, custodian, or other person shall install such device forthwith on the appropriate telephone line and shall furnish such investigative or law enforcement officer with all additional information, facilities,

* See chapter 208, §65 herein

** See chapter 208, §66 herein

*** See chapter 208, §67 herein

and technical assistance including installation and operation of the device unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the installation and use is to take place. Unless otherwise ordered by the court, the results of the trap and trace device shall be furnished, to the authorized law enforcement agency designated in the court order, at reasonable intervals during regular business hours for the duration of the order.

3. A provider of a wire or electronic communication service, landlord, custodian, or other person who furnishes facilities or technical assistance pursuant to this section shall be compensated for reasonable expenses incurred in providing such facilities and assistance.

4. A cause of action shall not lie in any court against any provider of a wire or electronic communication service, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order under section 808B.11 or 808B.12.

5. A good faith reliance on a court order under section 808B.11 or 808B.12 is a complete defense against any civil or criminal action brought under this chapter or any other statute.

Sec. 29. NEW SECTION. 808B.14 REPORTING INSTALLATION AND USE OF PEN REGISTERS AND TRAP AND TRACE DEVICES.

In January of each year, the attorney general and the county attorneys of this state shall report, to the state court administrator, the number of pen register orders and orders for trap and trace devices applied for and obtained by their offices during the preceding calendar year.

Approved April 28, 1999

CHAPTER 79

MECHANICS' LIENS

S.F. 429

AN ACT relating to notification of forfeited and cancelled mechanics' liens, challenging a mechanic's lien, and providing a remedy.

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

Section 1. Section 572.23, Code 1999, is amended to read as follows:

572.23 ACKNOWLEDGMENT OF SATISFACTION OF CLAIM.

1. When a mechanic's lien is satisfied by payment of the claim, the claimant shall acknowledge satisfaction thereof upon the mechanic's lien book, or otherwise in writing, and, if the claimant neglects to do so for thirty days after demand in writing is personally served upon the claimant, the claimant shall forfeit and pay twenty-five dollars to the owner or contractor, and be liable to any person injured to the extent of the injury.

2. If acknowledgment of satisfaction is not filed within thirty days after service of the demand in writing, the party serving the demand or causing the demand to be served may file for record with the clerk of the district court a copy of the demand with proofs of service attached and endorsed and, in case of service by publication, a personal affidavit that personal service could not be made within this state. Upon completion of the requirements of this subsection, the record shall be constructive notice to all parties of the due forfeiture and cancellation of the lien. Upon the filing of the forfeiture of the lien, the clerk of the district court shall mail a file-stamped copy of the cancellation to both parties.

Sec. 2. Section 572.24, Code 1999, is amended to read as follows:

572.24 TIME OF BRINGING ACTION — COURT.

1. An action to enforce a mechanic's lien, or an action brought upon any bond given in lieu thereof, may be commenced in the district court after said lien is perfected.

2. An action to challenge a mechanic's lien may be commenced in the district court or small claims court if the amount of the lien is within jurisdictional limits. Any permissible claim or counterclaim meeting subject matter and jurisdictional requirements may be joined with the action. The court shall make written findings regarding the lawful amount and the validity of the mechanic's lien. In addition to any other appropriate order, the court may enter judgment on a permissibly joined claim or counterclaim. If the court determines that the mechanic's lien is invalid, valid for a lesser amount, frivolous, fraudulent, forfeited, expired, or for any other reason unenforceable, the clerk of the district court shall make an entry of record to the mechanic's lien book regarding the proper amount of the lien or, if warranted, canceling the lien.

Sec. 3. Section 572.28, Code 1999, is amended to read as follows:

572.28 DEMAND FOR BRINGING SUIT.

1. Upon the written demand of the owner, the owner's agent, or contractor, served on the lienholder requiring the lienholder to commence action to enforce the lien, such action shall be commenced within thirty days thereafter, or the lien and all benefits derived therefrom shall be forfeited.

2. If an action is not filed within thirty days after demand to commence action is served, the party serving the demand or causing the demand to be served may file for record with the clerk of the district court a copy of the demand with proofs of service attached and endorsed and, in case of service by publication, a personal affidavit that personal service could not be made within this state. Upon completion of the requirements of this subsection, the record shall be constructive notice to all parties of the due forfeiture and cancellation of the lien. Upon the filing of the demand with the required attachments, the clerk of the district court shall mail a file-stamped copy of the demand to both parties.

Sec. 4. Section 572.32, Code 1999, is amended to read as follows:

572.32 ATTORNEY FEES — REMEDIES.

1. In a court action to enforce a mechanic's lien, if the plaintiff furnished labor or materials directly to the defendant, ~~the a prevailing plaintiff, if successful, shall~~ may be awarded reasonable attorney fees.

2. In a court action to challenge a mechanic's lien filed on an owner-occupied dwelling, if the person challenging the lien prevails, the court may award reasonable attorney fees and actual damages. If the court determines that the mechanic's lien was filed in bad faith or the supporting affidavit was materially false, the court shall award the owner reasonable attorney fees plus an amount not less than five hundred dollars or the amount of the lien, whichever is less.

Sec. 5. Section 631.1, Code 1999, is amended by adding the following the* new subsection:

NEW SUBSECTION. 6. The district court sitting in small claims has concurrent jurisdiction of an action to challenge a mechanic's lien pursuant to sections 572.24 and 572.32.

Approved April 28, 1999

* According to enrolled Act

CHAPTER 80**DEPARTMENT OF INSPECTIONS AND APPEALS INVESTIGATORS — STATUS***H.F. 308*

AN ACT relating to peace officer status for investigators of the department of inspections and appeals.

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

Section 1. NEW SECTION. 10A.403 INVESTIGATORS — PEACE OFFICER STATUS.

Investigators of the division shall have the powers and authority of peace officers when acting within the scope of their responsibilities to conduct investigations as specified in section 10A.402, subsection 7. An investigator shall not carry a weapon to perform responsibilities as described in this section.

Approved April 28, 1999

CHAPTER 81**PROPOSED LICENSURE OF MIDWIVES — REVIEW***H.F. 402*

AN ACT providing for the establishment of a scope of practice review committee regarding the proposed licensure of certified professional midwives.

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

Section 1. **SCOPE OF PRACTICE REVIEW COMMITTEE FOR CERTIFIED PROFESSIONAL MIDWIVES.** The Iowa department of public health, pursuant to the scope of practice review committee pilot project established in 1997 Iowa Acts, chapter 203, section 6, shall establish a scope of practice review committee to conduct a review of a request for the establishment of licensure requirements for certified professional midwives. The department shall submit a report to the general assembly by January 10, 2000, containing the review committee's findings and recommendations.

Approved April 28, 1999

CHAPTER 82

AUCTIONEER'S ROLE IN PUBLIC SALE OR AUCTION OF REAL PROPERTY

H.F. 458

AN ACT relating to the role of an auctioneer in conducting a public sale or auction involving real property.

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

Section 1. Section 543B.7, subsection 5, Code 1999, is amended to read as follows:

5. The acts of an auctioneer in conducting a public sale or auction. The auctioneer's role must be limited to establishing the time, place, and method of an auction; advertising the auction including a brief description of the property for auction, ~~and the time and place for the auction, and the name and address of the real estate broker or attorney who is providing brokerage services for the transaction and who is also responsible for closing the sale of the property;~~ and crying the property at the auction. If the auctioneer closes or attempts to close the sale of the property or otherwise engages in acts defined in sections 543B.3 and 543B.6, then the requirements of this chapter do apply to the auctioneer.

Approved April 28, 1999

CHAPTER 83

COUNTY RECORDS AND ASSESSMENTS

H.F. 474

AN ACT relating to the powers and duties of county treasurers by amending Code sections pertaining to special assessments, certain motor vehicle ownership transfers, tax statement addresses, tax redemption, and tax clearance statements for mobile homes, and providing effective date and applicability date provisions.

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

Section 1. Section 161A.35, unnumbered paragraph 1, Code 1999, is amended to read as follows:

If the owner of any premises against which a levy exceeding ~~twenty~~ one hundred dollars has been made and certified shall, within thirty days from the date of such levy, agree in writing in a separate agreement, that in consideration of having a right to pay the owner's assessment in installments, the owner will not make any objection as to the legality of the assessment for benefit, or the levy of the taxes against the owner's property, then such owner shall have the following options:

Sec. 2. Section 321.47, unnumbered paragraph 1, Code 1999, is amended to read as follows:

If ownership of a vehicle is transferred by operation of law upon inheritance, devise or bequest, dissolution decree, order in bankruptcy, insolvency, replevin, foreclosure or execution sale, abandoned vehicle sale, or when the engine of a motor vehicle is replaced by another engine, or a vehicle is sold or transferred to satisfy an artisan's lien as provided in chapter 577, a landlord's lien as provided in chapter 570, a storage lien as provided in chapter 579, a judgment in an action for abandonment of a mobile home as provided in

chapter 555B, or repossession is had upon default in performance of the terms of a security agreement, the county treasurer in the transferee's county of residence, upon the surrender of the prior certificate of title or the manufacturer's or importer's certificate, or when that is not possible, upon presentation of satisfactory proof to the county treasurer of ownership and right of possession to the vehicle and upon payment of a fee of ten dollars and the presentation of an application for registration and certificate of title, may issue to the applicant a registration card for the vehicle and a certificate of title to the vehicle. A person entitled to ownership of a vehicle under a decree of dissolution shall surrender a reproduction of a certified copy of the dissolution and upon fulfilling the other requirements of this chapter is entitled to a certificate of title and registration receipt issued in the person's name.

Sec. 3. Section 331.602, subsection 1, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Record all instruments presented to the recorder's office for recordation upon payment of the proper fees and compliance with other recording requirements as provided by law. The instruments presented for filing or recordation shall be legible and reproducible, and shall have typed or legibly printed on them the names of all signatories including the names of acknowledging officers and witnesses beneath the original signatures. 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 and, immediately below the two inches of space, the tax statement information required in paragraph "d". The remaining portion of this space shall be reserved for use by the county recorder.

Sec. 4. Section 331.602, subsection 1, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. An instrument conveying an interest in real property shall contain the statement "Address tax statement: " which shall be filled out with a name and complete mailing address. Each instrument conveying an interest in real property shall contain this statement unless otherwise authorized by the county recorder.

Sec. 5. Section 357.20, Code 1999, is amended to read as follows:

357.20 DUE DATE — BONDS.

Assessments of less than ~~ten~~ one hundred dollars will come due at the first taxpaying date after the approval of the final assessment, and assessments of ~~ten~~ one hundred dollars or more may be paid in ten annual installments with interest on the unpaid balance at a rate not exceeding that permitted by chapter 74A. The board of supervisors shall issue bonds against the completed assessment in an amount equal to the total cost of the project, so that the amount of the assessment will be approximately ten percent greater than the amount of the bonds.

Sec. 6. Section 384.65, subsection 1, Code 1999, is amended to read as follows:

1. The first installment of each assessment, or the total amount if less than ~~fifty~~ 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 acceptance of the work by the council to the first day of December following the due date.

Sec. 7. Section 435.24, subsection 5, Code 1999, is amended to read as follows:

5. Before a home may be moved from its present site by any person, a tax clearance statement in the name of the owner must be obtained from the county treasurer of the county where the present site is located certifying that taxes are not owing under this section for previous years and that the taxes have been paid for the current tax period. When a person

moves a home from real property to a dealer's stock or to a mobile home park, as defined in section 435.1, a tax clearance statement shall be applied for, and issued, from the county treasurer of the county where the present site is located. When the home is moved to another county in this state, the county treasurer shall forward a copy of the tax clearance statement to the county treasurer of the county in which the home is being relocated. However, a tax clearance statement is not required for a home in a manufacturer's or dealer's stock which ~~is~~ has not been used as a place for human habitation. A tax clearance form is not required to move an abandoned home. A tax clearance form is not required in eviction cases provided the mobile home park owner or manager advises the county treasurer that the tenant is being evicted. If a dealer acquires a home from a person other than a manufacturer, the person shall provide a tax clearance statement in the name of the owner of record to the dealer. The tax clearance statement shall be provided by the county treasurer in a method prescribed by the department of transportation.

Sec. 8. Section 447.9, subsection 1, Code 1999, is amended to read as follows:

1. 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 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, 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 notice shall be served by both regular mail and certified mail to the person's last known address and such ~~notice~~ service is deemed completed when the notice by certified mail is deposited in the mail and postmarked for delivery. 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. 9. Section 447.13, Code 1999, is amended to read as follows:

447.13 COST — FEE — REPORT.

The cost of a record search and the cost of serving the notice, including the cost of mailing certified mail notices and the cost of publication under section 447.10 if publication is required, shall be added to the amount necessary to redeem. ~~The fee for personal service of the notice shall be the same as for service of an original notice, including copy fee and mileage.~~ The county treasurer shall file the proof of service and statement of costs and record these costs against the parcel. The certificate holder or the holder's agent shall report in writing to the treasurer the amount of authorized costs incurred, and the treasurer shall file the statement. Costs not filed with the treasurer before a redemption is complete shall not be collected by the treasurer and may be recovered through a court action against the parcel owner by the certificate holder. If the parcel is held by a city or county, a city or county agency, or the Iowa finance authority, for use in an Iowa homesteading project, whether or not the parcel is the subject of a conditional conveyance granted under the project, the costs incurred for repairs and rehabilitation work required and undertaken in order to make the parcel meet applicable building or housing code standards shall be added to the amount necessary to redeem.

Sec. 10. 1998 Iowa Acts, chapter 1107, is amended by adding the following new section:

SEC. 34. APPLICABILITY DATE. Section 30 of this Act, amending Code section 447.9, applies to redemption of parcels sold for delinquent taxes beginning with the tax sale held in June 1999.

Sec. 11. Sections 3 and 4 of this Act, amending Code section 331.602, apply to instruments recorded on or after January 1, 2000.

Sec. 12. Section 10 of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 28, 1999

CHAPTER 84

MANURE APPLICATOR CERTIFICATION — DEADLINE EXTENSION

H.F. 531

AN ACT providing for the certification of manure applicators by delaying dates required for certification, and providing an effective date.

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

Section 1. MANURE APPLICATORS CERTIFICATION — EXTENSION.

Notwithstanding 1998 Iowa Acts, chapter 1209, section 53, subsection 2, all of the following shall apply:

1. A person required to be certified as a commercial manure applicator pursuant to section 455B.203A shall be certified by July 1, 1999.

2. A person required to be certified as a confinement site manure applicator pursuant to section 455B.203A shall be certified by October 1, 1999.

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

Approved April 28, 1999

CHAPTER 85

PIPELINES — CONSTRUCTION — LAND RESTORATION

S.F. 160

AN ACT relating to pipelines, interstate natural gas pipelines, and hazardous liquid pipelines, and the restoration of agricultural lands, making penalties applicable, and providing an effective date.

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

Section 1. Section 479.29, Code 1999, is amended to read as follows:

479.29 ~~CONSTRUCTION STANDARDS~~ LAND RESTORATION.

1. The board shall, pursuant to chapter 17A, adopt rules establishing standards ~~for the protection of underground improvements during the construction of pipelines, to protect soil~~

~~conservation and drainage structures from being permanently damaged by pipeline construction and for the restoration of agricultural lands during and after pipeline construction. To ensure that all interested persons are informed of this rulemaking procedure and are afforded a right to participate, the board shall schedule an opportunity for oral presentations on the proposed rulemaking, and, in addition to the requirements of section 17A.4, the board shall distribute copies of the notice of intended action and opportunity for oral presentations to each county board of supervisors. Any county board of supervisors may, under the provisions of chapter 17A, and subsequent to the rulemaking proceedings, petition under those provisions for additional rulemaking to establish standards to protect soil conservation practices, structures and drainage structures for land restoration after pipeline construction within that county. Upon the request of the petitioning county the board shall schedule a hearing to consider the merits of the petition. Rules adopted under this section shall not apply within the boundaries of a city, unless the land is used for agricultural purposes. Rules adopted under this section shall not apply to land located within city boundaries, unless the land is used for agricultural purposes. Rules adopted under this section shall address, but are not limited to, all of the following subject matters:~~

- ~~a. Topsoil separation and replacement.~~
- ~~b. Temporary and permanent repair to drain tile.~~
- ~~c. Removal of rocks and debris from the right-of-way.~~
- ~~d. Restoration of areas of soil compaction.~~
- ~~e. Restoration of terraces, waterways, and other erosion control structures.~~
- ~~f. Revegetation of untilled land.~~
- ~~g. Future installation of drain tile or soil conservation structures.~~
- ~~h. Restoration of land slope and contour.~~
- ~~i. Restoration of areas used for field entrances and temporary roads.~~
- ~~j. Construction in wet conditions.~~
- ~~k. Designation of a pipeline company point of contact for landowner inquiries or claims.~~

2. The county board of supervisors shall cause an on-site inspection for compliance with the standards adopted under this section to be performed at any pipeline construction project in the county. A licensed professional engineer familiar with the standards adopted under this section and registered under chapter 542B shall be in responsible charge of for the inspection. A county board of supervisors may contract for the services of a licensed professional engineer for the purposes of the inspection. The reasonable costs of the inspection shall be borne by the pipeline company.

3. If the inspector determines that there has been a violation of the standards adopted under this section, of the land restoration plan, or of an independent agreement on land restoration or line location executed in accordance with subsection 10, the inspector shall give oral notice, followed by written notice, to the pipeline company and the contractor operating for the pipeline company and order corrective action to be taken in compliance with the standards. The costs of the corrective action shall be borne by the contractor operating for the pipeline company.

4. ~~As a part of the inspection process, the inspector shall ascertain that the trench excavation has been filled in a manner to provide that the topsoil has been replaced on top and rocks and debris have been removed from the topsoil of the easement area. An existing topsoil layer extending at least one foot in width on either side of the pipeline excavation at a maximum depth of twelve inches shall be removed separately and shall be stockpiled and preserved separately during subsequent construction operations, unless other means for separating the topsoil are provided in the easement. The topsoil shall be replaced so the upper portion of the pipeline excavation and the crowned surface shall contain only the topsoil originally removed.~~

5. ~~4. Adequate inspection of~~ An inspector shall adequately inspect underground improvements altered during construction of pipeline. An inspection shall be conducted at the time of the replacement or repair of the underground improvements. An inspector shall be present

on the site at all times at each phase and separate activity of the opening of the trench, the restoration of underground improvements, and backfilling. The pipeline company and its contractor shall keep ~~all county inspectors~~ an inspector continually informed of the work schedule and any schedule changes. If proper notice is given, construction shall not be delayed due to an inspector's failure to be present on the site.

~~6. 5. If the pipeline company or its contractor does not comply with the orders of the inspector for compliance with the standards requirements of this section, with the land restoration plan, or with an independent agreement on land restoration or line location executed in accordance with subsection 10, the county board of supervisors may direct the county attorney to petition the district court~~ petition the board for an order requiring corrective action to be taken in compliance with the standards adopted under this section. In addition, the county board of supervisors may file a complaint with the board seeking imposition of civil penalties pursuant to section 479.31.

~~7. 6. The pipeline company shall allow landowners and inspectors~~ the inspector to view the proposed center line of the pipeline prior to commencing trenching operations to insure that construction takes place in its proper location.

~~8. 7. An inspector may temporarily halt the construction if the construction is not in compliance with the law this chapter and the standards adopted pursuant to this chapter, the land restoration plan, or the terms of the an independent agreement with the pipeline company regarding topsoil removal and replacement, drainage structures, soil moisture conditions or the location of construction~~ land restoration or line location executed in accordance with subsection 10, until the inspector consults with the supervisory personnel of the pipeline company. If the construction is then continued over the inspector's objection and is found to not be in compliance with the law or agreement and is found to cause damage, any civil penalty recovered under section 479.31 as a result of that violation shall be paid to the landowner.

~~9. 8. The board shall instruct inspectors appointed by the board of supervisors regarding the content of the statutes and rules and the inspector's responsibility to require construction conforming with the standards provided by this chapter.~~

~~10. 9. Any underground drain tile damaged, cut, or removed shall be temporarily repaired and maintained as necessary to allow for its proper function during construction of the pipeline. If temporary repair is not determined to be necessary, the exposed line will nonetheless be screened or otherwise protected to prevent the entry of any foreign material, small animals, etc. into the tile line system. Petitioners for a permit for pipeline construction shall file with the petition a written land restoration plan showing how the requirements of this section, and of rules adopted pursuant to this section, will be met. The petitioners shall provide copies of the plan to all landowners of property that will be disturbed by the construction.~~

10. This section does not preclude the application of provisions for protecting or restoring property that are different than those prescribed in this section, in rules adopted pursuant to this section, or in the land restoration plan, if the alternative provisions are contained in agreements independently executed by the pipeline company and landowner, and if the alternative provisions are not inconsistent with state law or with rules adopted by the board. Independent agreements on land restoration or line location between the landowner and pipeline company shall be in writing and a copy provided to the county inspector.

11. For purposes of this section, "construction" includes the removal of a previously constructed pipeline.

12. The requirements of this section shall apply only to pipeline construction projects commenced on or after the effective date of this Act.

Sec. 2. Section 479.45, Code 1999, is amended to read as follows:

479.45 PARTICULAR DAMAGE CLAIMS.

1. Compensable losses shall include, but are not limited to, all of the following:

a. Loss or reduced yield of crops or forage on the pipeline right-of-way, whether caused directly by construction or from disturbance of usual farm operations.

b. Loss or reduced yield of crops or yield from land near the pipeline right-of-way resulting from lack of timely access to the land or other disturbance of usual farm operations, including interference with irrigation.

c. Fertilizer, lime, or organic material applied by the landowner to restore land disturbed by construction to full productivity.

d. Loss of or damage to trees of commercial or other value that occurs at the time of construction, restoration, or at the time of any subsequent work by the pipeline company.

~~±. e. The cost of or losses in moving or relocating livestock, and the loss of gain by or the death or injury of livestock caused by the interruption or relocation of normal feeding of the livestock caused by the construction or repair of a pipeline is a compensable loss and shall be recognized as such by a pipeline company.~~

f. Erosion on lands attributable to pipeline construction.

g. Damage to farm equipment caused by striking a pipeline, debris, or other material reasonably associated with pipeline construction while engaged in normal farming operations as defined in section 480.1.

2. A claim for damage for future crop deficiency within the easement strip shall not be precluded from renegotiation under section 6B.52 on the grounds that it was apparent at the time of settlement unless the settlement expressly releases the pipeline company from claims for damage to the productivity of the soil. The landowner shall notify the company ~~thirty~~ in writing fourteen days prior to harvest in each year to assess crop deficiency.

Sec. 3. NEW SECTION. 479.48 REVERSION ON NONUSE.

1. If a pipeline right-of-way, or any part of a pipeline right-of-way, is wholly abandoned for pipeline purposes by the relocation of the pipeline, is not used or operated for a period of five consecutive years, or if the construction of the pipeline has been commenced and work has ceased and has not in good faith resumed for five years, the right-of-way may revert as provided in this section to the person who, at the time of the abandonment or nonuse, is the owner of the tract from which such right-of-way was taken. For purposes of this section, a pipeline or a pipeline right-of-way is not considered abandoned or unused if it is transporting product or is being actively maintained with reasonable anticipation of a future use.

2. To effect a reversion on nonuse of right-of-way, the owner or holder of purported fee title to such real estate shall serve notice upon the owner of such right-of-way easement and, if filed of record, successors in interest and upon any party in possession of the real estate. The written notice shall accurately describe the real estate and easement in question, set out the facts concerning ownership of the fee, ownership of the right-of-way easement, and the period of abandonment or nonuse, and notify the parties that such reversion shall be complete and final, and that the easement or other right shall be forfeited, unless the parties shall, within one hundred twenty days after the completed service of notice, file an affidavit with the county recorder of the county in which the real estate is located disputing the facts contained in the notice.

3. The notice shall be served in the same manner as an original notice under the Iowa rules of civil procedure, except that when notice is served by publication an affidavit shall not be required before publication. If an affidavit disputing the facts contained in the notice is not filed within one hundred twenty days, the party serving the notice may file for record in the office of the county recorder a copy of the notice with proofs of service attached and endorsed, and when so recorded, the record shall be constructive notice to all persons of the abandonment, reversion, and forfeiture of such right-of-way.

4. Upon reversion of the easement, the landowner may require the pipeline company to remove any pipe or pipeline facility remaining on the property. Provisions of this chapter relating to damages shall apply when the pipeline is removed.

5. If a pipeline right-of-way is abandoned for pipeline use, but the pipe is not removed from the right-of-way, the pipeline company shall remain responsible for the additional

costs of subsequent tiling as provided for in section 479.47, shall mark the location of the line in response to a notice of proposed excavation in accordance with chapter 480, and shall remain subject to the damage provisions of this chapter in the event access to or excavation relating to the pipe is required. The landowner shall provide reasonable access to the pipeline in order to carry out the responsibilities of this subsection.

Sec. 4. Section 479A.14, Code 1999, is amended to read as follows:

479A.14 LAND RESTORATION — STANDARDS — INSPECTION.

1. The board shall adopt rules establishing standards ~~to protect underground improvements during the construction of pipelines, to protect soil conservation and drainage structures from being permanently damaged by pipeline construction, and for the restoration of agricultural lands during and after pipeline construction. To ensure that all interested persons are informed of this rulemaking procedure and are afforded a right to participate, the board shall schedule an opportunity for oral presentations on the proposed rulemaking and, in~~ In addition to the requirements of section 17A.4, ~~the board~~ shall distribute copies of the notice of intended action and opportunity for oral presentations to each county board of supervisors. A county board of supervisors may, under chapter 17A and subsequent to the rulemaking proceedings, petition for additional rulemaking to establish standards ~~to protect soil conservation practices, structures, and drainage structures for land restoration after pipeline construction~~ within that county. Upon the request of the petitioning county, the board shall schedule a hearing to consider the merits of the petition. ~~Rules adopted under this section do not apply within the boundaries of a city, unless the land is used for agricultural purposes. Rules adopted under this section shall not apply to land located within city boundaries, unless the land is used for agricultural purposes. Rules adopted under this section shall address, but are not limited to, all of the following subject matters:~~

- a. Topsoil separation and replacement.
- b. Temporary and permanent repair to drain tile.
- c. Removal of rocks and debris from the right-of-way.
- d. Restoration of areas of soil compaction.
- e. Restoration of terraces, waterways, and other erosion control structures.
- f. Revegetation of untilled land.
- g. Future installation of drain tile or soil conservation structures.
- h. Restoration of land slope and contour.
- i. Restoration of areas used for field entrances and temporary roads.
- j. Construction in wet conditions.
- k. Designation of a pipeline company point of contact for landowner inquiries or claims.

2. The county board of supervisors shall cause an on-site inspection for compliance with the standards adopted under this section to be performed at any pipeline construction project in the county. A licensed professional engineer familiar with the standards adopted under this section and registered under chapter 542B shall be ~~placed in charge of~~ responsible for the inspection. The reasonable costs of the inspection shall be borne by the pipeline company.

3. If the inspector determines that there has been a violation of the standards adopted under this section, ~~of the land restoration plan, or of an independent agreement on land restoration executed in accordance with subsection 10,~~ the inspector shall give oral notice, followed by written notice, to the pipeline company and the contractor operating for the pipeline company, and order corrective action to be taken in compliance with the standards. The costs of the corrective action shall be borne by the contractor operating for the pipeline company.

4. ~~As a part of the inspection process, the inspector shall ascertain that the trench excavation has been filled in a manner to provide that the topsoil has been replaced on top and rocks and debris have been removed from the topsoil of the easement area. An existing topsoil layer extending at least one foot in width on either side of the pipeline excavation at a maximum depth of one foot shall be removed separately and shall be stockpiled and~~

~~preserved separately during subsequent construction operations, unless other means for separating the topsoil are provided in the easement. The topsoil shall be replaced so the upper portion of the pipeline excavation and the crowned surface contain only the topsoil originally removed.~~

~~5. 4. Adequate inspection of~~ An inspector shall adequately inspect underground improvements altered during construction of a pipeline. An inspection shall be conducted at the time of the replacement or repair of the underground improvements. An inspector shall be present on the site at all times at each phase and separate activity of the opening of the trench, the restoration of underground improvements, and backfilling. The pipeline company and its contractor shall keep ~~all county inspectors~~ an inspector continually informed of the work schedule and any schedule changes. If proper notice is given, construction shall not be delayed due to an inspector's failure to be present on the site.

~~6. 5. If the pipeline company or its contractor does not comply with the orders of the inspector for compliance with the standards requirements of this section, with the land restoration plan, or with an independent agreement on land restoration executed in accordance with subsection 10, the county board of supervisors may direct the county attorney to petition the district court petition the board~~ for an order requiring corrective action to be taken ~~in compliance with the standards adopted under this section. In addition, the county board of supervisors may file a complaint with the board seeking imposition of civil penalties pursuant to section 479A.16.~~

~~7. 6. The pipeline company shall allow landowners and inspectors~~ the inspector to view the proposed center line of the pipeline before commencing trenching operations to ensure that construction takes place in the proper location.

~~8. 7. An inspector may temporarily halt the construction if the construction is not in compliance with this chapter and the standards adopted under # this chapter, the land restoration plan approved by the board, or the terms of the an independent agreement with the pipeline company regarding topsoil removal and replacement, drainage structures, soil moisture conditions, or the location of construction, line location or land restoration executed in accordance with subsection 10, until the inspector consults with the supervisory personnel of the pipeline company. If the construction is continued over the inspector's objection and is found not to be in compliance with this chapter, the standards, or the agreement, and is found to cause damage, a civil penalty recovered under section 479A.16 as a result of that violation shall be paid to the landowner.~~

~~9. 8. The board shall instruct inspectors appointed by the county board of supervisors regarding the content of this chapter and the standards and the inspectors' responsibility to require construction conforming with them.~~

~~10. 9. An underground drain tile damaged, cut, or removed shall be temporarily repaired and maintained as necessary to allow for its proper function during construction of the pipeline. If temporary repair is determined not to be necessary, the exposed line shall be screened or otherwise protected to prevent the entry of foreign material or small animals into the tile line system. Prior to the initiation of construction, the pipeline company shall file a written land restoration plan with the board describing the methods and procedures by which compliance with this section and the standards adopted under this section will be achieved. The board shall review this plan to insure that the requirements of this section and rules adopted pursuant to this section are met. After board review, the pipeline company shall provide copies of the plan to all landowners of property that will be disturbed by the construction. The requirements of this subsection may be waived by the board to the extent an environmental impact statement addressing the land restoration subjects in subsection 1 was prepared by the federal energy regulatory commission.~~

~~11. 10. This section does not preclude the application of provisions for protecting or restoring property that are different than those prescribed in this section, in rules adopted pursuant to this section, or in the land restoration plan if the alternative provisions are contained in agreements independently executed by the pipeline company and the landowner,~~

and if the alternative provisions are not inconsistent with state law or with rules adopted by the board. Independent agreements on land restoration or line location between the landowner and pipeline company shall be in writing and a copy provided to the county inspector.

11. For the purposes of this section, "construction" includes the removal of a previously constructed pipeline.

12. The requirements of this section shall not apply to pipeline projects that have received a certificate from the federal energy regulatory commission prior to the effective date of this Act.

Sec. 5. Section 479A.24, subsections 1 and 2, Code 1999, are amended to read as follows:

1. Compensable losses shall include, but are not limited to, all of the following:

a. Loss or reduced yield of crops or forage on the pipeline right-of-way, whether caused directly by construction or from disturbance of usual farm operations.

b. Loss or reduced yield of crops or yield from land near the pipeline right-of-way resulting from lack of timely access to the land or other disturbance of usual farm operations, including interference with irrigation.

c. Fertilizer, lime, or organic material applied by the landowner to restore land disturbed by construction to full productivity.

d. Loss of or damage to trees of commercial or other value that occurs at the time of construction, restoration, or at the time of any subsequent work by the pipeline company.

~~e. The cost of or losses in moving or relocating livestock, and the loss of gain by, or the death or injury of livestock caused by the interruption or relocation of normal feeding of the livestock due to the construction or repair of a pipeline is a compensable loss and shall be so recognized by a pipeline company.~~

f. Erosion on lands attributable to pipeline construction.

g. Damage to farm equipment caused by striking a pipeline, debris, or other material reasonably associated with pipeline construction while engaged in normal farming operations as defined in section 480.1.

2. A claim for damage for future crop deficiency within the easement strip shall not be precluded from renegotiation under section 6B.52 on the grounds that it was apparent at the time of settlement unless the settlement expressly releases the pipeline company from claims for damage to the productivity of the soil. The landowner shall notify the company ~~thirty~~ in writing fourteen days prior to harvest in each year to assess crop deficiency.

Sec. 6. NEW SECTION. 479A.27 REVERSION ON NONUSE.

1. If a pipeline right-of-way, or any part of a pipeline right-of-way, is wholly abandoned for pipeline purposes by the relocation of the pipeline, is not used or operated for a period of five consecutive years, or if the construction of the pipeline has been commenced and work has ceased and has not in good faith resumed for five years, the right-of-way may revert as provided in this section to the person who, at the time of the abandonment or nonuse, is the owner of the tract from which such right-of-way was taken. Abandonment of pipeline facilities requires approval from the federal energy regulatory commission prior to this provision taking effect.

2. To effect a reversion on nonuse of right-of-way, the owner or holder of purported fee title to such real estate shall serve notice upon the owner of such right-of-way easement and, if filed of record, successors in interest and upon any party in possession of the real estate. The written notice shall accurately describe the real estate and easement in question, set out the facts concerning ownership of the fee, ownership of the right-of-way easement, and the period of abandonment or nonuse, and notify the parties that such reversion shall be complete and final, and that the easement or other right shall be forfeited, unless the parties shall, within one hundred twenty days after the completed service of notice, file an affidavit with the county recorder of the county in which the real estate is located disputing the facts contained in the notice.

3. The notice shall be served in the same manner as an original notice under the Iowa rules of civil procedure, except that when notice is served by publication an affidavit shall not be required before publication. If an affidavit disputing the facts contained in the notice is not filed within one hundred twenty days, the party serving the notice may file for record in the office of the county recorder a copy of the notice with proofs of service attached and endorsed, and when so recorded, the record shall be constructive notice to all persons of the abandonment, reversion, and forfeiture of such right-of-way.

4. Upon reversion of the easement, the landowner may require the pipeline company to remove any pipe or pipeline facility remaining on the property to the extent such removal is in accordance with the terms of the abandonment authority from the federal energy regulatory commission. Provisions of this chapter relating to damages shall apply when the pipeline is removed.

5. If a pipeline right-of-way is abandoned for pipeline use, but the pipe is not removed from the right-of-way, the pipeline company shall remain responsible for the additional costs of subsequent tiling as provided for in section 479A.26, shall mark the location of the line in response to a notice of proposed excavation in accordance with chapter 480, and shall remain subject to the damage provisions of this chapter in the event access to or excavation relating to the pipe is required. The landowner shall provide reasonable access to the pipeline in order to carry out the responsibilities of this subsection.

Sec. 7. Section 479B.20, Code 1999, is amended to read as follows:
479B.20 LAND RESTORATION STANDARDS.

1. The board, pursuant to chapter 17A, shall adopt rules establishing standards for ~~the protection of underground improvements during the construction of pipelines or underground storage facilities, to protect soil conservation and drainage structures from being permanently damaged by construction of the pipeline or underground storage facility, and for the restoration of agricultural lands during and after pipeline or underground storage facility construction. To ensure that all interested persons are informed of this rulemaking procedure and are afforded a right to participate, the board shall schedule an opportunity for oral presentations on the proposed rulemaking, and, in In~~ addition to the requirements of section 17A.4, the board shall distribute copies of the notice of intended action and opportunity for oral presentations to each county board of supervisors. Any county board of supervisors may, under the provisions of chapter 17A, and subsequent to the rulemaking proceedings, petition under those provisions for additional rulemaking to establish standards to protect soil conservation practices, structures, and drainage structures for land restoration after pipeline construction within that county. Upon the request of the petitioning county, the board shall schedule a hearing to consider the merits of the petition. Rules adopted under this section shall not apply within the boundaries of a city unless the land is used for agricultural purposes. Rules adopted under this section shall not apply to land located within city boundaries, unless the land is used for agricultural purposes. Rules adopted under this section shall address, but are not limited to, all of the following subject matters:

- a. Topsoil separation and replacement.
- b. Temporary and permanent repair to drain tile.
- c. Removal of rocks and debris from the right-of-way.
- d. Restoration of areas of soil compaction.
- e. Restoration of terraces, waterways, and other erosion control structures.
- f. Revegetation of untilled land.
- g. Future installation of drain tile or soil conservation structures.
- h. Restoration of land slope and contour.
- i. Restoration of areas used for field entrances and temporary roads.
- j. Construction in wet conditions.
- k. Designation of a pipeline company point of contact for landowner inquiries or claims.

2. The county board of supervisors shall cause an on-site inspection for compliance with the standards adopted under this section to be performed at any pipeline construction project

in the county. A licensed professional engineer familiar with the standards adopted under this section and registered under chapter 542B shall be responsible for the inspection. A county board of supervisors may contract for the services of a licensed professional engineer for the purposes of the inspection. The reasonable costs of the inspection shall be paid by the pipeline company.

3. If the inspector determines that there has been a violation of the standards adopted under this section, of the land restoration plan, or of an independent agreement on land restoration or line location executed in accordance with subsection 10, the inspector shall give oral notice, followed by written notice, to the pipeline company and the contractor operating for the pipeline company and order corrective action to be taken in compliance with the standards. The costs of the corrective action shall be borne by the contractor operating for the pipeline company.

~~4. As a part of the inspection process, the inspector shall ascertain that the trench excavation has been filled in a manner to provide that the topsoil has been replaced on top and rocks and debris have been removed from the topsoil of the easement area. An existing topsoil layer extending at least one foot in width on either side of the pipeline excavation at a maximum depth of twelve inches shall be removed separately and shall be stockpiled and preserved separately during subsequent construction operations, unless other means for separating the topsoil are provided in the easement. The topsoil shall be replaced so the upper portion of the pipeline excavation and the crowned surface shall contain only the topsoil originally removed.~~

~~5. 4. Adequate inspection of~~ An inspector shall adequately inspect underground improvements altered during construction of the pipeline. An inspection shall be conducted at the time of the replacement or repair of the underground improvements. An inspector shall be present on the site at all times at each phase and separate activity of the opening of the trench, the restoration of underground improvements, and backfilling. The pipeline company and its contractor shall keep ~~all county inspectors~~ an inspector continually informed of the work schedule and any schedule changes. If proper notice is given, construction shall not be delayed due to an inspector's failure to be present on the site.

~~6. 5. If the pipeline company or its contractor does not comply with the orders of the inspector for compliance with the standards requirements of this section, with the land restoration plan or line location, or with an independent agreement on land restoration executed in accordance with subsection 10, the county board of supervisors may direct the county attorney to petition the district court petition the board for an order requiring corrective action to be taken in compliance with the standards adopted under this section. In addition, the county board of supervisors may file a complaint with the board seeking imposition of civil penalties under section 479B.21.~~

~~7. 6. The pipeline company shall allow landowners and inspectors~~ the inspector to view the proposed center line of the pipeline prior to commencing trenching operations to ensure that construction takes place in its proper location.

~~8. 7. An inspector may temporarily halt the construction if the construction is not in compliance with the law this chapter and the standards adopted pursuant to this chapter, the land restoration plan, or the terms of the an independent agreement with the pipeline company regarding topsoil removal and replacement, drainage structures, soil moisture conditions, or the location of construction land restoration or line location executed in accordance with subsection 10, until the inspector consults with the supervisory personnel of the pipeline company. If the construction is then continued over the inspector's objection and is found not to be in compliance with the law or agreement and is found to cause damage, any civil penalty recovered under section 479B.21 as a result of that violation shall be paid to the landowner.~~

~~9. 8. The board shall instruct inspectors appointed by the board of supervisors regarding the content of the statutes and rules and the inspector's responsibility to require construction conforming with the standards provided by this chapter.~~

~~10. 9. Any underground drain tile damaged, cut, or removed shall be temporarily repaired and maintained as necessary to allow for its proper function during construction of the pipeline or underground storage facility. If temporary repair is not determined to be necessary, the exposed tile shall nonetheless be screened or otherwise protected to prevent the entry of any foreign material or small animals into the tile line system. Petitioners for a permit for pipeline construction shall file with the petition a written land restoration plan showing how the requirements of this section, and of rules adopted pursuant to this section, will be met. The company shall provide copies of the plan to all landowners of property that will be disturbed by the construction.~~

~~11. 10. This section does not preclude the application of provisions for protecting or restoring property that are different than those prescribed in this section, in rules adopted under this section, or in the land restoration plan, if the alternative provisions are contained in agreements independently executed by the pipeline company and the landowner, and if the alternative provisions are not inconsistent with state law or with rules adopted by the board. Independent agreements on land restoration or line location between the landowner and pipeline company shall be in writing and a copy provided to the county inspector.~~

~~11. For the purposes of this section, "construction" includes the removal of a previously constructed pipeline.~~

~~12. The requirements of this section shall apply only to pipeline construction projects commenced on or after the effective date of this Act.~~

Sec. 8. Section 479B.29, Code 1999, is amended to read as follows:

479B.29 PARTICULAR DAMAGE CLAIMS.

1. Compensable losses shall include, but are not limited to, all of the following:

a. Loss or reduced yield of crops or forage on the pipeline right-of-way, whether caused directly by construction or from disturbance of usual farm operations.

b. Loss or reduced yield of crops or yield from land near the pipeline right-of-way resulting from lack of timely access to the land or other disturbance of usual farm operations, including interference with irrigation.

c. Fertilizer, lime, or organic material applied by the landowner to restore land disturbed by construction to full productivity.

d. Loss of or damage to trees of commercial or other value that occurs at the time of construction, restoration, or at the time of any subsequent work by the pipeline company.

~~1. e. The cost of or losses in moving or relocating livestock, and the loss of gain by or the death or injury of livestock caused by the interruption or relocation of normal feeding of the livestock caused by the construction or repair of a pipeline or underground storage facility is a compensable loss and shall be recognized by a pipeline company.~~

f. Erosion on lands attributable to pipeline construction.

g. Damage to farm equipment caused by striking a pipeline, debris, or other material reasonably associated with pipeline construction while engaged in normal farming operations as defined in section 480.1.

2. A claim for damage for future crop deficiency within the easement strip shall not be precluded from renegotiation under section 6B.52 on the grounds that it was apparent at the time of settlement unless the settlement expressly releases the pipeline company from claims for damage to the productivity of the soil. The landowner shall notify the pipeline company in writing ~~thirty~~ fourteen days prior to harvest in each year to assess crop deficiency.

Sec. 9. NEW SECTION. 479B.32 REVERSION ON NONUSE.

1. If a pipeline right-of-way, or any part of the pipeline right-of-way, is wholly abandoned for pipeline purposes by the relocation of the pipeline, is not used or operated for a period of five consecutive years, or if the construction of the pipeline has been commenced and work has ceased and has not in good faith resumed for five years, the right-of-way may revert as provided in this section to the person who, at the time of the abandonment or nonuse, is the

owner of the tract from which such right-of-way was taken. For purposes of this section, a pipeline or a pipeline right-of-way is not considered abandoned or unused if it is transporting product or is being actively maintained with reasonable anticipation of a future use.

2. To effect a reversion on nonuse of right-of-way, the owner or holder of purported fee title to such real estate shall serve notice upon the owner of such right-of-way easement and, if filed of record, successors in interest and upon any party in possession of the real estate. The written notice shall accurately describe the real estate and easement in question, set out the facts concerning ownership of the fee, ownership of the right-of-way easement, and the period of abandonment or nonuse, and notify the parties that such reversion shall be complete and final, and that the easement or other right shall be forfeited, unless the parties shall, within one hundred twenty days after the completed service of notice, file an affidavit with the county recorder of the county in which the real estate is located disputing the facts contained in the notice.

3. The notice shall be served in the same manner as an original notice under the Iowa rules of civil procedure, except that when notice is served by publication an affidavit shall not be required before publication. If an affidavit disputing the facts contained in the notice is not filed within one hundred twenty days, the party serving the notice may file for record in the office of the county recorder a copy of the notice with proofs of service attached and endorsed, and when so recorded, the record shall be constructive notice to all persons of the abandonment, reversion, and forfeiture of such right-of-way.

4. Upon reversion of the easement, the landowner may require the pipeline company to remove any pipe or pipeline facility remaining on the property. Provisions of this chapter relating to damages shall apply when the pipeline is removed.

5. If a pipeline right-of-way is abandoned for pipeline use, but the pipe is not removed from the right-of-way, the pipeline company shall remain responsible for the additional costs of subsequent tiling as provided for in section 479B.31, shall mark the location of the line in response to a notice of proposed excavation in accordance with chapter 480, and shall remain subject to the damage provisions of this chapter in the event access to or excavation relating to the pipe is required. The landowner shall provide reasonable access to the pipeline in order to carry out the responsibilities of this subsection.

Sec. 10. Section 479A.9, Code 1999, is amended to read as follows:

479A.9 DEPOSIT OF FUNDS.

~~Except as otherwise provided in section 479A.14, subsection 8, moneys~~ Moneys received under this chapter shall be credited to the general fund of the state as provided in section 476.10.

Sec. 11. EFFECTIVE DATE. This Act takes effect on June 1, 1999.

Approved April 29, 1999

CHAPTER 86**EMERGENCY MANAGEMENT SERVICES**

S.F. 254

AN ACT relating to the emergency management division of the department of public defense by authorizing fees for radiological detection equipment maintenance services, by authorizing financial assistance to local governments for emergency management purposes, by directing a report to the general assembly by the division director, and by providing an effective date.

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

DIVISION I

Section 1. Section 23A.2, subsection 10, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. m. The repair, calibration, or maintenance of radiological detection equipment by the emergency management division of the department of public defense.

Sec. 2. Section 29C.8, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The emergency management division may charge fees for the repair, calibration, or maintenance of radiological detection equipment and may expend funds in addition to funds budgeted for the servicing of the radiological detection equipment. The division shall adopt rules pursuant to chapter 17A providing for the establishment and collection of fees for radiological detection equipment repair, calibration, or maintenance services and for entering into agreements with other public and private entities to provide the services. Fees collected for repair, calibration, or maintenance services shall be treated as repayment receipts as defined in section 8.2 and shall be used for the operation of the division's radiological maintenance facility or radiation incident response training.

DIVISION II

Sec. 3. Section 29C.6, subsection 17, Code 1999, is amended to read as follows:

17. **a.** When the president of the United States has declared a major disaster to exist in the state and upon the governor's determination that financial assistance is essential to meet disaster-related necessary expenses or serious needs of local and state government adversely affected by a major disaster that cannot be otherwise adequately met from other means of assistance, accept a grant by the federal government to fund the financial assistance, subject to terms and conditions imposed upon the grant, and enter into an agreement with the federal government pledging the state to participate in the funding of the financial assistance authorized to local government and eligible private nonprofit agencies in an amount not to exceed ten percent of the total eligible expenses, with the applicant providing ~~fifteen percent~~ **the balance of any participation amount**. If financial assistance is granted by the federal government for state disaster-related expenses or serious needs, the state shall participate in the funding of the financial assistance authorized in an amount not to exceed twenty-five percent of the total eligible expenses. If financial assistance is granted by the federal government for hazard mitigation, the state may participate in the funding of the financial assistance authorized to a local government in an amount not to exceed ten percent of the eligible expenses, with ~~local government~~ **the applicant** providing ~~forty percent~~ **the balance of any participation amount**. If financial assistance is granted by the federal government for state-related hazard mitigation, the state may participate in the funding of the financial assistance authorized, not to exceed fifty percent of the total eligible expenses. If state funds are not otherwise available to the governor, an advance of the state share may be accepted from the federal government to be repaid when the state is able to do so.

b. State participation in funding financial assistance under paragraph "a" is contingent upon the local government having on file a state-approved, comprehensive, countywide emergency operations plan which meets the standards adopted pursuant to section 29C.9, subsection 8.

Sec. 4. EFFECTIVE DATE. This division of this Act takes effect July 1, 2000.

DIVISION III

Sec. 5. The general assembly recognizes the need for the state government to be prepared to respond to incidents involving nuclear, chemical, or biological materials. Further, the general assembly recognizes that the emergency management division of the department of public defense should take the lead in these efforts. Therefore, the administrator of the emergency management division is directed to report to the general assembly not later than January 15, 2000, regarding the status of state government preparedness to respond to nuclear, chemical, or biological materials incidents and identify unmet needs for preparedness and response efforts.

Approved April 29, 1999

CHAPTER 87

FAMILY FARM TAX CREDIT

S.F. 305

AN ACT relating to the payment by a county of the family farm tax credit and reimbursement to the county of its payment and including an effective date.

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

Section 1. CREDIT RECERTIFICATION. A county may on or after the effective date of this Act but before June 1, 1999, recertify to the department of revenue and finance the total amount of family farm tax credits payable during the fiscal year beginning July 1, 1998, if the amount originally certified was incorrect due to the fact that the amount certified included the total number of acres entitled to the credit but did not represent the total amount of credit due. As soon as the department of revenue and finance receives the recertification and communicates its agreement to the validity of the recertification to the county auditor, the county shall pay from its general fund to those persons who qualified to receive but did not receive during the fiscal year beginning July 1, 1998, the pro rata percentage of the family farm tax credit as recertified on agricultural land located in the county, a sum equal to the amount of the pro rata percentage determined pursuant to section 425A.6 of the credits correctly recertified as agreed to by the director of revenue and finance and the county auditor.

Sec. 2. Notwithstanding any provision in chapter 425A to the contrary, from the amount appropriated to the family farm tax credit fund, created in section 425A.1, to pay tax credits during the fiscal year beginning July 1, 1999, an amount not to exceed the amount agreed to by the director of revenue and finance and the county auditor for each county making payments under section 1 of this Act shall be paid to that county to be deposited into its general fund. The amounts paid pursuant to this section shall be paid prior to any other

payments from the family farm tax credit fund. The remaining appropriation to the family farm tax credit fund shall be distributed as provided in chapter 425A.

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

Approved April 29, 1999

CHAPTER 88

LIVESTOCK MARKETING PRACTICES — PACKERS

S.F. 436

AN ACT relating to practices involving the marketing of livestock concerning packers, by providing for the regulation of certain purchase information and contracting, and providing penalties and effective dates.

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

Section 1. Section 22.7, Code 1999, is amended by adding the following new subsection: **NEW SUBSECTION.** 38. Information revealing the identity of a packer or a person who sells livestock to a packer as reported to the department of agriculture and land stewardship pursuant to section 172C.2.

Sec. 2. **NEW SECTION.** 172C.1 DEFINITIONS.

1. "Department" means the department of agriculture and land stewardship.
2. "Livestock" means live cattle, swine, or sheep.
3. "Packer" means a person who is engaged in the business of slaughtering livestock or receiving, purchasing, or soliciting livestock for slaughter, if the meat products of the slaughtered livestock which are directly or indirectly to be offered for resale or for public consumption and the meat products* have a total annual value of ten million dollars or more. As used in this chapter, "packer" includes an agent of the packer engaged in buying or soliciting livestock for slaughter on behalf of a packer. "Packer" does not include a frozen food locker plant regulated under chapter 172.

Sec. 3. **NEW SECTION.** 172C.2 PURCHASE REPORTS — FILING.

1. A packer shall file purchase reports with the department which include information relating to the purchase of livestock as required by the department. The purchase reports shall be completed in a manner prescribed by the department. The department may require that purchase reports be filed in an electronic format. A packer shall file purchase reports at times determined practicable by the department, but not later than two business days following the event being reported.

2. a. The information required to be reported may include but is not limited to livestock purchased, committed for delivery, or slaughtered. The information may include the volume of daily purchases and the weight, grade, and price paid for livestock, including all premiums, discounts, or adjustments. If livestock is purchased pursuant to contract, the department may require that information in the purchase report be categorized by the type of contract. The purchase reports shall allow the department to compare prices paid under contract with cash market prices.

* See chapter 208, §49 herein

b. This section does not require that information reported include future plans, events, or transactions, unless provided for by contract.

3. The department may provide for the public dissemination of information contained in purchase reports.

a. The department may enter into an agreement with the United States department of agriculture or any private marketing service in order to disseminate information contained in purchase reports.

b. The department, in consultation with the office of attorney general, shall designate information in purchase reports that reveals the identity of a packer or livestock seller as confidential pursuant to section 22.7.

Sec. 4. NEW SECTION. 172C.3 PURCHASE NOTICE — POSTING.

1. a. A packer shall post a purchase notice which includes information relating to the purchase of livestock as required by the department. The information contained in the purchase notice shall include a summary of information required to be filed in purchase reports as provided in section 172C.2.

b. This section does not require that information contained in a purchase notice include future plans, events, or transactions unless provided for by contract.

2. The information contained in the purchase notice shall appear in a format that can be understood by a reasonable person familiar with selling livestock. The notice shall be posted in a conspicuous place at the point of delivery in a manner prescribed by the department.

Sec. 5. NEW SECTION. 172C.4 CONFIDENTIALITY PROVISIONS IN CONTRACTS PROHIBITED.

1. A packer shall not include a provision in a contract executed on or after the effective date of this section for the purchase of livestock providing that information contained in the contract is confidential.

2. A provision which is part of a contract for the purchase of livestock executed on and after the effective date of this section for the purchase of livestock is void, if the provision states that information contained in the contract is confidential. The provision is void regardless of whether the confidentiality provision is express or implied; oral or written; required or conditional; contained in the contract, another contract, or in a related document, policy, or agreement. This section does not affect other provisions of a contract or a related document, policy, or agreement which can be given effect without the voided provision. This section does not require either party to the contract to divulge the information in the contract to another person.

Sec. 6. NEW SECTION. 172C.5 RULES.

1. The department, in consultation with the office of attorney general, shall adopt rules necessary in order to administer this chapter.

2. The department may establish different rules according to the species of livestock governing all of the following:

a. Purchase reporting requirements pursuant to section 172C.2.

b. Purchase notice posting requirements pursuant to section 172C.3.

Sec. 7. NEW SECTION. 172C.6 ENFORCEMENT.

1. a. The attorney general's office is the primary agency responsible for enforcing this chapter.

b. The department shall notify the attorney general's office if the department has reason to believe that a violation of section 172C.2 has occurred.

2. In enforcing the provisions of this chapter, the attorney general may do all of the following:

a. Apply to the district court for an injunction to do any of the following:

- (1) Restrain a packer from engaging in conduct or practices in violation of this chapter.
 - (2) Require a packer to comply with a provision of this chapter.
 - b. Apply to district court for the issuance of a subpoena to obtain contracts, documents, or other records for purposes of enforcing this chapter.
 - c. Bring an action in district court to enforce penalties provided in this chapter, including the imposition, assessment, and collection of monetary penalties.
3. The attorney general shall have access to all information reported by packers pursuant to section 172C.2, regardless of whether the information is confidential. The attorney general may use the information in order to enforce this chapter or may submit the information to a federal agency.

Sec. 8. NEW SECTION. 172C.7 PENALTIES.

1. A packer who fails to file a timely, accurate, or complete purchase report as required pursuant to section 172C.2 is subject to a civil penalty of not more than five thousand dollars. Each failure by a packer to file a timely, accurate, or complete purchase report constitutes a separate violation.
2. A packer who fails to post a timely, accurate, or complete purchase notice as required pursuant to section 172C.3 is subject to a civil penalty of not more than one thousand dollars. Each failure by a packer to post a timely, accurate, or complete purchase notice constitutes a separate violation.
3. A packer who includes a confidentiality provision in a contract with a livestock seller in violation of section 172C.4 is guilty of a fraudulent practice as provided in section 714.8.

Sec. 9. Section 714.8, Code 1999, is amended by adding the following new subsection: NEW SUBSECTION. 17. A packer who includes a confidentiality provision in a contract with a livestock seller in violation of section 172C.4.

Sec. 10. APPLICABILITY. A packer shall provide purchase reports to the department of agriculture and land stewardship as required in section 172C.2 and shall post a purchase notice as provided in section 172C.3, as enacted in this Act, for each species of livestock as defined in section 172C.1, as enacted in this Act, in accordance with rules adopted by the department governing that species.

Sec. 11. FUTURE REPEAL OF SECTIONS AND ELIMINATION OF PROVISIONS — IMPLEMENTATION OF FEDERAL STATUTES AND REGULATIONS.

1. Subject to subsection 2, all of the following shall apply:
 - a. If the federal government implements a statute or regulation that is substantially similar to or more stringent than purchase reporting requirements provided in section 172C.2 and penalties provided in section 172C.7, subsection 1, as enacted by this Act, all of the following shall apply:
 - (1) Section 172C.2 is repealed.
 - (2) All of the following sections are amended as follows:
 - (a) Section 22.7, subsection 38, by striking the subsection.
 - (b) Section 172C.5, subsection 2, paragraph “a”, by striking the paragraph.
 - (c) Section 172C.6, subsection 1, paragraph “b”, by striking the paragraph.
 - (d) Section 172C.6, subsection 3, by striking the subsection.
 - (e) Section 172C.7, subsection 1, by striking the subsection.
 - b. If the federal government implements a statute or regulation that is substantially similar to or more stringent than purchase notice requirements provided in section 172C.3 and penalties provided in section 172C.7, subsection 2, as enacted by this Act, all of the following shall apply:
 - (1) Section 172C.3 is repealed.
 - (2) All of the following sections are amended as follows:
 - (a) Section 172C.5, subsection 2, paragraph “b”, by striking the paragraph.

(b) Section 172C.7, subsection 2, by striking the subsection.

c. If the federal government implements a statute or regulation that is substantially similar to or more stringent than purchase reporting requirements and penalties as described in paragraph "a" and purchase notice requirements and penalties as described in paragraph "b", section 172C.5, subsection 2, is amended by striking the subsection.

2. Paragraph "a", "b", or "c", as provided in subsection 1, shall become applicable only upon a finding by the secretary of agriculture that the federal government has implemented a statute or regulation as provided in that specific paragraph in accordance with an order issued by the secretary of agriculture and filed with the secretary of state. The secretary of agriculture shall issue an order only after consulting with the attorney general.

3. The secretary of agriculture shall forward a copy of an order issued under this section to all of the following:

- a. The governor.
- b. The secretary of the senate and the chief clerk of the house of representatives.
- c. The attorney general.
- d. The Code editor and the administrative code editor.

4. The Code editor may recommend that any provision of chapter 172C, as enacted in this Act, be amended or eliminated in a Code editor's bill as necessary in order to conform the provisions of the chapter as provided in this section.

Sec. 12. RULEMAKING. The department of agriculture and land stewardship shall commence rulemaking as required in section 172C.5, as enacted in this Act, as soon as practicable upon the enactment of this Act. However, rules adopted by the department shall not be made effective prior to July 1, 2000, for a provision of this Act that takes effect on that date.

Sec. 13. EFFECTIVE DATES.

1. Except as provided in subsection 2, this Act takes effect on July 1, 2000.

2. Section 172C.4, section 172C.6, subsection 2, section 172C.7, subsection 3, section 714.8, subsection 17, section 12, and this section as enacted by this Act, being deemed of immediate importance, take effect upon enactment.

Approved April 29, 1999

CHAPTER 89

MANUFACTURE OF CONTROLLED SUBSTANCE — PERSONAL USE

H.F. 165

AN ACT including the preparation or compounding of a controlled substance for one's own use within the definition of manufacturing a controlled substance, and providing an effective date.

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

Section 1. Section 124.101, subsection 16, unnumbered paragraph 1, Code 1999, is amended to read as follows:

"Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of

extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include ~~the preparation or compounding of a controlled substance by an individual for the individual's own use, or the preparation, compounding, packaging, or labeling of a controlled substance:~~

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

Approved April 29, 1999

CHAPTER 90

BUSINESS OPPORTUNITY PROMOTIONS — EXCLUDED TRANSACTIONS

H.F. 210

AN ACT relating to the exclusion of certain transactions under the business opportunities law and providing effective and retroactive applicability dates.

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

Section 1. Section 523B.1, subsection 3, Code 1999, is amended to read as follows:

3. a. "Business opportunity" means a contract or agreement, between a seller and purchaser, express or implied, orally or in writing, at an initial investment exceeding five hundred dollars, where the parties agree that the seller or a person recommended by the seller is to provide to the purchaser any products, equipment, supplies, materials, or services for the purpose of enabling the purchaser to start a business, and the seller represents, directly or indirectly, orally or in writing, any of the following:

~~a.~~ (1) The seller or a person recommended by the seller will provide locations or assist the purchaser in finding locations for the use or operation of vending machines, racks, display cases, or other similar devices, on premises which are not owned or leased by the purchaser or seller.

~~b.~~ (2) The seller or a person recommended by the seller will provide or assist the purchaser in finding outlets or accounts for the purchaser's products or services.

~~e.~~ (3) The seller or a person specified by the seller will purchase any or all products made, produced, fabricated, grown, bred, or modified by the purchaser.

~~d.~~ (4) The purchaser will derive income from the business which exceeds the price paid to the seller.

~~e.~~ (5) The seller will refund all or part of the price paid to the seller, or repurchase any of the products, equipment, or supplies provided by the seller or a person recommended by the seller, if the purchaser is dissatisfied with the business.

~~f.~~ (6) The seller will provide a marketing plan.

b. "Business opportunity" does not include any of the following:

(1) An offer or sale of an ongoing business operated by the seller which is to be sold in its entirety.

(2) An offer or sale of a business opportunity to an ongoing business where the seller will provide products, equipment, supplies, or services which are substantially similar to the products, equipment, supplies, or services sold by the purchaser in connection with the purchaser's ongoing business.

(3) An offer or sale of a business opportunity which involves a marketing plan made in conjunction with the licensing of a federally registered trademark or federally registered

service mark provided that the seller has a minimum net worth of one million dollars as determined on the basis of the seller's most recent audited financial statement prepared within thirteen months of the first offer in this state. Net worth may be determined on a consolidated basis if the seller is at least eighty percent owned by one person and that person expressly guarantees the obligations of the seller with regard to the offer or sale of a business opportunity claimed to be excluded under this subparagraph.

(4) An offer or sale of a business opportunity by an executor, administrator, sheriff, receiver, trustee in bankruptcy, guardian, or conservator, or a judicial offer or sale of a business opportunity.

(5) The renewal or extension of a business opportunity contract or agreement entered into under this chapter or prior to July 1, 1981.

Sec. 2. Section 523B.3, subsection 1, paragraphs b, c, d, and g, Code 1999, are amended by striking the paragraphs.

Sec. 3. EFFECTIVE AND APPLICABILITY DATES. This Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to July 1, 1998.

Approved April 29, 1999

CHAPTER 91

LEOPOLD CENTER ADVISORY BOARD MEMBERSHIP

H.F. 412

AN ACT providing for the membership of the advisory board to the Leopold center for sustainable agriculture.

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

Section 1. Section 266.39, subsection 3, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. Four persons actively engaged in agriculture who are appointed by the titular head of each of the following agricultural organizations:

- (1) The Iowa farm bureau federation.
- (2) The Iowa farmers union.
- (3) The practical farmers of Iowa.
- (4) The agribusiness association of Iowa.

Sec. 2. Section 266.39, subsection 3, unnumbered paragraph 2, Code 1999, is amended to read as follows:

The terms of the members shall begin and end as provided in section 69.19 and any vacancy shall be filled by the original appointing authority. The terms shall be for four years and shall be staggered as determined by the president of Iowa state university of science and technology. The members appointed by the titular heads of agricultural organizations shall be reimbursed for actual and necessary expenses incurred while engaged in their official duties, but shall not be entitled to per diem compensation as authorized under section 7E.6.

Approved April 29, 1999

CHAPTER 92

FEDERAL OZONE STANDARDS — STATE IMPLEMENTATION

H.F. 636

AN ACT relating to review and oversight of actions of the United States environmental protection agency.

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. In response to concerns raised by certain northeastern states about the interstate transport of ozone, the United States environmental protection agency convened the ozone transport assessment group, involving representatives from the original twelve northeastern states comprising the northeast ozone transport commission, established in 42 U.S.C. § 7511c, 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.

4. 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.

5. In 1997, the United States environmental protection agency, based on the recommendations of the ozone transport assessment group, chose not to impose additional emission requirements on mobile and stationary sources in Iowa. However, since that time the agency has sought to reassess the need to impose additional emission requirements on mobile and stationary sources in Iowa. Such requirements could impair the competitiveness of business and industry in Iowa with negligible environmental benefits and with adverse effects on employment and income in Iowa.

6. Legislative oversight of 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. 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 notice or request 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 notice or request 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 at a level greater than eight parts per billion 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.

Sec. 3. 1997 Iowa Acts, chapter 12, is repealed.

Approved April 29, 1999

CHAPTER 93

ASSOCIATE JUVENILE AND PROBATE JUDGES

H.F. 647

AN ACT relating to judges, concerning associate juvenile judges, and associate probate judges.

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

Section 1. Section 46.16, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 3. Subject to removal for cause, the initial term of office of a full-time associate juvenile judge or a full-time associate probate judge shall be for one year after appointment and until January 1 following the next judicial election after expiration of such year, and the regular term of office of a full-time associate juvenile judge or a full-time associate probate judge retained at a judicial election shall be four years from the expiration of the initial or previous regular term, as the case may be.

Sec. 2. Section 46.20, Code 1999, is amended to read as follows:

46.20 DECLARATION OF CANDIDACY.

At least one hundred four days before the judicial election preceding expiration of the initial or regular term of office, a judge of the supreme court, court of appeals, or district court including district associate judges, full-time associate juvenile judges, or full-time associate probate judges, or a clerk of the district court who is required to stand for retention under section 602.1216 may file a declaration of candidacy with the state commissioner of elections to stand for retention or rejection at that election. If a judge or clerk fails to file the declaration, the office shall be vacant at the end of the term. District associate judges, full-time associate juvenile judges, and full-time associate probate judges filing the declaration shall stand for retention in the judicial election district of their residence.

Sec. 3. Section 46.21, Code 1999, is amended to read as follows:

46.21 CONDUCT OF ELECTIONS.

At least sixty-nine days before each judicial election, the state commissioner of elections shall certify to the county commissioner of elections of each county a list of the judges of the supreme court, court of appeals, and district court including district associate judges, full-time associate juvenile judges, and full-time associate probate judges, and clerks of the district court to be voted on in each county at that election. The county commissioner of elections shall place the names upon the ballot in the order in which they appear in the certificate, unless only one county is voting thereon. The state commissioner of elections shall rotate the names in the certificate by county, or the county commissioner of elections shall rotate them upon the ballot by precinct if only one county is voting thereon. The names of all judges and clerks to be voted on shall be placed upon one ballot, which shall be in substantially the following form:

STATE OF IOWA
JUDICIAL BALLOT
(Date)

VOTE ON ALL NAMES BY PLACING AN X IN THE APPROPRIATE BOX AFTER EACH NAME.

SUPREME COURT

Shall the following judges of the Supreme Court be retained in office?

CANDIDATE'S NAME	YES	NO
CANDIDATE'S NAME	YES	NO

COURT OF APPEALS

Shall the following judges of the Court of Appeals be retained in office?

CANDIDATE'S NAME	YES	NO
CANDIDATE'S NAME	YES	NO

DISTRICT COURT

Shall the following judge, ~~or~~ associate judge, associate juvenile judge, or associate probate judge of the District Court be retained in office?

CANDIDATE'S NAME	YES	NO
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Shall the following clerk of the District Court be retained in office?

CANDIDATE'S NAME	YES	NO
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Sec. 4. Section 46.24, unnumbered paragraph 1, Code 1999, is amended to read as follows:

A judge of the supreme court, court of appeals, or district court including a district associate judge, full-time associate juvenile judge, or full-time associate probate judge, or a clerk of the district court must receive more affirmative than negative votes to be retained in office. When the poll is closed, the election judges shall publicly canvass the vote forthwith. The board of supervisors shall canvass the returns on the Monday or Tuesday after the election, and shall promptly certify the number of affirmative and negative votes on each judge or clerk to the state commissioner of elections.

Sec. 5. Section 602.1501, Code 1999, is amended by adding the following new subsection: NEW SUBSECTION. 4A. Full-time associate juvenile judges and full-time associate probate judges shall receive the salary set by the general assembly.

Sec. 6. Section 602.6104, subsection 1, Code 1999, is amended to read as follows:

1. The jurisdiction of the Iowa district court shall be exercised by district judges, district associate judges, associate juvenile judges, associate probate judges, and magistrates.

Sec. 7. Section 602.7103, Code 1999, is amended to read as follows:

602.7103 ASSOCIATE JUVENILE JUDGE — ~~PROCEDURE JURISDICTION — APPEALS.~~

~~1. The chief judge may appoint and may remove for cause with due process an associate juvenile judge. The associate juvenile judge shall be an attorney admitted to practice law in this state, and shall be qualified for duties by training and experience.~~

~~2. 1. The An~~ associate juvenile judge shall have the same jurisdiction to conduct juvenile court proceedings, to issue warrants, nontestimonial identification orders, and contempt arrest warrants for adults in juvenile court proceedings, and to issue orders, findings, and decisions as the judge of the juvenile court. However, the appointing* judge may limit the exercise of juvenile court jurisdiction by the associate juvenile judge.

~~3. 2.~~ The parties to a proceeding heard by an associate juvenile judge are entitled to appeal the order, finding, or decision of an associate juvenile judge, in the manner of an appeal from orders, findings, or decisions of district court judges. An appeal does not automatically stay the order, finding, or decision of an associate juvenile judge.

Sec. 8. NEW SECTION. 602.7103A PART-TIME ASSOCIATE JUVENILE JUDGE — APPOINTMENT — REMOVAL — QUALIFICATIONS.

The chief judge may appoint and may remove for cause with due process a part-time associate juvenile judge. The part-time associate juvenile judge shall be an attorney admitted to practice law in this state, and shall be qualified for duties by training and experience.

Sec. 9. NEW SECTION. 602.7103B APPOINTMENT AND RESIGNATION OF FULL-TIME ASSOCIATE JUVENILE JUDGES.

1. Full-time associate juvenile judges shall be appointed by the district judges of the judicial election district from persons nominated by the county magistrate appointing commission. In the case of a full-time associate juvenile judge to be appointed to more than one county, the appointment shall be from persons nominated by the county magistrate appointing commissions acting jointly and in the case of a full-time associate juvenile judge to be appointed to more than one judicial election district of the same judicial district, the appointment shall be by a majority of the district judges in each judicial election district.

2. In November of any year in which an impending vacancy is created because a full-time associate juvenile judge is not retained in office pursuant to a judicial election, the county magistrate appointing commission shall publicize notice of the vacancy in at least two publications in the official county newspaper. The commission shall accept applications for consideration for nomination as full-time associate juvenile judge for a minimum of fifteen days prior to certifying nominations. The commission shall consider the applications and shall, by majority vote, certify to the chief judge of the judicial district not later than December 15 of that year the names of three applicants who are nominated by the commission for the vacancy. If there are three or fewer applicants, the commission shall certify all applicants who meet the statutory qualifications. Nominees shall be chosen solely on the basis of the qualifications of the applicants, and political affiliation shall not be considered.

3. Within thirty days after a county magistrate appointing commission receives notification of an actual or impending vacancy in the office of full-time associate juvenile judge, other than a vacancy referred to in subsection 2, the commission shall certify to the chief judge of the judicial district the names of three applicants who are nominated by the

* See chapter 208, §60 herein

commission for the vacancy. The commission shall publicize notice of the vacancy in at least two publications in the official county newspaper. The commission shall accept applications for consideration for nomination as full-time associate juvenile judge for a minimum of fifteen days prior to certifying nominations. The commission shall consider the applications and shall, by majority vote, certify to the chief judge of the judicial district the names of three applicants who are nominated by the commission for the vacancy. If there are three or fewer applicants, the commission shall certify all applicants who meet the statutory qualifications. Nominees shall be chosen solely on the basis of the qualifications of the applicants, and political affiliation shall not be considered. As used in this subsection, a vacancy is created by the death, retirement, resignation, or removal of a full-time associate juvenile judge, or by an increase in the number of positions authorized.

4. Within fifteen days after the chief judge of a judicial district has received the list of nominees to fill a vacancy in the office of full-time associate juvenile judge, the district judges in the judicial election district shall, by majority vote, appoint one of those nominees to fill the vacancy.

5. A full-time associate juvenile judge who seeks to resign from the office of district associate* judge shall notify in writing the chief judge of the judicial district as to the full-time associate juvenile judge's intention to resign and the effective date of the resignation. The chief judge of the judicial district, upon receipt of the notice, shall notify the county magistrate appointing commission and the state court administrator of the actual or impending vacancy in the office of full-time associate juvenile judge due to resignation.

6. The supreme court may prescribe rules of procedure to be used by county magistrate appointing commissions when exercising the duties specified in this section.

Sec. 10. NEW SECTION. 602.7103C FULL-TIME ASSOCIATE JUVENILE JUDGES — TERM, RETENTION, QUALIFICATIONS.

1. Full-time associate juvenile judges shall serve terms and shall stand for retention in office within the judicial election districts of their residences as provided under sections 46.16 through 46.24.

2. A person does not qualify for appointment to the office of full-time associate juvenile judge unless the person is at the time of appointment a resident of the county in which the vacancy exists, licensed to practice law in Iowa, and will be able, measured by the person's age at the time of appointment, to complete the initial term of office prior to reaching age seventy-two. An applicant for full-time associate juvenile judge shall file a certified application form, to be provided by the supreme court, with the chairperson of the county magistrate appointing commission.

3. A full-time associate juvenile judge must be a resident of a county in which the office is held during the entire term of office. A full-time associate juvenile judge shall serve within the judicial district in which appointed, as directed by the chief judge, and is subject to reassignment under section 602.6108.

4. Full-time associate juvenile judges shall qualify for office as provided in chapter 63 for district judges.

Sec. 11. Section 633.20, subsection 3, Code 1999, is amended to read as follows:

3. ~~The chief judge of a judicial district may appoint an associate probate judge and may remove the associate probate judge for cause following a hearing. The associate probate judge shall be an attorney admitted to practice law in this state and shall be qualified for the position by training and experience. The A person appointed as an associate probate judge shall have jurisdiction to audit accounts of fiduciaries and to perform ministerial duties and judicial functions as the court prescribes.~~

Sec. 12. NEW SECTION. 633.20A PART-TIME ASSOCIATE PROBATE JUDGE — APPOINTMENT — REMOVAL — QUALIFICATIONS.

* See chapter 208, §61 herein

The chief judge of a judicial district may appoint a part-time associate probate judge and may remove the part-time associate probate judge for cause following a hearing. The associate probate judge shall be an attorney admitted to practice law in this state and shall be qualified for the position by training and experience.

Sec. 13. NEW SECTION. 633.20B APPOINTMENT AND RESIGNATION OF FULL-TIME ASSOCIATE PROBATE JUDGES.

1. Full-time associate probate judges shall be appointed by the district judges of the judicial election district from persons nominated by the county magistrate appointing commission. In the case of a full-time associate probate judge to be appointed to more than one county, the appointment shall be from persons nominated by the county magistrate appointing commissions acting jointly and in the case of a full-time associate probate judge to be appointed to more than one judicial election district of the same judicial district, the appointment shall be by a majority of the district judges in each judicial election district.

2. In November of any year in which an impending vacancy is created because a full-time associate probate judge is not retained in office pursuant to a judicial election, the county magistrate appointing commission shall publicize notice of the vacancy in at least two publications in the official county newspaper. The commission shall accept applications for consideration for nomination as full-time associate probate judge for a minimum of fifteen days prior to certifying nominations. The commission shall consider the applications and shall, by majority vote, certify to the chief judge of the judicial district not later than December 15 of that year the names of three applicants who are nominated by the commission for the vacancy. If there are three or fewer applicants, the commission shall certify all applicants who meet the statutory qualifications. Nominees shall be chosen solely on the basis of the qualifications of the applicants, and political affiliation shall not be considered.

3. Within thirty days after a county magistrate appointing commission receives notification of an actual or impending vacancy in the office of full-time associate probate judge, other than a vacancy referred to in subsection 2, the commission shall certify to the chief judge of the judicial district the names of three applicants who are nominated by the commission for the vacancy. The commission shall publicize notice of the vacancy in at least two publications in the official county newspaper. The commission shall accept applications for consideration for nomination as full-time associate probate judge for a minimum of fifteen days prior to certifying nominations. The commission shall consider the applications and shall, by majority vote, certify to the chief judge of the judicial district the names of three applicants who are nominated by the commission for the vacancy. If there are three or fewer applicants, the commission shall certify all applicants who meet the statutory qualifications. Nominees shall be chosen solely on the basis of the qualifications of the applicants, and political affiliation shall not be considered. As used in this subsection, a vacancy is created by the death, retirement, resignation, or removal of a full-time associate probate judge, or by an increase in the number of positions authorized.

4. Within fifteen days after the chief judge of a judicial district has received the list of nominees to fill a vacancy in the office of full-time associate probate judge, the district judges in the judicial election district shall, by majority vote, appoint one of those nominees to fill the vacancy.

5. A full-time associate probate judge who seeks to resign from the office of district associate* judge shall notify in writing the chief judge of the judicial district as to the full-time associate probate judge's intention to resign and the effective date of the resignation. The chief judge of the judicial district, upon receipt of the notice, shall notify the county magistrate appointing commission and the state court administrator of the actual or impending vacancy in the office of full-time associate probate judge due to resignation.

6. The supreme court may prescribe rules of procedure to be used by county magistrate appointing commissions when exercising the duties specified in this section.

* See chapter 208, §62 herein

Sec. 14. **NEW SECTION. 633.20C FULL-TIME ASSOCIATE PROBATE JUDGES — TERM, RETENTION, QUALIFICATIONS.**

1. Full-time associate probate judges shall serve terms and shall stand for retention in office within the judicial election districts of their residences as provided under sections 46.16 through 46.24.

2. A person does not qualify for appointment to the office of full-time associate probate judge unless the person is at the time of appointment a resident of the county in which the vacancy exists, licensed to practice law in Iowa, and will be able, measured by the person's age at the time of appointment, to complete the initial term of office prior to reaching age seventy-two. An applicant for full-time associate probate judge shall file a certified application form, to be provided by the supreme court, with the chairperson of the county magistrate appointing commission.

3. A full-time associate probate judge must be a resident of a county in which the office is held during the entire term of office. A full-time associate probate judge shall serve within the judicial district in which appointed, as directed by the chief judge, and is subject to reassignment under section 602.6108.

4. Full-time associate probate judges shall qualify for office as provided in chapter 63 for district judges.

Sec. 15. **FULL-TIME ASSOCIATE JUVENILE AND FULL-TIME ASSOCIATE PROBATE JUDGES AS OF JULY 1, 1999 — EXCEPTION — RETENTION.** Associate juvenile judges and associate probate judges serving full-time as of July 1, 1999, shall, notwithstanding the provisions of sections 46.16, 602.7103B, 602.7103C, 633.20B, and 633.20C to the contrary, remain as full-time associate judges and shall stand for retention in office within the judicial election districts of their residences at the judicial election in 2000 and every four years thereafter, under sections 46.17 through 46.24.

Approved April 29, 1999

CHAPTER 94

MEDICAID ELIGIBILITY — PERSONS WITH DISABILITIES

S.F. 211

AN ACT relating to eligibility of certain persons with disabilities under the optional services coverage category of medical assistance.

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

Section 1. Section 249A.3, subsection 2, Code 1999, is amended by adding the following new lettered paragraph before paragraph a and renumbering the subsequent paragraphs:

NEW PARAGRAPH. a. As allowed under 42 U.S.C. § 1396a(a)(10)(A)(ii)(XIII), individuals with disabilities, who are less than sixty-five years of age, who are members of families whose income is less than two hundred fifty percent of the most recently revised official poverty line published by the federal office of management and budget for the family, who have earned income and who are eligible for medical assistance or additional medical assistance under this section if earnings are disregarded. As allowed by 42 U.S.C. § 1396a(r)(2), unearned income shall also be disregarded in determining whether an individual is eligible for assistance under this paragraph. For the purposes of determining the amount of an individual's resources under this paragraph and as allowed by 42 U.S.C.

§ 1396a(r)(2), a maximum of ten thousand dollars of available resources shall be disregarded and any additional resources held in a retirement account, in a medical savings account, or in any other account approved under rules adopted by the department shall also be disregarded. Individuals eligible for assistance under this paragraph, whose individual income exceeds one hundred fifty percent of the official poverty line published by the federal office of management and budget for an individual, shall pay a premium. The amount of the premium shall be based on a sliding fee schedule adopted by rule of the department and shall be based on a percentage of the individual's income. The maximum premium payable by an individual whose income exceeds one hundred fifty percent of the official poverty line shall be commensurate with premiums charged for private group health insurance in this state. This paragraph shall be implemented no later than March 1, 2000.

Approved April 30, 1999

CHAPTER 95

INTERNAL REVENUE CODE REFERENCES AND INCOME TAX PROVISIONS

S.F. 230

AN ACT updating the Iowa Code references to the Internal Revenue Code, extending the loss carryback period for farm net operating losses, providing certain tax credits to estates and trusts, providing a franchise tax credit to certain taxpayers, 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 15.335, unnumbered paragraph 1, Code 1999, 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, ~~1998~~ 1999.

Sec. 2. Section 15A.9, subsection 8, unnumbered paragraph 2, Code 1999, 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, ~~1998~~ 1999. 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 1999, is amended to read as follows:

4. "Internal Revenue Code" means the Internal Revenue Code of 1954, prior to the date of its redesignation as the Internal Revenue Code of 1986 by the Tax Reform Act of 1986, or means the Internal Revenue Code of 1986 as amended to and including January 1, ~~1998~~ 1999, whichever is applicable.

Sec. 4. Section 422.6, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The tax imposed by section 422.5 less the credits allowed under sections ~~15.333, 15.335, 15E.193A,~~ 422.10, ~~422.11,~~ 422.11A, and 422.11B, 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. However, for tax years ending after August 5, 1997, if the trust is a qualified preneed funeral trust as set forth in section 685 of the Internal Revenue Code and the trustee has elected the special tax treatment under section 685 of the Internal Revenue Code, neither the trust nor the beneficiary is subject to Iowa income tax on income accruing to the trust.

Sec. 5. Section 422.9, subsection 3, paragraph b, Code 1999, is amended to read as follows:

b. The Iowa net operating loss remaining after being carried back as required in paragraph "a" ~~of this subsection~~ or "d" or if not required to be carried back shall be carried forward twenty taxable years.

Sec. 6. Section 422.9, subsection 3, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Notwithstanding paragraph "a", for a taxpayer who is engaged in the trade or business of farming as defined in section 263A(e)(4) of the Internal Revenue Code and has a loss from farming as defined in section 172(b)(1)(F) of the Internal Revenue Code including modifications prescribed by rule by the director, the Iowa loss from the trade or business of farming is a net operating loss which may be carried back five taxable years prior to the taxable year of the loss.

Sec. 7. Section 422.10, unnumbered paragraph 1, Code 1999, 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, ~~1998~~ 1999.

Sec. 8. Section 422.33, subsection 5, unnumbered paragraph 1, Code 1999, 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, ~~1998~~ 1999.

Sec. 9. Section 422.33, Code 1999, is amended by adding the following new subsection: **NEW SUBSECTION.** 9. The taxes imposed under this division 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. This recomputed tax shall be subtracted from the tax computed under this division and the resulting amount, which shall not exceed the taxpayer's pro rata share of franchise tax paid by the financial institution, is the amount of the franchise tax credit allowed.

Sec. 10. Section 422.35, subsection 11, paragraph b, Code 1999, is amended to read as follows:

b. The Iowa net operating loss remaining after being carried back as required in paragraph "a" ~~of this subsection or "f"~~ or if not required to be carried back shall be carried forward twenty taxable years.

Sec. 11. Section 422.35, subsection 11, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. Notwithstanding paragraph "a", for a taxpayer who is engaged in the trade or business of farming as defined in section 263A(e)(4) of the Internal Revenue Code and has a loss from farming as defined in section 172(b)(1)(F) of the Internal Revenue Code including modifications prescribed by rule by the director, the Iowa loss from the trade or business of farming is a net operating loss which may be carried back five taxable years prior to the taxable year of the loss.

Sec. 12. This Act applies retroactively to January 1, 1998, for tax years beginning on or after that date.

Sec. 13. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 6, 1999

CHAPTER 96
NONSUBSTANTIVE CODE CORRECTIONS
S.F. 102

AN ACT relating to nonsubstantive Code corrections.

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

Section 1. Section 12D.5, subsection 2, paragraph a, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Upon the occurrence of any of the following circumstances, no refund penalty shall be levied by the trust in the event of ~~termination~~ cancellation of a participation agreement:

Sec. 2. Section 12D.6, subsection 2, unnumbered paragraph 2, Code 1999, is amended to read as follows:

No right to receive investment income shall exist in cases of voluntary participant ~~termination~~ cancellation except as provided in section 12D.5.

Sec. 3. Section 16.161, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The authority shall assist the administrator, appointed pursuant to section 34A.2A ~~or~~, as provided in chapter 34A, subchapter II, and the authority shall have all of the powers delegated to it by a joint E911 service board or the department of public defense in a chapter 28E agreement with respect to the issuance and securing of bonds or notes and the carrying out of the purposes of chapter 34A.

Sec. 4. Section 18.183, subsection 2, Code 1999, is amended to read as follows:

2. The division of information technology services shall not have authority to determine whether an individual government agency should automate records of which the individual government agency is the lawful custodian. However, the division may encourage governmental agencies to implement electronic access to government records ~~as provided in section 18.182.~~

Sec. 5. Section 34A.7A, subsection 2, paragraph c, subparagraph (2), unnumbered paragraph 2, Code 1999, is amended to read as follows:

A joint E911 service board or the department of public safety, to receive funds from the wireless E911 emergency communications fund, must submit a written request for such funds to the administrator in a form as approved by the administrator. A request shall be for funding under an approved E911 service plan for equipment which is directly related to the reception and disposition of incoming wireless E911 calls. The administrator may approve the distribution of funds pursuant to such request if the administrator finds that the requested funding is for equipment necessary for the reception and disposition of such calls and that sufficient funds are available for such distribution.

Sec. 6. Section 68.10, subsection 5, Code 1999, is amended to read as follows:

5. To exercise the powers and privileges conferred upon the senate for punishment as for contempts in ~~the chapter entitled "General Assembly"~~ 2.

Sec. 7. Section 85B.11, Code 1999, is amended to read as follows:

85B.11 PREVIOUS HEARING LOSS EXCLUDED.

An employer is liable, as provided in this chapter and subject to the provisions of chapter 85, for an occupational hearing loss to which the employment has contributed, but if previous hearing loss, whether occupational or not, is established by an audiometric examination or other competent evidence, whether or not the employee was ~~exposed~~ subjected to excessive noise exposure within six months preceding the test, the employer is not liable for

the previous loss, nor is the employer liable for a loss for which compensation has previously been paid or awarded. The employer is liable only for the difference between the percent of occupational hearing loss determined as of the date of the audiometric examination used to determine occupational hearing loss and the percentage of loss established by the pre-employment audiometric examination. An amount paid to an employee for occupational hearing loss by any other employer shall be credited against compensation payable by an employer for the hearing loss. An employee shall not receive in the aggregate greater compensation from all employers for occupational hearing loss than that provided in this section for total occupational hearing loss. A payment shall not be made to an employee unless the employee has worked in excessive noise exposure employment for a total period of at least ninety days for the employer from whom compensation is claimed.

Sec. 8. Section 88A.1, subsections 2 and 11, Code 1999, are amended to read as follows:

2. "Amusement ride" means any mechanized device, or combination of devices which carries passengers along, around, or over a fixed or restricted course for the purpose of giving its passengers amusement, pleasure, thrills, or excitement. "Amusement ride" does not include a device or structure that is devoted principally to exhibitions related to agriculture, the arts, education, industry, religion, or science.

11. "Rider" means a person waiting in the immediate vicinity of an amusement ride to get on the amusement ride, getting on an amusement ride, using an amusement ride, getting off an amusement ride, or leaving an amusement ride and still in the immediate vicinity of the amusement ride. "Rider" does not include an employee, agent, or servant of the amusement ride owner while engaged in the duties of their employment.

Sec. 9. Section 97B.73A, subsection 1, Code 1999, is amended to read as follows:

1. A part-time county attorney may elect in writing to the department to make contributions to the system for the county attorney's previous service as a county attorney and receive credit for membership service in the system for the applicable period of service as a part-time county attorney for which ~~employee~~ contributions are made. A member making contributions pursuant to this section may make the contributions either for the entire applicable period of service, or for portions of the period of service, and if contributions are made for portions of the period of service, the contributions shall be in increments of one or more calendar quarters.

Sec. 10. Section 124.502, subsection 1, paragraph c, Code 1999, is amended to read as follows:

c. A warrant issued pursuant to this section must be executed and returned within ten days after its date unless, upon a showing of a need for additional time, the court so instructs otherwise in the warrant. If property is seized pursuant to a warrant, the person executing the warrant shall give to the person from whom the property is seized, or the person in charge of the premises from which the property is seized, a copy of the warrant and a receipt for the property seized or shall leave the copy and receipt at the place from which the property is seized. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property seized. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was seized, if they are present, or in the presence of at least one credible person other than the person executing the warrant. A copy of the inventory shall be delivered to the person from whom or from whose premises the property was seized and to the applicant for the warrant.

Sec. 11. Section 135C.33, subsection 5, paragraph e, unnumbered paragraph 2, Code 1999, is amended to read as follows:

In substantial conformance with the provisions of this section, prior to the employment of such an employee, the provider shall request the performance of the criminal and dependent adult abuse record checks and may request the performance of the child abuse record checks.

The provider shall inform the prospective employee and obtain the prospective employee's signed acknowledgment. The department of human services shall perform the evaluation of any criminal record or founded child or dependent adult abuse record and shall make the determination of whether a prospective employee of a provider shall not be employed by the provider.

Sec. 12. Section 136B.5, Code 1999, is amended to read as follows:

136B.5 PENALTY FOR VIOLATION.

A person who violates a provision of this ~~division~~ chapter is guilty of a serious misdemeanor.

Sec. 13. Section 144.13A, Code 1999, is amended to read as follows:

144.13A FEES — USE OF FUNDS.

The county registrar or state registrar shall charge the parent a ten dollar fee for the registration of a certificate of birth and a separate fee established under section 144.46 for a certified copy of the certificate except as otherwise provided in section 331.605, subsection 6 5. The certified copy shall be mailed to the parent by the state registrar. If the person responsible for the filing of the certificate of birth under section 144.13 is not the parent, the person is entitled to collect the fee from the parent. The fee shall be remitted to the appropriate registrar. If the expenses of the birth are reimbursed under the medical assistance program established by chapter 249A, or paid for under the statewide indigent patient care program established by chapter 255, or paid for under the obstetrical and newborn indigent patient care program established by chapter 255A, or if the parent is indigent and unable to pay the expenses of the birth and no other means of payment is available to the parent, the registration fee and certified copy fee are waived. If the person responsible for the filing of the certificate is not the parent, the person is discharged from the duty to collect and remit the fee under this section if the person has made a good faith effort to collect the fee from the parent. The fees collected by the county registrar and state registrar shall be remitted to the treasurer of state for deposit in the general fund of the state. It is the intent of the general assembly that the funds generated from the registration fees be appropriated and used for primary and secondary child abuse prevention programs. It is the intent of the general assembly that the funds generated from the fees as established under section 144.46 for the mailing of the certified copy of the birth certificate be appropriated and used to support the distribution of the automatic birth certificate and the implementation of the electronic birth certificate system.

Sec. 14. Section 147.14, subsection 1, Code 1999, is amended to read as follows:

1. For barbering, three members ~~each, licensed to practice the profession for which the board conducts examinations~~ barbering, and two members who are not licensed to practice ~~the profession for which the board conducts examinations~~ barbering and who shall represent the general public. A quorum shall consist of a majority of the members of the board.

Sec. 15. Section 159.5, subsection 9, Code 1999, is amended to read as follows:

9. Inspect and supervise all ~~cold storage plants and~~ food producing or distributing establishments including the furniture, fixtures, utensils, machinery, and other equipment so as to prevent the production, preparation, packing, storage, or transportation of food in a manner detrimental to its character or quality.

Sec. 16. Section 161A.80, subsection 2, unnumbered paragraph 1, Code 1999, is amended to read as follows:

A bluffslands protection revolving fund is created in the state treasury. All proceeds shall be divided into two equal accounts. One account shall be used for the purchase of bluffslands along the Mississippi river and its tributaries and the other account shall be used for the purchase of bluffslands along the Missouri river and its tributaries. The proceeds of the revolving fund are appropriated to make loans to conservation organizations which agree to

purchase bluffland properties adjacent to state public lands. The department shall adopt rules pursuant to chapter 17A to administer the disbursement of funds. Notwithstanding section 12C.7, interest or earnings on investments made pursuant to this section or as provided in section 12B.10 shall be credited to the blufflands protection revolving fund. Notwithstanding section 8.33, unobligated or unencumbered funds credited to the blufflands protection revolving fund shall not revert at the close of a fiscal year. However, the maximum balance in the blufflands protection revolving fund shall not exceed two million five hundred thousand dollars. Any funds in excess of two million five hundred thousand dollars shall be credited to the rebuild Iowa infrastructure fund.

Sec. 17. Section 166.42, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The secretary may establish a reserve supply of biological products of approved modified live virus hog-cholera vaccine and of anti-hog-cholera serum or its equivalent in antibody concentrate to be used as directed by the secretary in the event of an emergency resulting from a hog-cholera outbreak. Vaccine and serum or antibody concentrate from the reserve supply, if used for such an emergency, shall be made available to swine producers at a price which will not result in a profit. Payment shall be made by the producer to the department and such vaccine shall be administered by a licensed practicing veterinarian. The secretary may co-operate with other states in the accumulation, maintenance and disbursement of such reserve supply of biological products. The secretary, with the advice and written consent of the ~~chief of the division of animal industry of the state~~ veterinarian, and the advice and written consent of the veterinarian-in-charge ~~in for Iowa, of the animal, plant, and health division inspection service-veterinary services~~, United States department of agriculture, shall determine when an emergency resulting from a hog-cholera outbreak exists.

Sec. 18. Section 173.6, unnumbered paragraph 2, Code 1999, is amended to read as follows:

A member of the board who is a board congressional director, elected as provided in section 173.1, shall serve a term of two years. The term of a board congressional director shall begin following the adjournment of the convention at which the board congressional director was elected and shall continue until a successor is elected and qualified as provided in this chapter.

Sec. 19. Section 190C.1, subsections 10, 18, and 19, Code 1999, are amended to read as follows:

10. "Handler" means a person engaged in the business of handling agricultural products, including but not limited to distributors, wholesalers, brokers, and repackers. "Handler" does not include a person selling agricultural products to consumers on a retail basis, including a food ~~service~~ establishment as defined in section ~~137B.2~~ 137F.1, retail grocery, meat market, or bakery, if the person does not process the agricultural product.

18. "Regional organic association" means a corporation organized under ~~former~~ chapter 504 or chapter 504A which has certifying members, elects its own officers and directors, and is independent from the department.

19. "Retailer" means a person, other than an operator of a food ~~service~~ establishment, who is engaged in the business of selling food at retail to the ultimate customer.

Sec. 20. Section 190C.4, subsection 3, Code 1999, is amended to read as follows:

3. A violation of this chapter includes a violation of any rule adopted or ~~issue-ordered~~ order issued pursuant to this chapter as provided in this chapter and under chapter 17A.

Sec. 21. Section 200A.3, subsection 2, Code 1999, is amended to read as follows:

2. "Bulk dry animal nutrient product" or "bulk product" means ~~an a dry~~ animal nutrient product delivered to a purchaser in bulk form to which a label cannot be attached.

Sec. 22. Section 216A.73, subsection 4, Code 1999, is amended to read as follows:

4. The ~~director~~ administrator of the division of vocational rehabilitation of the department of education.

Sec. 23. Section 216B.2, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The commission for the blind is established consisting of three members appointed by the governor, subject to confirmation by the senate. Members of the commission shall serve three-year terms beginning and ending as provided in section 69.19. The commission shall adopt rules concerning programs and services for blind persons provided under this ~~subchapter~~ chapter.

Sec. 24. Section 216B.6, Code 1999, is amended to read as follows:

216B.6 POWERS.

The commission shall have all powers necessary to carry out the functions and duties specified in this ~~subchapter~~ chapter, including, but not limited to the power to establish advisory committees on special studies, to solicit and accept gifts and grants, to adopt rules according to chapter 17A for the commission and department, and to contract with public and private groups to conduct its business. All departments, divisions, agencies, and offices of the state shall make available upon request of the commission information which is pertinent to the subject matter of the study and which is not by law confidential.

Sec. 25. Section 230A.3, subsection 3, Code 1999, is amended to read as follows:

3. Continued operation of a center originally established prior to July 1, 1998, under subsection 2 without an agreement with the board or boards of supervisors which originally established the center, provided the center is in compliance with the applicable standards adopted by the mental health and ~~mental retardation~~ developmental disabilities commission.

Sec. 26. Section 235A.13, subsections 1 through 7, Code 1999, are amended to read as follows:

1. "Assessment data" means any of the following information pertaining to the department's evaluation of a family:

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.

~~1-2.~~ "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. Assessment data.

c. Disposition data.

~~2-3.~~ "Confidentiality" means the withholding of information from any manner of communication, public or private.

~~3-4.~~ "Department" means the department of human services.

4. ~~5.~~ "Disposition data" means information pertaining to an opinion or decision as to the occurrence of child abuse, including:

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

b. Any opinion or decision reached in the course of judicial proceedings.

c. The present status of any case.

~~5-6.~~ "Expungement" means the process of destroying child abuse information.

~~6-7.~~ "Individually identified" means any report, assessment, or disposition data which names the person or persons responsible or believed responsible for the child abuse.

~~7.~~ "Assessment data" means any of the following information pertaining to the department's evaluation of a family:

- ~~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.~~

Sec. 27. Section 249A.4, subsection 15, Code 1999, is amended to read as follows:

15. Establish appropriate reimbursement rates for community mental health centers that are accredited by the mental health and ~~mental retardation~~ developmental disabilities commission. The reimbursement rates shall be phased-in over the three-year period beginning July 1, 1998, and ending June 30, 2001.

Sec. 28. Section 280.11, Code 1999, is amended to read as follows:

280.11 EAR-PROTECTIVE DEVICES.

1. Every student and teacher in any public or nonpublic school shall wear industrial quality ear-protective devices while the student or teacher is participating in any phase or activity of a course which may subject the student or teacher to the risk or hazard of hearing loss from noise in processes or procedures used in ~~any of the following courses:~~

~~1. Vocational~~ vocational or industrial arts shops or laboratories involving experiences with any of the following:

- a. Milling, sawing, turning, shaping, cutting, grinding or stamping of any solid materials.
- b. Kiln firing of any metal or other materials.
- c. Electric arc welding.
- d. Repair or servicing of any vehicle while in shop.
- e. Static tests, maintenance or repair of internal combustion engines.
- f. Letter press, paper folders, monotype.

2. It shall be the duty of the teacher or other person supervising the students in said courses to see that the above requirements are complied with. Any student failing to comply with such requirements may be temporarily suspended from participation in the course and the registration of a student for the course may be canceled for willful, flagrant or repeated failure to observe the above requirements.

3. The board of directors of each local public school district and the authorities in charge of each nonpublic school shall provide the safety devices required ~~herein in this section~~. Such devices may be paid for from the general fund, but the board may require students and teachers to pay for the safety devices and shall make them available to students and teachers at no more than the actual cost to the district or school.

4. ~~a.~~ "Industrial quality ear-protective devices", as used in this section, means devices meeting the American National Standard for Measurement of the Real-Ear attenuation of Ear Protectors at Threshold promulgated by the American National Standards Institute, Inc.

~~b.~~ "Noise" as used in this section, means a noise level that meets or exceeds damage-risk criteria established by the present federal standard for occupational noise exposure, Occupational Safety and Health Standards.

Sec. 29. Section 321.187, Code 1999, is amended to read as follows:

321.187 EXAMINERS.

1. The department shall examine applicants for driver's licenses. Examiners of the department shall wear an identifying badge and uniform provided by the department.

2. The department may by rule designate community colleges to administer the driving skills test required for a commercial driver's license provided that all of the following occur:

~~1. a.~~ The driving skills test is the same as that which would otherwise be administered by the state.

~~2. b.~~ The examiner contractually agrees to comply with the requirements of 49 C.F.R. § 383.75 ~~as adopted as of a specific date~~ by rule by the department.

Sec. 30. Section 321.188, subsection 1, paragraphs a and c, Code 1999, are amended to read as follows:

a. Certify whether the applicant is subject to and meets applicable driver qualifications of 49 C.F.R. part 391 ~~as adopted as of a specific date~~ by rule by the department.

c. Successfully pass knowledge tests and driving skills tests which the department shall require by rule. The rules adopted shall substantially comply with the federal minimum testing and licensing requirements in 49 C.F.R. part 383, subparts E, G, and H ~~as adopted as of a specific date~~ by rule by the department.

Sec. 31. Section 321.188, subsection 2, paragraph b, subparagraph (2), Code 1999, is amended to read as follows:

(2) The applicant has not had any convictions which are federal commercial driver's license disqualifying offenses under 49 C.F.R. § 383.51 ~~as adopted as of a specific date~~ by rule by the department while operating any type of vehicle.

Sec. 32. Section 321.188, subsection 3, Code 1999, is amended to read as follows:

3. An applicant for a hazardous material endorsement must pass a knowledge test as required under 49 C.F.R. § 383.121 ~~as adopted as of a specific date~~ by rule by the department to obtain or retain the endorsement. However, an applicant for license issuance who was previously issued a commercial driver's license from another state may retain the hazardous material endorsement from the previously issued license if the applicant successfully passed the endorsement test within the preceding twenty-four months.

Sec. 33. Section 321.208, subsection 2, Code 1999, is amended to read as follows:

2. A person is disqualified for life if convicted or found to have committed two or more of the above acts or offenses arising out of two or more separate incidents. However, a disqualification for life is subject to a reduction to a ten-year disqualification as provided in 49 C.F.R. § 383.51 ~~as adopted as of a specific date~~ by rule by the department.

Sec. 34. Section 321.449, Code 1999, is amended to read as follows:

321.449 MOTOR CARRIER SAFETY RULES.

1. A person shall not operate a commercial vehicle on the highways of this state except in compliance with rules adopted by the department under chapter 17A. The rules shall be consistent with the federal motor carrier safety regulations promulgated under United States Code, Title 49, and found in 49 C.F.R. § 390-399 and adopted under chapter 17A ~~which rules shall be to a date certain.~~

2. Rules adopted under this section concerning driver qualifications, hours of service, and recordkeeping requirements do not apply to the operators of public utility trucks, trucks hauling gravel, construction trucks and equipment, trucks moving implements of husbandry, and special trucks, other than a truck tractor, operating intrastate. Trucks for hire on construction projects are not exempt from this section.

3. Rules adopted under this section concerning driver age qualifications do not apply to drivers for private and for-hire motor carriers which operate solely intrastate except when the vehicle being driven is transporting a hazardous material in a quantity which requires placarding. The minimum age for the exempted intrastate operations is eighteen years of age.

4. Notwithstanding other provisions of this section, rules adopted under this section for drivers of commercial vehicles shall not apply to a driver of a commercial vehicle who is engaged exclusively in intrastate commerce, when the commercial vehicle's gross vehicle weight rating is 26,000 pounds or less, unless the vehicle is used to transport hazardous materials requiring a placard or if the vehicle is designed to transport more than fifteen passengers, including the driver. For the purpose of complying with the hours of service recordkeeping requirements under 49 C.F.R. § 395.1(e)(5), a driver's report of daily beginning and ending on-duty time submitted to the motor carrier at the end of each work week

shall be considered acceptable motor carrier time records. In addition, rules adopted under this section shall not apply to a driver for a farm operation as defined in section 352.2, or for an agricultural interest when the commercial vehicle is operated between the farm as defined in section 352.2 and another farm, between the farm and a market for farm products, or between the farm and an agribusiness location. A driver or a driver-salesperson for a private carrier, who is not for hire and who is engaged exclusively in intrastate commerce, may drive twelve hours, be on duty sixteen hours in a twenty-four hour period and be on duty seventy hours in seven consecutive days or eighty hours in eight consecutive days. A driver-salesperson means as defined in 49 C.F.R. § 395.2, ~~as adopted as of a specific date~~ by the department by rule.

5. a. 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 whose physical or medical condition existed prior to July 29, 1996.

b. Notwithstanding other provisions of this section, rules adopted under this section concerning physical and medical qualifications for a driver shall not apply to a farmer or a farmer's hired help when operating a vehicle owned by the farmer while it is being used in connection with the intrastate transportation of fertilizers and chemicals used in the farmer's crop production.

c. Notwithstanding other provisions of this section, rules adopted under this section concerning physical and medical qualifications for a driver shall not apply to a farmer or a farmer's hired help when operating a vehicle owned by the farmer while it is being used in connection with the intrastate transportation of agricultural commodities or feed.

6. Notwithstanding other provisions of this section, rules adopted under this section shall not impose any requirements which impose any restrictions upon a person operating an implement of husbandry or pickup to transport fertilizers and pesticides in that person's agricultural operations.

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

8. Rules adopted under this section shall not apply to vehicles used in combination provided the gross vehicle weight rating of the towing unit is ten thousand pounds or less and the gross combination weight rating is twenty-six thousand pounds or less.

Sec. 35. Section 321.491, unnumbered paragraph 2, Code 1999, 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 individual copy of any record of conviction or forfeiture of bail furnished to any requestor at the clerk's office except for 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. Notwithstanding any other provision in this section or chapter 22, the judicial branch shall be the provider of public electronic access to the clerk's records of convictions and forfeitures of bail through the Iowa court information system and shall, if all such records are provided monthly to a vendor, ~~the judicial branch shall~~ collect a fee from such vendor which is the greater of three thousand dollars per month or the actual direct cost of providing the records.

Sec. 36. Section 321J.2, subsection 7, paragraph a, Code 1999, is amended to read as follows:

a. ~~Division I of this~~ This section does not apply to a person operating a motor vehicle while under the influence of a drug if the substance was prescribed for the person and was taken under the prescription and in accordance with the directions of a medical practitioner as defined in chapter 155A or if the substance was dispensed by a pharmacist without a prescription pursuant to the rules of the board of pharmacy examiners, if there is no evidence of the consumption of alcohol and the medical practitioner or pharmacist had not directed the person to refrain from operating a motor vehicle.

Sec. 37. Section 321M.6, subsection 2, paragraph b, Code 1999, is amended to read as follows:

b. The county examiner contractually agrees to comply with the requirements of 49 C.F.R. § 383.75, as adopted as of a specific date by rule by the department.

Sec. 38. Section 331.605, subsections 3 and 5, Code 1999, are amended to read as follows:

3. A state migratory game bird fee as provided in section ~~484A.3~~ 483A.1.

5. A county fee of four dollars for ~~the following certificates, records, or services:~~

~~a. A~~ a certified copy of a birth record, death record, or marriage certificate.

Sec. 39. Section 455B.110, subsection 1, paragraph c, subparagraph (3), Code 1999, is amended to read as follows:

(3) The county board of supervisors may designate a county employee to accompany a departmental official during the investigation of the premises of a confinement feeding operation. The county designee shall have the same right of access to the real estate of the premises as the departmental official conducting the inspection during the period that the county designee accompanies the departmental official.

Sec. 40. Section 501.101, subsection 2, paragraph b, Code 1999, is amended to read as follows:

b. A person who owns at least one hundred fifty acres of agricultural land and receives as rent a share of the crops or the animals raised on the land if that person is a natural person or a general partnership as organized under chapter 486 or 486A in which all partners are natural persons.

Sec. 41. Section 501.101, subsection 6, paragraph c, Code 1999, is amended to read as follows:

c. A general partnership as organized under chapter 486 or 486A in which all the partners are natural persons actively engaged in farming as provided in section 9H.1.

Sec. 42. Section 501.701, subsection 5, paragraph g, Code 1999, is amended to read as follows:

g. Its most recent ~~biennial~~ annual report delivered to the secretary of state under section 501.713.

Sec. 43. Section 501.702, subsection 5, paragraph a, Code 1999, is amended to read as follows:

a. The right of a member to obtain information under section ~~501.702~~ 501.304 or the right of an interest holder to obtain information, if the interest holder is in litigation with the cooperative, to the same extent as any other litigant.

Sec. 44. Section 501.713, subsection 5, Code 1999, is amended to read as follows:

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 report, provided that the form contains the information required in section 501.106. If the secretary of state determines

that an annual report does not contain the information required by this section but otherwise meets the requirements of section 501.106 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 501.105, before returning the ~~biennial~~ annual report to the cooperative 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 report.

Sec. 45. Section 504A.100, subsection 3, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Any domestic corporation organized or existing under the provisions of chapter 504, Code 1989, may voluntarily elect to adopt the provisions of this chapter and thereby become subject to its provisions and, during the period of two years from and after the effective date of this chapter, any foreign corporation holding a permit under the provisions of said chapter on said date may voluntarily elect to adopt the provisions of this chapter and thereby become subject to the provisions of this chapter. The procedure for electing to adopt the provisions of this chapter shall be as follows:

Sec. 46. Section 504A.100, subsection 3, paragraph e, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The secretary of state shall not file such instrument with respect to a domestic corporation unless at the time thereof such corporation is validly existing and in good standing in that office under the provisions of chapter 504 ~~of the~~, Code 1989. If the articles of incorporation of such corporation have not heretofore been filed in the office of the secretary of state, but are on file in the office of a county recorder, no such instrument of adoption shall be accepted by the secretary of state until the corporation shall have caused its articles of incorporation and all amendments duly certified by the proper county recorder to be recorded in the office of the secretary of state. Upon the filing of such instrument the secretary of state shall issue a certificate as to the filing of such instrument and deliver such certificate to the corporation or its representative.

Sec. 47. Section 504A.100, subsections 5, 6, 9, and 12, Code 1999, are amended to read as follows:

5. The provisions of this chapter becoming applicable to any domestic or foreign corporation shall not affect any right accrued or established, or any liability or penalty incurred, under the provisions of chapter 504, Code 1989, prior to the filing by the secretary of state in the secretary of state's office of the instrument manifesting the election of such corporation to adopt the provisions of this chapter as provided in subsection 3 of this section.

6. Except for the exceptions and limitations of subsection 1 of this section, this chapter shall apply to: all domestic corporations organized after the date on which this chapter became effective; domestic corporations organized or existing under chapter 504, Code 1989, which voluntarily elect to adopt the provisions of this chapter and comply with the provisions of subsection 3 of this section; all foreign corporations conducting or seeking to conduct affairs within this state and not holding, July 4, 1965, a valid permit so to do; foreign corporations holding, on the date the chapter becomes effective, a valid permit under the provisions of chapter 504, Code 1989, which, during the period of two years from and after said date, voluntarily elect to adopt the provisions of this chapter and comply with the provisions of subsection 3 of this section; and, upon the expiration of the period of two years from and after July 4, 1965, all foreign corporations holding such a permit on July 4, 1965.

9. No corporation to which the provisions of this chapter apply shall be subject to the provisions of chapter 504, Code 1989.

12. Corporations existing under chapter 504, Code 1989, shall be subject to this chapter on July 1, 1990, except that the corporations shall be subject to sections 504A.8 and 504A.83 on January 1, 1997. A corporate existence of a corporation that is not in compliance on the

records of the secretary of state with sections 504A.8 and 504A.83 on June 30, 1997, is terminated, effective July 1, 1997. A corporation whose existence is terminated pursuant to this subsection may be reinstated. When the reinstatement is effective, it relates back to and takes effect as of the effective date of the termination of its corporate existence as if such termination had never occurred. The secretary of state shall adopt rules governing the reinstatement of a corporation pursuant to this subsection.

Sec. 48. Section 523G.4, subsection 2, paragraph d, Code 1999, is amended by striking the paragraph.

Sec. 49. Section 602.8102, subsection 152, Code 1999, is amended by striking the subsection.

Sec. 50. Section 692A.2, subsection 4, Code 1999, is amended to read as follows:

4. A person is not required to register while incarcerated, in foster care, or in a residential treatment program. A person who is convicted, as defined in section 692A.1, of either a criminal offense against a minor, sexual exploitation, a sexually violent offense, or an other relevant offense as a result of adjudication of delinquency in juvenile court shall be required to register as required in this chapter unless the juvenile court finds that the person should not be required to register under this chapter. If a juvenile is required to register and the court later modifies the order regarding the requirement to register, the court shall immediately notify the department. Convictions of more than one offense which require registration under this chapter but which are prosecuted within a single indictment shall be considered as a single offense for purposes of registration.

Sec. 51. Section 692A.16, subsection 1, Code 1999, is amended to read as follows:

1. The registration requirements of this chapter shall apply to persons convicted of a criminal offense against a minor, sexual exploitation, an other relevant offense, or a sexually violent offense prior to July 1, 1995, who are released on or after July 1, 1995, who are participating in a work release or institutional work release program on or after July 1, 1995, or who are under parole or probation supervision by a judicial district department of correctional services on or after July 1, 1995.

Sec. 52. Section 915.23, subsection 1, Code 1999, is amended to read as follows:

1. An employer shall not discharge an employee ~~from~~, or take or fail to take action, regarding an employee's promotion or proposed promotion, or take action to reduce an employee's wages or benefits; for actual time worked, due to the service of an employee as a witness in a criminal proceeding.

Sec. 53. Section 915.24, subsection 1, unnumbered paragraph 1, Code 1999, is amended to read as follows:

If a complaint is filed alleging that a child has committed a delinquent act, the alleged victim, as defined in section 915.10, has and a juvenile court officer shall notify the alleged victim, ~~as defined in section 915.10,~~ of the following rights:

Approved May 10, 1999

CHAPTER 97**ALL-TERRAIN VEHICLES AND SNOWMOBILES — RAILROAD
RIGHTS-OF-WAY — UTILITY EMPLOYEES***S.F. 114*

AN ACT allowing certain utility employees to operate all-terrain vehicles and snowmobiles on railroad rights-of-way.

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

Section 1. Section 321G.13, subsection 8, Code 1999, is amended to read as follows:

8. Upon an operating railroad right of way. An all-terrain vehicle or snowmobile may be driven directly across a railroad right of way only at an established crossing and, notwithstanding any other provisions of law, may, if necessary, use the improved portion of the established crossing after yielding to all oncoming traffic. This subsection does not apply to a law enforcement officer or railroad employee in the lawful discharge of the officer's or employee's duties or to an employee of a utility with authority to enter upon the railroad right of way in the lawful performance of the employee's duties.

Approved May 10, 1999

CHAPTER 98**LICENSING OF PSYCHIATRIC MEDICAL INSTITUTIONS
FOR CHILDREN — ACCREDITATION***S.F. 194*

AN ACT relating to acceptable accreditation of psychiatric medical institutions for children for the purpose of licensing.

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

Section 1. Section 135H.6, subsection 2, Code 1999, is amended to read as follows:

2. The proposed psychiatric institution is accredited by the joint commission on the accreditation of health care organizations, the commission on accreditation of rehabilitation facilities, the council on accreditation of services for families and children, or by any other federally recognized accrediting organization with comparable standards.

Approved May 10, 1999

CHAPTER 99**NATIONAL GUARD — ACTIVE SERVICE PAY***S.F. 210*

AN ACT increasing the minimum daily pay for members of the Iowa national guard while in state active service.

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

Section 1. Section 29A.27, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Officers and enlisted persons while in active state service shall receive the same pay, per diem, and allowances as are paid for the same rank or grade for service in the armed forces of the United States. However, a person shall not be paid at a base rate of pay of less than ~~seventy-five~~ one hundred dollars per calendar day of active state service.

Approved May 10, 1999

CHAPTER 100**PUBLIC ASSISTANCE — FAMILY INVESTMENT PROGRAM —
INDIVIDUAL DEVELOPMENT ACCOUNTS***S.F. 221*

AN ACT relating to welfare reform provisions involving the family investment program and individual development accounts.

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

Section 1. Section 239B.2, subsection 4, Code 1999, is amended to read as follows:

4. WRITTEN STATEMENT — FAMILY INVESTMENT AGREEMENT.

a. The department may require an applicant family to commit to the initial actions the applicant family will take to achieve self-sufficiency as contained in a signed, written statement. An applicant family which fails to commit to the actions as contained in the written statement shall be denied eligibility for the family investment program. If the applicant family becomes a participant family, the family's written statement may be replaced by, incorporated within, or become the family investment agreement for that family.

b. Unless exempt as provided in section 239B.8, a participant family which is eligible for the program shall continue to comply with the provisions of a written statement which contains actions committed to by the family under paragraph "a" or shall enter into a family investment agreement with the department. A participant family must comply with the provisions of the written statement or the conditions in the agreement in order to retain eligibility. A participant family which does not comply shall be deemed to have chosen a limited benefit plan.

Sec. 2. Section 239B.3, subsection 1, paragraph b, Code 1999, is amended to read as follows:

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~~ authorize issuance of notice of the department's decision to the specified relative.

Sec. 3. Section 239B.9, subsection 1, paragraph a, Code 1999, is amended to read as follows:

a. 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. Initial actions in a written statement under section 239B.2, subsection 4, which were committed to by a participant during the application period and which commitment remains in effect, shall be considered to be a term of the participant's family investment agreement. 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.

Sec. 4. NEW SECTION. 541A.6 COMPLIANCE WITH FEDERAL REQUIREMENTS.

The administrator shall adopt rules for compliance with federal individual development account requirements under the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, § 103, as codified in 42 U.S.C. § 604(h), under the federal Assets for Independence Act, Pub. L. No. 105-285, Title IV, or with any other federal individual development account program requirements, as necessary for the state to qualify to use federal temporary assistance for needy families block grant funding or other available federal funding for allocation to operating organizations. Any rules adopted under this section shall not apply the federal individual development account program requirements to an operating organization which does not utilize federal funding for the accounts with which it is connected or to an account holder who does not receive temporary assistance for needy families block grant or other federal funding.

Sec. 5. SELF-EMPLOYMENT LOAN PROGRAM — INDIVIDUAL DEVELOPMENT ACCOUNTS.

1. Notwithstanding section 15.241, for the period beginning July 1, 1999, and ending June 30, 2000, a portion of the funds available under the self-employment loan program account may be made available to provide matching funds for individual development accounts under chapter 541A. Self-employment loan program funding allocated for individual development accounts shall be used by account holders to start a business, acquire employment-related training or postsecondary education, or purchase a primary residence. The allocation of loan program funding to individual development account holders may be made in the form of loans or grants. A majority of the loan program funds allocated for individual development accounts must be used to start a business or to acquire training. The department of economic development shall adopt rules governing the administration of this provision. In addition, the department of economic development and the department of human services shall coordinate the use of self-employment loan program funds for individual development accounts.

2. In order to implement the provisions of this section, the department of human services may contract with an established, statewide nonprofit community development corporation. The corporation must have a national reputation and demonstrated experience in poverty alleviation and asset-building programs for persons with low income, long-term involvement in the national individual development account movement, statewide capacity and infrastructure, expertise in program evaluation, and experience in managing and implementing large-scale federal grants.

Approved May 10, 1999

CHAPTER 101

AUDIOLOGISTS AND SPEECH PATHOLOGISTS — PROFESSIONAL DESIGNATIONS

S.F. 323

AN ACT relating to the use of professional designations by audiologists and speech pathologists.

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

Section 1. Section 147.74, subsection 11, Code 1999, is amended by striking the subsection and inserting in lieu thereof the following:

11. A speech pathologist with an earned doctoral degree in speech pathology obtained beyond a bachelor's degree from an accredited school, college, or university, may use the suffix designating the degree, or the prefix "Doctor" or "Dr." and add after the person's name the words "speech pathologist". An audiologist with an earned doctoral degree in audiology obtained beyond a bachelor's degree from an accredited school, college, or university, may use the suffix designating the degree, or the prefix "Doctor" or "Dr." and add after the person's name the word "audiologist".

Approved May 10, 1999

CHAPTER 102

SLOW-MOVING VEHICLES — REFLECTIVE DEVICES

S.F. 352

AN ACT relating to reflective devices on slow-moving vehicles.

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

Section 1. Section 321.288, subsection 5, Code 1999, is amended to read as follows:

5. When approaching and passing a slow moving vehicle displaying a reflective device or alternative reflective device as provided by section 321.383.

Sec. 2. Section 321.383, subsection 2, Code 1999, 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 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 an~~ escorted parade. If a person operating a vehicle drawn by a horse or mule objects to using a reflective device that complies with the standards of the American society of agricultural engineers for religious reasons, the vehicle may be identified by an alternative reflective device that is in compliance with rules adopted by the department. The reflective device or alternative reflective device shall be visible from the rear. A vehicle other than those specified in this section shall not display a reflective device or an alternative

reflective device. On vehicles operating at speeds above thirty miles per hour, the reflective device or alternative reflective device shall be removed or hidden from view.

Approved May 10, 1999

CHAPTER 103

CHILD-CUSTODY JURISDICTION AND ENFORCEMENT

S.F. 367

AN ACT adopting the uniform child-custody jurisdiction and enforcement Act.

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

ARTICLE I GENERAL PROVISIONS

Section 1. NEW SECTION. 598B.101 SHORT TITLE.

This chapter shall be known and may be cited as the "Uniform Child-custody Jurisdiction and Enforcement Act".

Sec. 2. NEW SECTION. 598B.102 DEFINITIONS.

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

1. "Abandoned" means left without provision for reasonable and necessary care or supervision.
2. "Child" means an individual who has not attained eighteen years of age.
3. "Child-custody determination" means a judgment, decree, or other order of a court providing for the legal custody, physical custody, or visitation with respect to a child. The term includes a permanent, temporary, initial, and modification order. The term does not include an order relating to child support or other monetary obligation of an individual.
4. "Child-custody proceeding" means a proceeding in which legal custody, physical custody, or visitation with respect to a child is an issue. The term includes a proceeding for dissolution of marriage, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence, in which the issue may appear. The term does not include a proceeding involving juvenile delinquency, contractual emancipation, or enforcement under article III.
5. "Commencement" means the filing of the first pleading in a proceeding.
6. "Court" means an entity authorized under the law of a state to establish, enforce, or modify a child-custody determination.
7. "Home state" means the state in which a child lived with a parent or a person acting as a parent for at least six consecutive months immediately before the commencement of a child-custody proceeding. In the case of a child less than six months of age, the term means the state in which the child lived from birth with any of the persons mentioned. A period of temporary absence of any of the mentioned persons is part of the period.
8. "Initial determination" means the first child-custody determination concerning a particular child.
9. "Issuing court" means the court that makes a child-custody determination for which enforcement is sought under this chapter.
10. "Issuing state" means the state in which a child-custody determination is made.

11. "Modification" means a child-custody determination that changes, replaces, supercedes, or is otherwise made after a previous determination concerning the same child, whether or not it is made by the court that made the previous determination.

12. "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity.

13. "Person acting as a parent" means a person, other than a parent, to whom both of the following apply:

a. The person has physical custody of the child or has had physical custody for a period of six consecutive months, including any temporary absence, within one year immediately before the commencement of a child-custody proceeding.

b. The person has been awarded legal custody by a court or claims a right to legal custody under the law of this state.

14. "Physical custody" means the physical care and supervision of a child.

15. "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.

16. "Tribe" means an Indian tribe or band, or Alaskan native village, which is recognized by federal law or formally acknowledged by a state.

17. "Warrant" means an order issued by a court authorizing law enforcement officers to take physical custody of a child.

Sec. 3. NEW SECTION. 598B.103 PROCEEDINGS GOVERNED BY OTHER LAW.

This chapter does not govern an adoption proceeding or a proceeding pertaining to the authorization of emergency medical care for a child.

Sec. 4. NEW SECTION. 598B.104 APPLICATION TO INDIAN TRIBES.

1. A child-custody proceeding that pertains to an Indian child as defined in the federal Indian Child Welfare Act, 25 U.S.C. § 1901 et seq., is not subject to this chapter to the extent that it is governed by the federal Indian Child Welfare Act.

2. A court of this state shall treat a tribe as if it were a state of the United States for the purpose of applying this article and article II.

3. A child-custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of this chapter must be recognized and enforced under article III.

Sec. 5. NEW SECTION. 598B.105 INTERNATIONAL APPLICATION.

1. A court of this state shall treat a foreign country as if it were a state of the United States for the purpose of applying this article and article II.

2. Except as otherwise provided in subsection 3, a child-custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of this chapter must be recognized and enforced under article III.

3. A court of this state need not apply this chapter if the child custody law of a foreign country violates fundamental principles of human rights.

Sec. 6. NEW SECTION. 598B.106 EFFECT OF CHILD-CUSTODY DETERMINATION.

A child-custody determination made by a court of this state that had jurisdiction under this chapter binds all persons who have been served in accordance with the laws of this state, or notified in accordance with section 598B.108, or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. As to those persons, the determination is conclusive as to all decided issues of law and fact except to the extent the determination is modified.

Sec. 7. NEW SECTION. 598B.107 PRIORITY.

If a question of existence or exercise of jurisdiction under this chapter is raised in a child-custody proceeding, the question, upon request of a party, must be given priority on the calendar and handled expeditiously.

Sec. 8. NEW SECTION. 598B.108 NOTICE TO PERSONS OUTSIDE STATE.

1. Notice required for the exercise of jurisdiction when a person is outside this state may be given in a manner prescribed by the law of this state for service of process or by the law of the state in which the service is made. Notice shall be given in a manner reasonably calculated to give actual notice but may be by publication if other means are not effective.

2. Proof of service may be made in the manner prescribed by the law of this state or by the law of the state in which the service is made.

3. Notice is not required for the exercise of jurisdiction with respect to a person who submits to the jurisdiction of the court.

Sec. 9. NEW SECTION. 598B.109 APPEARANCE AND LIMITED IMMUNITY.

1. A party to a child-custody proceeding, including a modification proceeding, or a petitioner or respondent in a proceeding to enforce or register a child-custody determination, is not subject to personal jurisdiction in this state for another proceeding or purpose solely by reason of having participated, or of having been physically present for the purpose of participating, in the proceeding.

2. A person who is subject to personal jurisdiction in this state on a basis other than physical presence is not immune from service of process in this state. A party present in this state who is subject to the jurisdiction of another state is not immune from service of process allowable under the laws of that state.

3. The immunity granted by subsection 1 does not extend to civil litigation based on acts unrelated to the participation in a proceeding under this chapter committed by an individual while present in this state.

Sec. 10. NEW SECTION. 598B.110 COMMUNICATION BETWEEN COURTS.

1. A court of this state may communicate with a court in another state concerning a proceeding arising under this chapter.

2. The court may allow the parties to participate in the communication. If the parties are not able to participate in the communication, they must be given the opportunity to present facts and legal arguments before a decision on jurisdiction is made.

3. Communication between courts on schedules, calendars, court records, and similar matters may occur without informing the parties. A record need not be made of the communication.

4. Except as otherwise provided in subsection 3, a record must be made of a communication under this section. The parties must be informed promptly of the communication and granted access to the record.

5. For the purposes of this section, "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

Sec. 11. NEW SECTION. 598B.111 TAKING TESTIMONY IN ANOTHER STATE.

1. In addition to other procedures available to a party, a party to a child-custody proceeding may offer testimony of witnesses who are located in another state, including testimony of the parties and the child, by deposition or other means allowable in this state for testimony taken in another state. The court on its own motion may order that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony is taken.

2. A court of this state may permit an individual residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means before a designated court or at another location in that state. A court of this state shall cooperate with courts of other states in designating an appropriate location for the deposition or testimony.

3. Documentary evidence transmitted from another state to a court of this state by technological means that do not produce an original writing shall not be excluded from evidence on an objection based on the means of transmission.

Sec. 12. NEW SECTION. 598B.112 COOPERATION BETWEEN COURTS — PRESERVATION OF RECORDS.

1. A court of this state may request the appropriate court of another state to do any or all of the following:

- a. Hold an evidentiary hearing.
- b. Order a person to produce or give evidence pursuant to procedures of that state.
- c. Order that an evaluation be made with respect to the custody of a child involved in a pending proceeding.
- d. Forward to the court of this state a certified copy of the transcript of the record of the hearing, the evidence otherwise presented, and any evaluation prepared in compliance with the request.
- e. Order a party to a child-custody proceeding or any person having physical custody of the child to appear in the proceeding with or without the child.

2. Upon request of a court of another state, a court of this state may hold a hearing or enter an order described in subsection 1.

3. Travel and other necessary and reasonable expenses incurred under subsections 1 and 2 may be assessed against the parties according to the law of this state.

4. A court of this state shall preserve the pleadings, orders, decrees, records of hearings, evaluations, and other pertinent records with respect to a child-custody proceeding until the child attains eighteen years of age. Upon appropriate request by a court or law enforcement official of another state, the court shall forward a certified copy of those records.

ARTICLE II JURISDICTION

Sec. 13. NEW SECTION. 598B.201 INITIAL CHILD-CUSTODY JURISDICTION.

1. Except as otherwise provided in section 598B.204, a court of this state has jurisdiction to make an initial child-custody determination only if any of the following applies:

a. This state is the home state of the child on the date of the commencement of the proceeding, or was the home state of the child within six months before the commencement of the proceeding and the child is absent from this state but a parent or person acting as a parent continues to live in this state.

b. A court of another state does not have jurisdiction under paragraph “a”, or a court of the home state of the child has declined to exercise jurisdiction on the ground that this state is the more appropriate forum under section 598B.207 or 598B.208 and both of the following apply:

(1) The child and the child’s parents, or the child and at least one parent or a person acting as a parent, have a significant connection with this state other than mere physical presence.

(2) Substantial evidence is available in this state concerning the child’s care, protection, training, and personal relationships.

c. All courts having jurisdiction under paragraph “a” or “b” have declined to exercise jurisdiction on the ground that a court of this state is the more appropriate forum to determine the custody of the child under section 598B.207 or 598B.208.

d. No court of any other state would have jurisdiction under the criteria specified in paragraph “a”, “b”, or “c”.

2. Subsection 1 is the exclusive jurisdictional basis for making a child-custody determination by a court of this state.

3. Physical presence of, or personal jurisdiction over, a party or a child is not necessary or sufficient to make a child-custody determination.

Sec. 14. NEW SECTION. 598B.202 EXCLUSIVE, CONTINUING JURISDICTION.

1. Except as otherwise provided in section 598B.204, a court of this state which has made a child-custody determination consistent with section 598B.201 or 598B.203 has exclusive, continuing jurisdiction over the determination until any of the following occurs:

a. A court of this state determines that the child does not have, the child and one parent do not have, or the child and a person acting as a parent do not have a significant connection with this state and that substantial evidence is no longer available in this state concerning the child's care, protection, training, and personal relationships.

b. A court of this state or a court of another state determines that the child, the child's parents, and any person acting as a parent do not presently reside in this state.

2. A court of this state which has made a child-custody determination and does not have exclusive, continuing jurisdiction under this section may modify that determination only if it has jurisdiction to make an initial determination under section 598B.201.

Sec. 15. NEW SECTION. 598B.203 JURISDICTION TO MODIFY DETERMINATION.

Except as otherwise provided in section 598B.204, a court of this state shall not modify a child-custody determination made by a court of another state unless a court of this state has jurisdiction to make an initial determination under section 598B.201, subsection 1, paragraph "a" or "b", and either of the following applies:

1. The court of the other state determines it no longer has exclusive, continuing jurisdiction under section 598B.202 or that a court of this state would be a more convenient forum under section 598B.207.

2. A court of this state or a court of the other state determines that the child, the child's parents, and any person acting as a parent do not presently reside in the other state.

Sec. 16. NEW SECTION. 598B.204 TEMPORARY EMERGENCY JURISDICTION.

1. A court of this state has temporary emergency jurisdiction if the child is present in this state and the child has been abandoned or it is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse.

2. If there is no previous child-custody determination that is entitled to be enforced under this chapter and a child-custody proceeding has not been commenced in a court of a state having jurisdiction under sections 598B.201 through 598B.203, a child-custody determination made under this section remains in effect until an order is obtained from a court of a state having jurisdiction under sections 598B.201 through 598B.203. If a child-custody proceeding has not been or is not commenced in a court of a state having jurisdiction under sections 598B.201 through 598B.203, a child-custody determination made under this section becomes a final determination, if it so provides and this state becomes the home state of the child.

3. If there is a previous child-custody determination that is entitled to be enforced under this chapter, or a child-custody proceeding has been commenced in a court of a state having jurisdiction under sections 598B.201 through 598B.203, any order issued by a court of this state under this section must specify in the order a period that the court considers adequate to allow the person seeking an order to obtain an order from the state having jurisdiction under sections 598B.201 through 598B.203. The order issued in this state remains in effect until an order is obtained from the other state within the period specified or the period expires.

4. A court of this state which has been asked to make a child-custody determination under this section, upon being informed that a child-custody proceeding has been commenced in, or a child-custody determination has been made by, a court of a state having jurisdiction under sections 598B.201 through 598B.203, shall immediately communicate with the other court. A court of this state which is exercising jurisdiction pursuant to sections 598B.201 through 598B.203, upon being informed that a child-custody proceeding has been commenced in, or a child-custody determination has been made by, a court or another state*

* The phrase "a court of another state" probably intended

under a statute similar to this section shall immediately communicate with the court of that state to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order.

Sec. 17. NEW SECTION. 598B.205 NOTICE — OPPORTUNITY TO BE HEARD — JOINDER.

1. Before a child-custody determination is made under this chapter, notice and an opportunity to be heard in accordance with the standards of section 598B.108 must be given to all persons entitled to notice under the law of this state as in child-custody proceedings between residents of this state, any parent whose parental rights have not been previously terminated, and any person having physical custody of the child.

2. This chapter does not govern the enforceability of a child-custody determination made without notice or an opportunity to be heard.

3. The obligation to join a party and the right to intervene as a party in a child-custody proceeding under this chapter are governed by the law of this state as in child-custody proceedings between residents of this state.

Sec. 18. NEW SECTION. 598B.206 SIMULTANEOUS PROCEEDINGS.

1. Except as otherwise provided in section 598B.204, a court of this state shall not exercise its jurisdiction under this article if, at the time of the commencement of the proceeding, a proceeding concerning the custody of the child has been commenced in a court of another state having jurisdiction substantially in conformity with this chapter, unless the proceeding has been terminated or is stayed by the court of the other state because a court of this state is a more convenient forum under section 598B.207.

2. Except as otherwise provided in section 598B.204, a court of this state, before hearing a child-custody proceeding, shall examine the court documents and other information supplied by the parties pursuant to section 598B.209. If the court determines that a child-custody proceeding has been commenced in a court in another state having jurisdiction substantially in accordance with this chapter, the court of this state shall stay its proceeding and communicate with the court of the other state. If the court of the state having jurisdiction substantially in accordance with this chapter does not determine that the court of this state is a more appropriate forum, the court of this state shall dismiss the proceeding.

3. In a proceeding to modify a child-custody determination, a court of this state shall determine whether a proceeding to enforce the determination has been commenced in another state. If a proceeding to enforce a child-custody determination has been commenced in another state, the court may do any of the following:

- a. Stay the proceeding for modification pending the entry of an order of a court of the other state enforcing, staying, denying, or dismissing the proceeding for enforcement.
- b. Enjoin the parties from continuing with the proceeding for enforcement.
- c. Proceed with the modification under conditions it considers appropriate.

Sec. 19. NEW SECTION. 598B.207 INCONVENIENT FORUM.

1. A court of this state which has jurisdiction under this chapter to make a child-custody determination may decline to exercise its jurisdiction at any time if it determines that it is an inconvenient forum under the circumstances and that a court of another state is a more appropriate forum. The issue of inconvenient forum may be raised upon motion of a party, the court's own motion, or request of another court.

2. Before determining whether it is an inconvenient forum, a court of this state shall consider whether it is appropriate for a court of another state to exercise jurisdiction. For this purpose, the court shall allow the parties to submit information and shall consider all relevant factors, including all of the following:

- a. Whether domestic violence has occurred and is likely to continue in the future and which state could best protect the parties and the child.
- b. The length of time the child has resided outside this state.

- c. The distance between the court in this state and the court in the state that would assume jurisdiction.
 - d. The relative financial circumstances of the parties.
 - e. Any agreement of the parties as to which state should assume jurisdiction.
 - f. The nature and location of the evidence required to resolve the pending litigation, including testimony of the child.
 - g. The ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence.
 - h. The familiarity of the court of each state with the facts and issues in the pending litigation.
3. If a court of this state determines that it is an inconvenient forum and that a court of another state is a more appropriate forum, it shall stay the proceedings upon condition that a child-custody proceeding be promptly commenced in another designated state and may impose any other condition the court considers just and proper.
 4. A court of this state may decline to exercise its jurisdiction under this chapter if a child-custody determination is incidental to an action for dissolution of marriage or another proceeding while still retaining jurisdiction over the dissolution of marriage or other proceeding.

Sec. 20. **NEW SECTION.** 598B.208 JURISDICTION DECLINED BY REASON OF CONDUCT.

1. Except as otherwise provided in section 598B.204 or by any other law of this state, if a court of this state has jurisdiction under this chapter because a person seeking to invoke its jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise its jurisdiction unless any of the following applies:

- a. The parents and all persons acting as parents have acquiesced in the exercise of jurisdiction.
- b. A court of the state otherwise having jurisdiction under sections 598B.201 through 598B.203 determines that this state is a more appropriate forum under section 598B.207.
- c. No court of any other state would have jurisdiction under the criteria specified in sections 598B.201 through 598B.203.

2. If a court of this state declines to exercise its jurisdiction pursuant to subsection 1, it may fashion an appropriate remedy to ensure the safety of the child and prevent a repetition of the unjustifiable conduct, including staying the proceeding until a child-custody proceeding is commenced in a court having jurisdiction under sections 598B.201 through 598B.203.

3. If a court dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction pursuant to subsection 1, it shall assess against the party seeking to invoke its jurisdiction necessary and reasonable expenses including costs, communication expenses, attorney fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees are sought establishes that the assessment would be clearly inappropriate. The court shall not assess fees, costs, or expenses against this state unless authorized by law other than this chapter.

Sec. 21. **NEW SECTION.** 598B.209 INFORMATION TO BE SUBMITTED TO COURT.

1. In a child-custody proceeding, each party, in its first pleading or in an attached affidavit, shall give information, if reasonably ascertainable, under oath as to the child's present address or whereabouts, the places where the child has lived during the last five years, and the names and present addresses of the persons with whom the child has lived during that period. The pleading or affidavit must state whether the party has or knows all of the following:

- a. Has participated, as a party or a witness or in any other capacity, in any other proceeding concerning the custody of or visitation with the child and, if so, identify the court, the case number, and the date of the child-custody determination, if any.

b. Knows of any proceeding that could affect the current proceeding, including proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court, the case number, and the nature of the proceeding.

c. Knows the names and addresses of any person not a party to the proceeding who has physical custody of the child or claims rights of legal custody or physical custody of, or visitation with, the child and, if so, the names and addresses of those persons.

2. If the information required by subsection 1 is not furnished, the court, upon motion of a party or its own motion, may stay the proceeding until the information is furnished.

3. If the declaration as to any of the items described in subsection 1, paragraphs "a" through "c", is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and other matters pertinent to the court's jurisdiction and the disposition of the case.

4. Each party has a continuing duty to inform the court of any proceeding in this or any other state that could affect the current proceeding.

5. 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, the court shall order that the address of the party or child or other identifying information not be disclosed in a pleading or other document filed in a proceeding under this chapter.

Sec. 22. NEW SECTION. 598B.210 APPEARANCE OF PARTIES AND CHILD.

1. In a child-custody proceeding in this state, the court may order a party to the proceeding who is in this state to appear before the court in person with or without the child. The court may order any person who is in this state and who has physical custody or control of the child to appear in person with the child.

2. If a party to a child-custody proceeding whose presence is desired by the court is outside this state, the court may order that a notice given pursuant to section 598B.108 include a statement directing the party to appear in person with or without the child and informing the party that failure to appear may result in a decision adverse to the party.

3. The court may enter any orders necessary to ensure the safety of the child and of any person ordered to appear under this section.

4. If a party to a child-custody proceeding who is outside this state is directed to appear under subsection 2 or desires to appear personally before the court with or without the child, the court may require another party to pay reasonable and necessary travel and other expenses of the party so appearing and of the child.

ARTICLE III
ENFORCEMENT

Sec. 23. NEW SECTION. 598B.301 DEFINITIONS.

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

1. "Petitioner" means a person who seeks enforcement of an order for return of a child under the Hague convention on the civil aspects of international child abduction or enforcement of a child-custody determination.

2. "Respondent" means a person against whom a proceeding has been commenced for enforcement of an order for return of a child under the Hague convention on the civil aspects of international child abduction or enforcement of a child-custody determination.

Sec. 24. NEW SECTION. 598B.302 ENFORCEMENT UNDER HAGUE CONVENTION.

Under this article, a court of this state may enforce an order for the return of the child made under the Hague convention on the civil aspects of international child abduction as if it were a child-custody determination.

Sec. 25. NEW SECTION. 598B.303 DUTY TO ENFORCE.

1. A court of this state shall recognize and enforce a child-custody determination of a court of another state if the latter court exercised jurisdiction in substantial conformity with this chapter or the determination was made under factual circumstances meeting the jurisdictional standards of this chapter and the determination has not been modified in accordance with this chapter.

2. A court of this state may utilize any remedy available under other law of this state to enforce a child-custody determination made by a court of another state. The remedies provided in this article are cumulative and do not affect the availability of other remedies to enforce a child-custody determination.

Sec. 26. NEW SECTION. 598B.304 TEMPORARY VISITATION.

1. A court of this state which does not have jurisdiction to modify a child-custody determination, may issue a temporary order enforcing any of the following:

a. A visitation schedule made by a court of another state.

b. The visitation provisions of a child-custody determination of another state that does not provide for a specific visitation schedule.

2. If a court of this state makes an order under subsection 1, paragraph "b", it shall specify in the order a period that it considers adequate to allow the petitioner to obtain an order from a court having jurisdiction under the criteria specified in article II. The order remains in effect until an order is obtained from the other court or the period expires.

Sec. 27. NEW SECTION. 598B.305 REGISTRATION OF CHILD-CUSTODY DETERMINATION.

1. A child-custody determination issued by a court of another state may be registered in this state, with or without a simultaneous request for enforcement, by sending to the district court in this state all of the following:

a. A letter or other document requesting registration.

b. Two copies, including one certified copy, of the determination sought to be registered, and a statement under penalty of perjury that to the best of the knowledge and belief of the person seeking registration the order has not been modified.

c. Except as otherwise provided in section 598B.209, the name and address of the person seeking registration and any parent or person acting as a parent who has been awarded custody or visitation in the child-custody determination sought to be registered.

2. On receipt of the documents required by subsection 1, the registering court shall do all of the following:

a. Cause the determination to be filed as a foreign judgment, together with one copy of any accompanying documents and information, regardless of their form.

b. Serve notice upon the persons named pursuant to subsection 1, paragraph "c", and provide them with an opportunity to contest the registration in accordance with this section.

3. The notice required by subsection 2, paragraph "b", must state all of the following:

a. That a registered determination is enforceable as of the date of the registration in the same manner as a determination issued by a court of this state.

b. That a hearing to contest the validity of the registered determination must be requested within twenty days after service of notice.

c. That failure to contest the registration will result in confirmation of the child-custody determination and preclude further contest of that determination with respect to any matter that could have been asserted.

4. A person seeking to contest the validity of a registered order must request a hearing within twenty days after service of the notice. At that hearing, the court shall confirm the registered order unless the person contesting registration establishes any of the following:

a. That the issuing court did not have jurisdiction under article II.

b. That the child-custody determination sought to be registered has been vacated, stayed, or modified by a court having jurisdiction to do so under article II.

c. That the person contesting registration was entitled to notice, but notice was not given in accordance with the standards of section 598B.108, in the proceedings before the court that issued the order for which registration is sought.

5. If a timely request for a hearing to contest the validity of the registration is not made, the registration is confirmed as a matter of law and the person requesting registration and all persons served must be notified of the confirmation.

6. 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.

Sec. 28. NEW SECTION. 598B.306 ENFORCEMENT OF REGISTERED DETERMINATION.

1. A court of this state may grant any relief normally available under the law of this state to enforce a registered child-custody determination made by a court of another state.

2. A court of this state shall recognize and enforce, but shall not modify, except in accordance with article II, a registered child-custody determination of a court of another state.

Sec. 29. NEW SECTION. 598B.307 SIMULTANEOUS PROCEEDINGS.

If a proceeding for enforcement under this article is commenced in a court of this state and the court determines that a proceeding to modify the determination is pending in a court of another state having jurisdiction to modify the determination under article II, the enforcing court shall immediately communicate with the modifying court. The proceeding for enforcement continues unless the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding.

Sec. 30. NEW SECTION. 598B.308 EXPEDITED ENFORCEMENT OF CHILD-CUSTODY DETERMINATION.

1. A petition under this article must be verified. Certified copies of all orders sought to be enforced and of any order confirming registration must be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.

2. A petition for enforcement of a child-custody determination must state all of the following:

a. Whether the court that issued the determination identified the jurisdictional basis it relied upon in exercising jurisdiction and, if so, what the basis was.

b. Whether the determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision must be enforced under this chapter and, if so, identify the court, the case number, and the nature of the proceeding.

c. Whether any proceeding has been commenced that could affect the current proceeding, including proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court, the case number, and the nature of the proceeding.

d. The present physical address of the child and the respondent, if known.

e. Whether relief in addition to the immediate physical custody of the child and attorney fees is sought, including a request for assistance from law enforcement officials and, if so, the relief sought.

f. If the child-custody determination has been registered and confirmed under section 598B.305, the date and place of registration.

3. Upon the filing of a petition, the court shall issue an order directing the respondent to appear in person with or without the child at a hearing and may enter any order necessary to ensure the safety of the parties and the child. The hearing must be held on the next judicial day after service of the order unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The court may extend the date of hearing at the request of the petitioner.

4. An order issued under subsection 3 must state the time and place of the hearing and advise the respondent that at the hearing the court will order that the petitioner may take

immediate physical custody of the child and the payment of fees, costs, and expenses under section 598B.312, and may schedule a hearing to determine whether further relief is appropriate, unless the respondent appears and establishes either of the following:

a. The child-custody determination has not been registered and confirmed under section 598B.305 and that all of the following* apply:

(1) The issuing court did not have jurisdiction under article II.

(2) The child-custody determination for which enforcement is sought has been vacated, stayed, or modified by a court having jurisdiction to do so under article II.

(3) The respondent was entitled to notice, but notice was not given in accordance with the standards of section 598B.108, in the proceedings before the court that issued the order for which enforcement is sought.

b. The child-custody determination for which enforcement is sought was registered and confirmed under section 598B.305, but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under article II.

Sec. 31. NEW SECTION. 598B.309 SERVICE OF PETITION AND ORDER.

Except as otherwise provided in section 598B.311, the petition and order must be served, by any method authorized by the law of this state, upon respondent** and any person who has physical custody of the child.

Sec. 32. NEW SECTION. 598B.310 HEARING AND ORDER.

1. Unless the court issues a temporary emergency order pursuant to section 598B.204, upon a finding that a petitioner is entitled to immediate physical custody of the child, the court shall order that the petitioner may take immediate physical custody of the child unless the respondent establishes that any of the following applies:

a. The child-custody determination has not been registered and confirmed under section 598B.305, and that any of the following applies:

(1) The issuing court did not have jurisdiction under article II.

(2) The child-custody determination for which enforcement is sought has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under article II.

(3) The respondent was entitled to notice, but notice was not given in accordance with the standards of section 598B.108, in the proceedings before the court that issued the order for which enforcement is sought.

b. The child-custody determination for which enforcement is sought was registered and confirmed under section 598B.305, but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under article II.

2. The court shall award the fees, costs, and expenses authorized under section 598B.312, and may grant additional relief, including a request for the assistance of law enforcement officials, and set a further hearing to determine whether additional relief is appropriate.

3. If a party called to testify refuses to answer on the ground that the testimony may be self-incriminating, the court may draw an adverse inference from the refusal.

4. A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of husband and wife or parent and child shall not be invoked in a proceeding under this article.

Sec. 33. NEW SECTION. 598B.311 WARRANT TO TAKE PHYSICAL CUSTODY OF CHILD.

1. Upon the filing of a petition seeking enforcement of a child-custody determination, the petitioner may file a verified application for the issuance of a warrant to take physical custody of the child if the child is imminently likely to suffer serious physical harm or be removed from this state.

2. If the court, upon the testimony of the petitioner or other witness, finds that the child is imminently likely to suffer serious physical harm or be removed from this state, it may issue a warrant to take physical custody of the child. The petition must be heard on the next

* The phrase "any of the following" probably intended

** The phrase "upon the respondent" probably intended

judicial day after the warrant is executed unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The application for the warrant must include the statements required by section 598B.308, subsection 2.

3. A warrant to take physical custody of a child must provide all of the following:

a. Recite the facts upon which a conclusion of imminent serious physical harm or removal from the jurisdiction is based.

b. Direct law enforcement officers to take physical custody of the child immediately.

c. Provide for the placement of the child pending final relief.

4. The respondent must be served with the petition, warrant, and order immediately after the child is taken into physical custody.

5. A warrant to take physical custody of a child is enforceable throughout this state. If the court finds on the basis of the testimony of the petitioner or other witness that a less intrusive remedy is not effective, it may authorize law enforcement officers to enter private property to take physical custody of the child. If required by exigent circumstances of the case, the court may authorize law enforcement officers to make a forcible entry at any hour.

6. The court may impose conditions upon placement of a child to ensure the appearance of the child and the child's custodian.

Sec. 34. NEW SECTION. 598B.312 COSTS, FEES, AND EXPENSES.

1. The court shall award the prevailing party, including a state, necessary and reasonable expenses incurred by or on behalf of the party, including costs, communication expenses, attorney fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees or expenses are sought establishes that the award would be clearly inappropriate.

2. The court shall not assess fees, costs, or expenses against a state unless authorized by law other than this chapter.

Sec. 35. NEW SECTION. 598B.313 RECOGNITION AND ENFORCEMENT.

A court of this state shall accord full faith and credit to an order issued by another state and consistent with this chapter which enforces a child-custody determination by a court of another state unless the order has been vacated, stayed, or modified by a court having jurisdiction to do so under article II.

Sec. 36. NEW SECTION. 598B.314 APPEALS.

An appeal may be taken from a final order in a proceeding under this article in accordance with expedited appellate procedures in other civil cases. Unless the court enters a temporary emergency order under section 598B.204, the enforcing court shall not stay an order enforcing a child-custody determination pending appeal.

Sec. 37. NEW SECTION. 598B.315 ROLE OF PROSECUTOR.

1. In a case arising under this chapter or involving the Hague convention on the civil aspects of international child abduction, the prosecutor may take any lawful action, including resort to a proceeding under this article or any other available civil proceeding to locate a child, obtain the return of a child, or enforce a child-custody determination if there is any of the following:

a. An existing child-custody determination.

b. A request to do so from a court in a pending child-custody proceeding.

c. A reasonable belief that a criminal statute has been violated.

d. A reasonable belief that the child has been wrongfully removed or retained in violation of the Hague convention on the civil aspects of international child abduction.

2. A prosecutor acting under this section acts on behalf of the court and shall not represent any party.

Sec. 38. NEW SECTION. 598B.316 ROLE OF LAW ENFORCEMENT.

At the request of a prosecutor acting under 598B.315, a law enforcement officer may take any lawful action reasonably necessary to locate a child or a party and assist a prosecutor with responsibilities under section 598B.315.

Sec. 39. NEW SECTION. 598B.317 COSTS AND EXPENSES.

If the respondent is not the prevailing party, the court may assess against the respondent all direct expenses and costs incurred by the prosecutor and law enforcement officers under section 598B.315 or 598B.316.

ARTICLE IV
MISCELLANEOUS PROVISIONS

Sec. 40. NEW SECTION. 598B.401 APPLICATION AND CONSTRUCTION.

In applying and construing this uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Sec. 41. NEW SECTION. 598B.402 TRANSITIONAL PROVISION.

A motion or other request for relief made in a child-custody proceeding or to enforce a child-custody determination which was commenced before the effective date of this Act, is governed by the law in effect at the time the motion or other request was made.

Sec. 42. Section 232.3, subsection 1, Code 1999, is amended to read as follows:

1. During the pendency of an action under this chapter, a party to the action is estopped from litigating concurrently the custody, guardianship, or placement of a child who is the subject of the action, in a court other than the juvenile court. A district judge, district associate judge, magistrate, or judicial hospitalization referee, upon notice of the pendency of an action under this chapter, shall not issue an order, finding, or decision relating to the custody, guardianship, or placement of the child who is the subject of the action, under any law, including but not limited to chapter 598, ~~598A 598B~~, or 633.

Sec. 43. Section 597.15, unnumbered paragraph 1, Code 1999, is amended to read as follows:

If one spouse abandons the other spouse, the abandoned spouse is entitled to the custody of the minor children, unless the district court, upon application for that purpose, otherwise directs, or unless a custody decree is entered in accordance with chapter ~~598A 598B~~. In this section "abandon" does not include:

Sec. 44. Section 598.21, subsection 6, Code 1999, is amended to read as follows:

6. The court may provide for joint custody of the children by the parties pursuant to section 598.41. All orders relating to custody of a child are subject to chapter ~~598A 598B~~.

Sec. 45. Section 598.21, subsection 8, unnumbered paragraph 2, Code 1999, is amended to read as follows:

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, 239B.6, or 252E.11, or if services are being provided pursuant to chapter 252B, the department is a party to the support order. Modifications of orders pertaining to child custody shall be made pursuant to chapter ~~598A 598B~~. If the petition for a modification of an order pertaining to child custody asks either for joint custody or that joint custody be modified to an award of sole custody, the modification, if any, shall be made pursuant to section 598.41.

Sec. 46. Section 602.8102, subsection 85, Code 1999, is amended to read as follows:

85. Carry out duties relating to the custody of children as provided in chapter ~~598A 598B~~.

Sec. 47. Chapter 598A, Code 1999, is repealed.

CHAPTER 104

NOTIFICATION OF MECHANICS' LIENS

S.F. 437

AN ACT relating to notification regarding mechanics' liens.

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

Section 1. Section 572.33, Code 1999, is amended to read as follows:

572.33 REQUIREMENT OF NOTIFICATION.

1. Notwithstanding other provisions of this chapter, and in addition to all other requirements of this chapter, a person furnishing labor or materials to a subcontractor shall not be entitled to a lien under this chapter unless the person furnishing labor or materials does all of the following:

1 a. ~~Notifies the owner and the principal contractor in writing with a one-time notice containing the name, mailing address, and telephone number of the person furnishing the labor or materials, and the name of the subcontractor to whom the labor or materials were furnished, within thirty days of the first furnishing of the labor or materials for which a lien claim is may be made, including the amount, kind, and value of the labor or materials furnished. Additional labor or materials furnished by the same person to the same subcontractor for use in the same construction project shall be covered by this notice.~~

2 b. Supports the lien claim with a certified statement that the principal contractor was notified ~~in writing with a one-time notice containing the name, mailing address, and telephone number of the person furnishing the labor or materials, and the name of the subcontractor to whom the labor or materials were furnished, within thirty days after the labor or materials were first furnished of the amount, kind, and value of the labor or materials furnished, pursuant to paragraph "a".~~

2. ~~This section shall not apply to a mechanic's lien on single-family or two-family dwellings occupied or used or intended to be occupied or used for residential purposes.~~

3. ~~Notwithstanding other provisions of this chapter, a principal contractor shall not be prohibited from requesting information from a subcontractor or a person furnishing labor or materials to a subcontractor regarding payments made or payments to be made to a person furnishing labor or materials to a subcontractor.~~

Approved May 10, 1999

CHAPTER 105

BAIL ENFORCEMENT LIMITATIONS — EXEMPT AGENTS

H.F. 281

AN ACT related to activities of bail enforcement agents that are exempt from state licensing requirements.

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

Section 1. Section 811.12, subsection 2, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. The person is a bail enforcement agent exempt from licensing requirements pursuant to section 80A.2, subsection 3.

Approved May 10, 1999

CHAPTER 106

GRAIN INDUSTRY REGULATION

H.F. 312

AN ACT relating to regulation of the grain industry and providing for civil penalties.

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

Section 1. Section 203.1, subsection 8, unnumbered paragraph 1, Code 1999, is amended to read as follows:

“Grain dealer” means a person who buys during any calendar month ~~five hundred~~ one thousand bushels of grain or more directly from the producers of the grain for purposes of resale, milling, or processing. However, “grain dealer” does not include any of the following:

Sec. 2. Section 203.1, subsection 8, paragraph c, Code 1999, is amended to read as follows:

c. A person who purchases grain only for sale in a ~~registered feed~~ regulated under chapter 198.

Sec. 3. Section 203.1, subsection 8, paragraph d, Code 1999, is amended by striking the paragraph and inserting in lieu thereof the following:

d. A person who purchases grain only from grain dealers licensed under this chapter.

Sec. 4. NEW SECTION. 203.2A NOTICE REQUIREMENT FOR GRAIN PURCHASERS WHO ARE NOT GRAIN DEALERS.

A person shall not purchase grain from a producer for purposes of resale, milling, feeding, or processing, unless one of the following applies:

1. The person is a grain dealer licensed pursuant to section 203.3.

2. The person has purchased less than fifty thousand bushels of grain from all producers in the twelve months prior to purchasing grain from the producer.

3. a. The person provides notice to the producer. The notice shall be in the following form:

ATTENTION TO PRODUCERS:

THE PERSON PURCHASING THIS GRAIN IS NOT A LICENSED GRAIN DEALER AND THIS IS NOT A COVERED TRANSACTION ELIGIBLE FOR INDEMNIFICATION FROM THE GRAIN DEPOSITORS AND SELLERS INDEMNITY FUND AS PROVIDED IN IOWA CODE SECTION 203D.3.

b. The notice shall be provided prior to or at the time of the purchase. The notice may appear on a separate statement or as part of a document received by the producer, including a contract or receipt, as required by the department.

c. The form of the notice shall be prescribed by the department. The notice shall appear in a printed boldface font in at least ten point type.

Sec. 5. NEW SECTION. 203.11A CIVIL PENALTIES.

1. The department shall establish, by rule, civil penalties which may be administratively or judicially assessed against a grain dealer for a violation of this chapter.

2. The amount of a civil penalty shall not exceed one thousand five hundred dollars. Each day that a violation continues shall constitute a separate violation. The amount of the civil penalty that may be assessed in a case shall not exceed the amount recommended by the grain industry peer review panel established pursuant to section 203.11B. Moneys collected in civil penalties by the department or the attorney general shall be deposited in the general fund of the state.

3. A civil penalty may be administratively assessed only after an opportunity for a contested case hearing under chapter 17A. The department may be represented in an administrative hearing or judicial proceeding by the attorney general. A civil penalty shall be paid within thirty days from the date that an order or judgment for the penalty becomes final. When a person against whom a civil penalty is administratively assessed under this section seeks timely judicial review of an order imposing the penalty as provided under chapter 17A, the order is not final until all judicial review processes are completed. When a person against whom a civil penalty is judicially assessed under this section seeks a timely appeal of judgment, the judgment is not final until the right of appeal is exhausted.

4. A person who fails to timely pay a civil penalty as provided in this section shall pay, in addition to the penalty, interest at the rate of one and one-half percent of the unpaid balance of the assessed penalty for each month or part of a month that the penalty remains unpaid.

Sec. 6. NEW SECTION. 203.11B GRAIN INDUSTRY PEER REVIEW PANEL.

1. The department shall establish a grain industry peer review panel to assist the department in assessing civil penalties pursuant to this section and section 203C.36A. The secretary of agriculture shall appoint to the panel the following members:

a. Two natural persons who are grain dealers licensed under this chapter and actively engaged in the grain dealer business.

b. Two natural persons who are warehouse operators licensed pursuant to chapter 203C and actively engaged in the grain warehouse business.

c. One natural person who is a producer actively engaged in grain farming.

2. a. The members appointed pursuant to this section shall serve four-year terms beginning and ending as provided in section 69.19. However, the secretary of agriculture shall appoint initial members to serve for less than four years to ensure that members serve staggered terms. A member is eligible for reappointment. A vacancy on the panel shall be filled for the unexpired portion of the regular term in the same manner as regular appointments are made.

b. The panel shall elect a chairperson who shall serve for a term of one year. The panel shall meet on a regular basis and at the call of the chairperson or upon the written request to the chairperson of three or more members. Three members constitute a quorum and the affirmative vote of a majority of the members present is necessary for any substantive action to be taken by the panel. The majority shall not include any member who has a conflict of interest and a statement by a member that the member has a conflict of interest is conclusive for this purpose. A vacancy in the membership does not impair the duties of the panel.

c. Notwithstanding section 7E.6, the members shall only receive reimbursement for actual expenses for performance of their official duties, as provided by the department.

d. The panel shall be staffed by employees of the department.

3. The panel may propose a schedule of civil penalties for minor and serious violations of this chapter and chapter 203C. The department may adopt rules based on the recommendations of the panel as approved by the secretary of agriculture.

4. a. The panel shall review cases of grain dealers regulated under this chapter and warehouse operators regulated under chapter 203C who are subject to civil penalties as provided in section 203.11A or 203C.36A. A review shall be performed upon the request of the department or the person subject to the civil penalty.

b. The department shall present reports to the panel in regard to investigations of cases under review which may result in the assessment of a civil penalty against a person. The reports may be reviewed by the panel in closed session pursuant to section 21.5, and are confidential records. In presenting the reports, the department shall make available to the panel records of persons which are otherwise confidential under section 22.7, 203.16, or 203C.24. The panel members shall maintain the confidentiality of records made available to the panel. However, a determination to assess a civil penalty against a person shall be made exclusively by the department.

c. The panel may establish procedures for the review and establish a system of prioritizing cases for review, consistent with rules adopted by the department. The department shall adopt rules establishing a period for the review and response by the panel which must be completed prior to a contested case hearing under chapter 17A. A hearing shall not be delayed after the required period for review and response, except as provided in chapter 17A or the Iowa rules of civil procedure. The rules adopted by the department may exclude review of minor violations. The review may also include the manner of assessing and collecting the civil penalty.

d. The findings and recommendations of the panel shall be included in a response delivered to the department and the person subject to the civil penalty. The response may include a recommendation that a proposed civil penalty be modified or suspended, that an alternative method of collection be instituted, or that conditions be placed upon the license of a grain dealer or warehouse operator.

5. This section does not apply to an action by the department for a license suspension or revocation. This section also does not require a review or response if the case is subject to criminal prosecution or involves a petition seeking injunctive relief.

6. A response by the panel may be used as evidence in an administrative hearing or in a civil or criminal case except to the extent that information contained in the response is considered confidential pursuant to section 22.7, 203.16, or 203C.24.

Sec. 7. Section 203.15, subsection 7, paragraph c, subparagraph (2), unnumbered paragraph 2, Code 1999, is amended to read as follows:

A bond filed with the department under this paragraph shall not be canceled by the issuer on less than ninety days notice by certified mail to the department and the principal. ~~When the department receives notice from an issuer that it has canceled the bond, However, if an adequate replacement bond is filed with the department, the department may authorize the cancellation of the original bond before the end of the ninety-day period. If an adequate replacement bond is not received by the department within sixty days of the issuance of the notice of cancellation,~~ the department shall automatically suspend the grain dealer's license ~~if a replacement bond is not received by the department within sixty days of the issuance of the notice of cancellation.~~ The department shall cause an inspection of the licensed grain dealer immediately at the end of the sixty-day period. If a replacement bond is not filed within another thirty days following the suspension, the grain dealer license shall be automatically revoked. When a license is revoked, the department shall provide notice of the revocation by ordinary mail to the last known address of each holder of an outstanding credit-sale contract and all known sellers.

Sec. 8. Section 203.16, Code 1999, is amended by adding the following new subsection: NEW SUBSECTION. 8. Disclosure to the grain industry peer review panel as provided in section 203.11B.

Sec. 9. Section 203C.1, subsection 11, Code 1999, is amended to read as follows:

11. "Incidental warehouse operator" means a person regulated under chapter 198 whose grain storage capacity does not exceed twenty-five thousand bushels which is used exclusively for grain owned or grain which will be returned to the depositor for use in a feeding operation or as an ingredient in a ~~customer formula feed, as defined in section 198.1.~~

Sec. 10. Section 203C.1, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 11A. "Incidental warehouse operator obligation" means a sufficient quantity and quality of grain to cover company owned grain and deposits of grain for which actual payment has not been made.

Sec. 11. Section 203C.1, subsection 24, Code 1999, is amended to read as follows:

24. "Warehouse operator's obligation" means a sufficient quantity and quality of grain or other products for which a warehouse operator is licensed including company owned grain and grain of depositors as the warehouse operator's records indicate. For an unlicensed warehouse operator it means a sufficient quantity and quality of grain to cover company owned grain and all deposits of grain for which actual payment has not been made. ~~At no time may a warehouse operator have less grain or other agricultural products in the warehouse than the obligations to depositors, as determined by investigation of the warehouse operator's records.~~

Sec. 12. Section 203C.17, subsection 1, Code 1999, is amended to read as follows:

1. Any grain which has been received at any licensed warehouse for which the actual sale price is not fixed and proper documentation made or payment made shall be construed to be grain held for storage within the meaning of this chapter. Grain may be held in open storage or placed on warehouse receipt. ~~Warehouse receipts~~ A warehouse receipt shall be issued for all grain held in open storage, within ~~six months~~ one year from the date of delivery to the warehouse, unless the depositor has signed a statement that the depositor does not desire a warehouse receipt. The warehouse operator's tariff shall apply for any grain that is retained in open storage or under warehouse receipt.

Sec. 13. Section 203C.23, Code 1999, is amended to read as follows:

203C.23 WAREHOUSE OPERATOR'S OBLIGATION.

1. A warehouse operator shall maintain at all times sufficient quantity and quality of grain or other agricultural products to cover the warehouse operator's obligation. A warehouse operator shall not at any time have less grain or other agricultural products in the warehouse than the obligations to depositors, as determined by an investigation of the warehouse operator's records.

2. An incidental warehouse operator shall maintain at all times sufficient quantity and quality of grain to cover the incidental warehouse operator's obligation. An incidental warehouse operator shall not at any time have less grain in a warehouse than the obligations to depositors, as determined by an investigation of the incidental warehouse operator's records.

Sec. 14. Section 203C.24, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 8. Disclosure to the grain industry peer review panel as provided in section 203.11B.

Sec. 15. NEW SECTION. 203C.36A CIVIL PENALTIES.

1. The department shall establish, by rule, civil penalties which may be administratively or judicially assessed against a warehouse operator for a violation of this chapter.

2. The amount of a civil penalty shall not exceed one thousand five hundred dollars. Each day that a violation continues shall constitute a separate violation. The amount of the civil penalty that may be assessed in an administrative case shall not exceed the amount recommended by the grain industry peer review panel established pursuant to section 203.11B. Moneys collected in civil penalties by the department or the attorney general shall be deposited in the general fund of the state.

3. A civil penalty may be administratively assessed only after an opportunity for a contested case hearing under chapter 17A. The department may be represented in an administrative hearing or judicial proceeding by the attorney general. A civil penalty shall be paid within thirty days from the date that an order or judgment for the penalty becomes final.

When a person against whom a civil penalty is administratively assessed under this section seeks timely judicial review of an order imposing the penalty as provided under chapter 17A, the order is not final until all judicial review processes are completed. When a person against whom a civil penalty is judicially assessed under this section seeks a timely appeal of judgment, the judgment is not final until the right of appeal is exhausted.

4. A person who fails to timely pay a civil penalty as provided in this section shall pay, in addition to the penalty, interest at the rate of one and one-half percent of the unpaid balance of the assessed penalty for each month or part of a month that the penalty remains unpaid.

Approved May 10, 1999

CHAPTER 107

FRAUDULENT RETAIL SALES RECEIPTS AND UNIVERSAL PRICE CODE LABELS

H.F. 498

AN ACT defining as a fraudulent practice certain creation or use of retail sales receipts or universal price code labels, and applying penalties.

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

Section 1. Section 714.8, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 17. Manufactures, creates, reproduces, alters, possesses, uses, transfers, or otherwise knowingly contributes to the production or use of a fraudulent retail sales receipt or universal price code label with intent to defraud another person engaged in the business of retailing.

For purposes of this subsection:

a. "Retail sales receipt" means a document intended to evidence payment for goods or services.

b. "Universal price code label" means the unique ten-digit bar code placed on the packaging of an item that may be used for purposes including but not limited to tracking inventory, maintaining price information in a computerized database, and serving as proof of purchase of a particular item.

Approved May 10, 1999

CHAPTER 108

IMPLEMENTS OF HUSBANDRY AND OTHER VEHICLES — MOVEMENT RESTRICTIONS — PRODUCT IDENTIFICATION NUMBERS

H.F. 651

AN ACT relating to implements of husbandry and restrictions on the movement of such implements, and other vehicles, upon the highways of this state and making penalties applicable.

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

Section 1. Section 321.1, Code 1999, is amended by adding the following new subsections:

NEW SUBSECTION. 24A. "Fence-line feeder" means a vehicle used exclusively for the mixing and dispensing of nutrients to bovine animals at a feedlot.

NEW SUBSECTION. 28A. "Grain cart" means a vehicle with a nonsteerable single or tandem axle designed to move grain.

Sec. 2. Section 321.1, subsection 32, Code 1999, is amended to read as follows:

32. "Implement of husbandry" means ~~every~~ a vehicle ~~which is or special mobile equipment manufactured, designed, or reconstructed~~ for agricultural purposes and, ~~except for incidental uses, exclusively used, except as herein otherwise provided, by the owner thereof~~ in the conduct of the owner's agricultural operations. ~~Implements "Implements of husbandry shall also include: husbandry" includes all-terrain vehicles operated in compliance with section 321.234A, fence-line feeders, and vehicles used exclusively for the application of organic or inorganic plant food materials, organic agricultural limestone, or agricultural chemicals. To be considered an implement of husbandry, a self-propelled implement of husbandry must be operated at speeds of thirty-five miles per hour or less. "Reconstructed" as used in this subsection means materially altered from the original construction by the removal, addition, or substitution of essential parts, new or used.~~

~~a. Portable livestock loading chutes without regard to whether such chutes are used by the owner in the conduct of the owner's agricultural operations, provided that such chutes are not used as a vehicle on the highway for the purpose of transporting property.~~

~~b. Any vehicle which is principally designed for agricultural purposes and which is moved during daylight hours for a distance not to exceed one hundred miles by a person in any of the following ways:~~

~~(1) From a place at which the vehicles are manufactured, fabricated, repaired, or sold to a farm site or a retail seller or from a retail seller to a farm site.~~

~~(2) To a place at which the vehicles are manufactured, fabricated, repaired, or sold from a farm site or a retail seller or to a retail seller from a farm site.~~

~~(3) From a place where the vehicles are housed, maintained, or stored to a farm site, retail seller, place of repair, or marketplace.~~

~~(4) From a farm site, retail seller, place of repair, or marketplace to a place where the vehicles are housed, maintained, or stored.~~

~~(5) From one farm site to another farm site.~~

~~(6) From a farm site to market or from a market to a farm site.~~

~~For the purpose of this subsection and sections 321.383 and 321.453, "farm site" means a place or location at which vehicles principally designed for agricultural purposes are used or intended to be used in agricultural operations or for the purpose of exhibiting, demonstrating, testing, or experimenting with the vehicles.~~

~~e. Any semitrailer converted to a full trailer by the use of a dolly used by the owner in the conduct of the owner's agricultural operations to transport agricultural products being towed by a farm tractor provided the vehicle is operated in compliance with the following requirements:~~

(1) The towing unit is equipped with a braking device which can control the movement of and stop the vehicles. When the semitrailer is being towed at a speed of twenty miles per hour, the braking device shall be adequate to stop the vehicles within fifty feet from the point the brakes are applied. The semitrailer shall be equipped with brakes upon all wheels.

(2) The towing vehicle shall be equipped with a rear view mirror to permit the operator a view of the highway for a distance of at least two hundred feet to the rear.

(3) The semitrailer shall be equipped with a turn signal device which operates in conjunction with or separately from the rear taillight and shall be plainly visible from a distance of one hundred feet.

(4) The semitrailer shall be equipped with two flashing amber lights one on each side of the rear of the vehicle and be plainly visible for a distance of five hundred feet in normal sunlight or at night.

(5) The semitrailer shall be operated in compliance with sections 321.123 and 321.463.

d. All terrain vehicles.

e. (1) Portable tanks, nurse tanks, trailers, and bulk spreaders which are not self-propelled and which have gross weights of not more than twelve tons and are used for the transportation of fertilizer and chemicals used for farm crop production.

(2) Other types of equipment than those listed in subparagraph (1) which are used primarily for the application of fertilizers and chemicals in farm fields or for farm storage.

f. Self-propelled machinery operated at speeds of less than thirty miles per hour or machinery towed by a motor vehicle or farm tractor. The machinery must be specifically designed for, or especially adapted to be capable of, incidental over-the-road and primary off-road usage. In addition, the machinery must be used exclusively for the mixing and dispensing of nutrients to bovine animals fed at a feedlot, or the application of organic or inorganic plant food materials, agricultural limestone, or agricultural chemicals. However, the machinery shall not be specifically designed or intended for the transportation of such nutrients, plant food materials, agricultural limestone, or agricultural chemicals.

Notwithstanding the other provisions of this subsection any Δ vehicle covered thereby under this subsection, if it otherwise qualifies, may be registered as special mobile equipment, or operated or moved under the provisions of sections 321.57 ~~to~~ through 321.63, if the person in whose name such vehicle is to be registered or to whom a special plate or plates are to be issued elects to do so and under such circumstances the provisions of this subsection shall not be applicable to such vehicle, ~~nor shall~~ and such vehicle shall not be required to comply with the provisions of sections 321.384 ~~to 321.429~~ through 321.423, when such vehicle is moved during daylight hours, ~~provided~~; however, the provisions of section 321.383 shall remain applicable to such vehicle.

Sec. 3. Section 321.1, Code 1999, is amended by adding the following new subsections:
NEW SUBSECTION. 54A. "Product identification number" or the acronym PIN means a group of unique numerical or alphabetical designations assigned to a complete fence-line feeder, grain cart, or tank wagon by the manufacturer or by the department and affixed to the vehicle, pursuant to rules adopted by the department, as a means of identifying the vehicle or the year of manufacture.

NEW SUBSECTION. 80A. "Tank wagon" means a vehicle designed to carry liquid animal or human excrement.

Sec. 4. Section 321.234A, Code 1999, is amended to read as follows:

321.234A ALL-TERRAIN VEHICLES — BICYCLE SAFETY FLAG REQUIRED.

All-terrain vehicles shall be operated on a highway only between sunrise and sunset and only when the operation on the highway is incidental to the vehicle's use for agricultural purposes. A person operating an all-terrain vehicle on a highway shall have a valid driver's license and the vehicle shall be operated at speeds of ~~less than thirty~~ thirty-five miles per hour or less. When operated on a highway, an all-terrain vehicle shall have a bicycle safety flag which extends not less than five feet above the ground attached to the rear of the vehicle. The bicycle safety flag shall be triangular in shape with an area of not less than thirty

square inches, be Day-Glo in color, and shall be in lieu of the reflective equipment required by section 321.383.

Sec. 5. Section 321.383, Code 1999, is amended to read as follows:

321.383 EXCEPTIONS — SLOW VEHICLES IDENTIFIED.

1. This chapter with respect to equipment on vehicles does not apply to implements of husbandry, road machinery, ~~or bulk spreaders and other fertilizer and chemical equipment defined as special mobile equipment, road rollers, or farm tractors~~ except as made applicable in this section. However, the movement of implements of husbandry ~~between the retail seller and a farm purchaser or from farm site to farm site or the movement of indivisible implements of husbandry between the place of manufacture and a retail seller or farm purchaser under section 321.453~~ on a roadway is subject to safety rules adopted by the department. The safety rules shall prohibit the movement of any power unit towing more than one implement of husbandry from the manufacturer to the retail seller, from the retail seller to the farm purchaser, or from the manufacturer to the farm purchaser.

2. When operated on a highway in this state at a speed of ~~thirty~~ thirty-five 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 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. A vehicle other than those specified in this section shall not display a reflective device. On vehicles operating at speeds above ~~thirty~~ thirty-five miles per hour, the reflective device shall be removed or hidden from view.

3. Garbage collection vehicles, when operated on the streets or highways of this state at speeds of ~~thirty~~ thirty-five miles per hour or less, may display a reflective device that complies with the standards of the American society of agricultural engineers. At speeds in excess of ~~thirty~~ thirty-five miles per hour the device shall not be visible.

Any person who violates any provision of this section shall be fined as provided in section 805.8, subsection 2, paragraph "d".

Sec. 6. Section 321.453, Code 1999, is amended to read as follows:

321.453 EXCEPTIONS.

The provisions of this chapter governing size, weight, and load, and the permit requirements of chapter 321E do not apply to fire apparatus; road maintenance equipment owned by or under lease to any state or local authority; ~~or to implements of husbandry temporarily moved or moving upon a highway, implements of husbandry moved from farm site to farm site or between the retail seller and a farm purchaser, implements of husbandry moved between any site and the site of an agricultural exposition or a fair administered pursuant to chapter 173 or 174, indivisible implements of husbandry temporarily moved between the place of manufacture and a retail seller or a farm purchaser, implements of husbandry received and moved by a retail seller of implements of husbandry in exchange for a purchased implement, or implements of husbandry moved for repairs, except on any part of the interstate highway system except for those implements of husbandry moved or moving on any portion of the interstate and except as provided in sections 321.463, 321.471, and 321.474.~~ A vehicle, carrying an implement of husbandry, which is exempted from the permit requirements under this section shall be equipped with an amber flashing light ~~under section 321.423, visible from the rear. If the amber flashing light is obstructed by the loaded implement, the loaded implement shall also be equipped with and display an amber flashing light. The vehicle shall also be equipped with warning flags on that portion of the vehicle which protrudes into oncoming traffic, and shall only operate from thirty minutes prior to sunrise to thirty minutes following sunset. The one hundred mile distance restriction contained in the definition of implement of husbandry in section 321.1 does not apply to this section.~~

Sec. 7. Section 321.463, subsection 4, Code 1999, is amended by striking the subsection and inserting in lieu thereof the following:

4. a. Self-propelled implements of husbandry used exclusively for the application of organic or inorganic plant food materials, agricultural limestone, or agricultural chemicals shall be operated in compliance with this section.

b. Fence-line feeders, grain carts, and tank wagons manufactured on or after July 1, 2001, shall be operated in compliance with this section. The year of manufacture of the fence-line feeder, grain cart, or tank wagon shall be permanently made a part of the identification plate on the vehicle. An attempt to fraudulently alter or deface the year of manufacture or other product identification number on a fence-line feeder, grain cart, or tank wagon is a violation of section 321.92. Commencing July 1, 2005, all fence-line feeders, grain carts, and tank wagons shall be operated in compliance with this section. However, the weight on any single axle or any particular group of axles or the overall gross weight of the vehicle may exceed the maximum weight otherwise allowed by this chapter by twenty percent. If the vehicle exceeds the twenty percent tolerance allowed by this paragraph, the fine to be assessed for the violation shall be computed on the difference between the actual weight and the tolerance weight allowed under this chapter.

Sec. 8. Section 321.471, Code 1999, is amended to read as follows:

321.471 LOCAL AUTHORITIES MAY RESTRICT.

1. Local authorities with respect to a highway under their jurisdiction may by ordinance or resolution prohibit the operation of vehicles upon the highway or impose restrictions as to the weight of vehicles to be operated upon the highway, ~~except implements of husbandry as defined in section 321.1, subsection 32 and implements of husbandry loaded on hauling units for transporting the implements to locations for purposes of repair,~~ for a total period of not to exceed ninety days in any one calendar year, whenever the highway by reason of deterioration, rain, snow, or other climatic conditions will be seriously damaged or destroyed unless the use of vehicles on the highway is prohibited or the permissible weights reduced. The ordinance or resolution shall not apply to implements of husbandry as defined in section 321.1, implements of husbandry loaded on hauling units for transporting the implements to locations for repair, or fire apparatus and road maintenance equipment owned by or under lease to a state or local authority.*

A person who violates the provisions of the ordinance or resolution shall, upon conviction or a plea of guilty, be subject to a fine determined by dividing the difference between the actual weight and the maximum weight established by the ordinance or resolution by one hundred, and multiplying the quotient by two dollars. Local authorities may issue special permits, during periods the restrictions are in effect, to permit limited operation of vehicles upon specified routes with loads in excess of any restrictions imposed under this subsection, but not in excess of load restrictions imposed by any other provision of this chapter, and the authorities shall issue the permits upon a showing that there is a need to move to market farm produce of the type subject to rapid spoilage or loss of value or to move to any farm feeds or fuel for home heating purposes.

2. a. Upon a finding that a bridge or culvert does not meet established standards set forth by state and federal authorities, local authorities may by ordinance or resolution impose limitations for an indefinite period of time on the weight of vehicles upon bridges or culverts located on highways under their sole jurisdiction. The limitations shall be effective when signs giving notice of the limitations are erected. ~~The ordinance or resolution shall not apply to implements of husbandry as defined in section 321.1, subsection 32 or to implements of husbandry loaded on hauling units for transporting the implements to locations for purposes of repair or to fire apparatus or road maintenance equipment owned by or under lease to any state or local authority.**~~

b. A person who violates the ordinance or resolution shall, upon conviction or a guilty plea, be subject to a fine determined by dividing the difference between the actual weight of

* See chapter 208, §52 herein

** See chapter 208, §53 herein

the vehicle and the maximum weight allowed by the ordinance or resolution by one hundred and multiplying the quotient by two dollars. Local authorities may issue or approve special permits allowing the operation over a bridge or culvert of vehicles with weights in excess of restrictions imposed under the ordinance or resolution, but not in excess of load restrictions imposed by any other provision of this chapter. The local authority shall issue such a permit for not to exceed eight weeks upon a showing of agricultural hardship. The operator of a vehicle which is the subject of a permit issued under this paragraph shall carry the permit while operating the vehicle and shall show the permit to any peace officer upon request.

Sec. 9. Section 321.474, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The department shall have authority, as granted to local authorities, to determine by resolution and to impose restrictions as to the weight of vehicles, except ~~farm tractors implements of husbandry~~ as defined in section 321.1, ~~subsection 24 implements of husbandry loaded on hauling units for transporting the implements to locations for repair, and fire apparatus and road maintenance equipment owned by or under lease to any state or local authority,*~~ operated upon any highway under the jurisdiction of the department ~~and the for a definite period of time not to exceed twelve months.~~ The restrictions shall be effective when signs giving notice of the restrictions ~~and the expiration date of the restrictions~~ are erected upon the ~~affected~~ highway or portion of ~~any~~ highway ~~affected by the resolution.~~ ~~Resolutions imposing restrictions under section 321.473 shall be for a definite period of time not to exceed twelve months. The expiration date of the resolution shall appear on all signs posted as required by this section.~~

Upon a finding that a bridge or culvert does not meet established standards set forth by state and federal authorities, the department may impose, by resolution, restrictions for an indefinite period of time on the weight of vehicles operated upon bridges or culverts located on highways under its jurisdiction. The restrictions shall be effective when signs giving notice of the restrictions are erected. The restrictions shall not apply to implements of husbandry loaded on hauling units for transporting the implements to locations for purposes of repair or to fire apparatus or road maintenance equipment owned by or under lease to any state or local authority.**

Sec. 10. Section 321.474, unnumbered paragraph 3, Code 1999, is amended to read as follows:

Any person who violates a ~~provision of the restriction imposed by~~ resolution pursuant to ~~this section,~~ upon conviction or a plea of guilty, is subject to a fine determined by dividing the difference between the actual weight ~~of the vehicle~~ and the maximum weight ~~established by the resolution~~ allowed by the restriction by one hundred, and multiplying the quotient by two dollars. The department may issue special permits, during periods the restrictions are in effect, to permit limited operation of vehicles upon specified routes with loads in excess of any restrictions imposed under this section, but not in excess of load restrictions imposed by this chapter. The department shall issue a special permit for not to exceed eight weeks upon a showing of agricultural hardship. The department shall issue special permits ~~in accordance with the foregoing~~ to trucks moving farm produce, which decays or loses its value if not speedily put to its intended use, to market upon a showing to the department that there is a requirement for trucking the produce, or to trucks moving any farm feeds or fuel necessary for home heating purposes. The operator of a vehicle which is the subject of a permit issued under this paragraph shall carry the permit while operating the vehicle and shall show the permit to any peace officer upon request.

Sec. 11. Section 714.8, subsection 11, Code 1999, is amended to read as follows:

11. Removes, defaces, covers, alters, or destroys any component part number as defined in section 321.1, ~~subsection 14,~~ or vehicle identification number as defined in section 321.1,

* See chapter 208, §54 herein

** See chapter 208, §55 herein

~~subsection 91, or product identification number as defined in section 321.1,~~ for the purpose of concealing or misrepresenting the identity or year of manufacture of the component part or vehicle.

Sec. 12. IMPLEMENTS OF HUSBANDRY STUDY. The state department of transportation shall, in consultation with manufacturers and distributors of implements of husbandry, agricultural associations, and the Iowa state association of counties, study tracked vehicles, the use of flotation tires, and the fine and legal axle weight schedules applicable to grain carts, tank wagons, and fence-line feeders operated on public roadways. The department shall report its findings and recommendations to the general assembly by January 1, 2000.

Approved May 10, 1999

CHAPTER 109

IOWA EGG COUNCIL — MEMBERSHIP AND ADMINISTRATION

H.F. 721

AN ACT relating to the Iowa egg council by providing for its administration and membership, and providing an effective date.

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

Section 1. Section 184.7, subsections 1 and 2, Code 1999, are amended to read as follows:

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

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

Sec. 2. Section 184.10, unnumbered paragraph 1, Code 1999, is amended to read as follows:

~~The Iowa egg council may do all perform any function related to the production and marketing of eggs or egg products, including but not limited to doing any~~ of the following:

Sec. 3. Section 184.10, Code 1999, is amended by adding the following new subsections:
NEW SUBSECTION. 6. Become a dues-paying member of an organization carrying out a purpose related to the increased consumption and utilization of eggs or egg products.

NEW SUBSECTION. 7. Fund research and education programs directed toward better and more efficient production, marketing, and utilization of eggs and egg products.

Sec. 4. Section 184.11, subsections 1 and 2, Code 1999, are amended by striking the subsections.

Sec. 5. Section 184.11, subsections 3 and 4, Code 1999, are amended by striking the subsections and inserting in lieu thereof the following:

3. Execute a contract or act as an agent of a person who executes a contract for any of the following:

- a. Selling eggs or egg products.
- b. Selling equipment used in the manufacturing of egg products.

Sec. 6. Section 184.12, Code 1999, is amended to read as follows:

184.12 COMPENSATION.

Members of the council may receive payment for their actual expenses and travel in performing official council functions. ~~Payment shall be made from amounts collected from the assessment.~~ A voting member of the council shall not be a salaried employee of the council or any organization or agency receiving moneys from the council.

Sec. 7. Section 184.15, Code 1999, is amended to read as follows:

184.15 BOND REQUIRED.

~~All The council shall provide a bond for all persons holding positions of trust under this chapter shall provide a bond in an amount required by the council. The premiums for bond costs shall be paid from moneys transferred from the Iowa egg fund to the council as provided in section 184.13.~~

Sec. 8. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 10, 1999

CHAPTER 110

PROOF OF MOTOR VEHICLE FINANCIAL LIABILITY COVERAGE — PARKING LOTS

S.F. 95

AN ACT relating to mandatory motor vehicle proof of financial responsibility by requiring such proof when a motor vehicle is operated on a parking lot.

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

Section 1. Section 321.20B, subsection 1, Code 1999, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 1:

NEW UNNUMBERED PARAGRAPH. It shall be conclusively presumed that a motor vehicle driven upon a parking lot which is available to the public without charge or which is available to customers or invitees of a business or facility without charge was driven on the highways of this state in order to enter the parking lot, and this section shall be applicable to such a motor vehicle. As used in this section, "parking lot" includes access roads, drives, lanes, aisles, entrances, and exits to and from a parking lot described in this paragraph.

Approved May 11, 1999

CHAPTER 111**FOSTER CARE PLACEMENTS AND PLANS — CHILD ABUSE INFORMATION —
DECATEGORIZATION PLANS**

S.F. 287

AN ACT relating to child welfare provisions involving voluntary foster care placements of children with mental retardation or other developmental disability, release of child abuse information, and annual group foster care and decategorization plans, and providing a contingent effective date.

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

**DIVISION I
VOLUNTARY FOSTER CARE PLACEMENTS**

Section 1. Section 232.175, Code 1999, 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 in foster family care 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 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. 2. Section 232.178, subsection 4, Code 1999, is amended to read as follows:

4. The petition shall describe the child's emotional, physical, or intellectual disability which requires care and treatment; the reasonable efforts to maintain the child in the child's home; the department's request to the family of a child with mental retardation, other developmental disability, or organic mental illness to determine if any services or support provided to the family will enable the family to continue to care for the child in the child's home; and the reason the child's parent, guardian, or custodian has requested a foster family care placement. The petition shall also describe the commitment of the parent, guardian, or custodian in fulfilling the responsibilities defined in the case permanency plan and how the placement will serve the child's best interests.

Sec. 3. Section 232.182, subsection 5, unnumbered paragraph 1, Code 1999, is amended to read as follows:

After the hearing is concluded, the court shall make and file written findings as to whether reasonable efforts, as defined in section 232.102, subsection 10, have been made and whether the voluntary foster family care placement is in the child's best interests. The court shall order foster family care placement in the child's best interests if the court finds that all of the following conditions exist:

Sec. 4. Section 232.182, subsection 7, Code 1999, is amended by striking the subsection.

Sec. 5. Section 234.6, subsection 6, paragraph f, Code 1999, is amended to read as follows:

f. Services or support provided to a child with mental retardation or other developmental disability or to the child's family, ~~either voluntarily by the department of human services or in accordance with a court order entered under section 222.31 or 232.182, subsection 5.~~

Sec. 6. DISPOSITIONAL REVIEW. Any order entered under section 232.182 or 232.183 for a group foster care placement which remains in effect on the effective date of this division shall remain in effect until the court has conducted a dispositional review hearing. The dispositional review hearing shall be held upon the request of the department of human services or upon the court's own motion. The review hearing shall be subject to the same procedural requirements as outlined in section 232.183 except that the dispositional orders that the court may enter shall be as provided in this section. The purpose of the review hearing is to determine whether the child's parent, guardian, or custodian has failed to fulfill responsibilities outlined in the case permanency plan and that the child should remain in a group foster care placement upon termination of the order. If the court finds the child's parent, guardian, or custodian has failed to fulfill responsibilities outlined in the case permanency plan and that the child should remain in the group foster care placement, the court shall enter an order that the child remain in the placement and that the county attorney or department file, within three days, a petition alleging the child to be a child in need of assistance. Otherwise, the order entered under section 232.182 or 232.183 shall expire at the close of the dispositional review hearing.

Sec. 7. EFFECTIVE DATE. This division of this Act takes effect on July 1, 1999, or upon the date of approval by the federal government of the waiver request submitted by the department of human services pursuant to 1998 Iowa Acts, chapter 1218, section 7, subsection 10, whichever is later. The department of human services shall notify the Code editor concerning receipt of the federal approval.

DIVISION II RELEASE OF CHILD ABUSE INFORMATION

Sec. 8. Section 235A.15, subsection 2, paragraph f, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. To an individual who is requesting information on a specific case of child abuse which resulted in a child fatality or near fatality.

DIVISION III ANNUAL GROUP FOSTER CARE AND DECATEGORIZATION PLANS

Sec. 9. Section 232.143, subsection 2, Code 1999, is amended to read as follows:

2. For each of the department's regions, representatives appointed by the department and the juvenile court shall establish a plan for containing the expenditures for children placed in group foster care ordered by the court within the budget target allocated to that region pursuant to subsection 1. The plan shall include monthly targets and strategies for developing alternatives to group foster care placements in order to contain expenditures for child welfare services within the amount appropriated by the general assembly for that purpose. Each regional plan shall be established ~~in advance of the fiscal year to which the regional plan applies~~ within sixty days of the date by which the group foster care budget target for the region is determined. To the extent possible, the department and the juvenile court shall coordinate the planning required under this subsection with planning for services paid under section 232.141, subsection 4. The department's regional administrator shall communicate regularly, as specified in the regional plan, with the juvenile courts within that region concerning the current status of the regional plan's implementation.

Sec. 10. Section 232.188, subsection 4, Code 1999, is amended to read as follows:

4. In a decategorization agreement, the department and the county's or group of counties' decategorization governance board shall agree on all of the following items: the governance relationship between the department and the decategorization governance board; the respective areas of autonomy of the department and the board; the budgeting structure for

the decategorization; and a method for resolving disputes between the department and the board. The decategorization agreement shall require the department and the decategorization governance board to agree upon a budget ~~on or before June 15 of the fiscal year preceding the within sixty days of the date by which the regional group foster care budget targets are determined under section 232.143 for the fiscal year to which the budget applies.~~ The budget may later be modified to reflect new or changed circumstances.

Approved May 11, 1999

CHAPTER 112

SEX OFFENDER REGISTRATION — RISK ASSESSMENTS — DISSEMINATION OF INFORMATION

S.F. 294

AN ACT relating to lifetime registration for certain sex offenders, the performance of sex offender risk assessments, and the procedures for dissemination of registry information to agencies and the public.

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

Section 1. Section 13.2, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 3A. Prosecute and defend all actions and proceedings brought by or against any employee of a judicial district department of correctional services in the performance of an assessment of risk pursuant to chapter 692A.

Sec. 2. Section 692A.1, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 1A. "Aggravated offense" means a conviction for any of the following offenses:

- a. Sexual abuse in the first degree in violation of section 709.2.
- b. Sexual abuse in the second degree in violation of section 709.3.
- c. Sexual abuse in the third degree in violation of section 709.4, subsection 1.
- d. Lascivious acts with a child in violation of section 709.8, subsection 1.
- e. Assault with intent to commit sexual abuse in violation of section 709.11.
- f. Burglary in the first degree in violation of section 713.3, subsection 1, paragraph "d".
- g. Kidnapping, if sexual abuse as defined in section 709.1 is committed during the offense.
- h. Murder, if sexual abuse as defined in section 709.1 is committed during the offense.

Sec. 3. Section 692A.1, subsection 9, Code 1999, is amended to read as follows:

9. "Sexually violent predator" means a person who has been convicted of an offense under the laws of this state or of another state which would qualify the person as a sexually violent predator under the federal Violent Crime Control and Law Enforcement Act of 1994, ~~Pub. L. No. 103-322, 108 Stat. 1798~~ 42 U.S.C. § 14071(a)(3)(B), (C), (D), and (E).

Sec. 4. Section 692A.2, subsection 1, unnumbered paragraph 1, Code 1999, is amended to read as follows:

A person who has been convicted of a criminal offense against a minor, an aggravated offense, sexual exploitation, an other relevant offense, or a sexually violent offense in this state or in another state, or in a federal, military, tribal, or foreign court, or a person required to register in another state under the state's sex offender registry, shall register as provided

in this chapter. A person required to register under this chapter shall, upon a first conviction, register for a period of ten years commencing as follows:

Sec. 5. Section 692A.2, subsection 3, Code 1999, is amended to read as follows:

3. A person who is required to register under this chapter shall, upon a second or subsequent conviction that requires a second registration, or upon conviction of an aggravated offense, or who has previously been convicted of one or more offenses that would have required registration under this chapter, register for the rest of the person's life.

Sec. 6. Section 692A.2, subsection 5, Code 1999, is amended to read as follows:

5. A person who has been convicted of an offense under the laws of this state or of another state which would qualify the person as a sexually violent predator shall register as provided in this chapter ~~for an indeterminate period terminating only upon a determination by the sentencing court that registration is no longer required for life.~~

Sec. 7. Section 692A.3, subsection 1, Code 1999, is amended to read as follows:

1. A person required to register under this chapter shall register with the sheriff of the county of the person's residence within ten days of establishment of residence in this state or within ten days of any conviction for which the person is not incarcerated, a release from custody, or placement on probation, parole, or work release. A sheriff shall accept the registration of a nonresident of the county, if the person required to register is a full-time or part-time student or is employed on a full-time or part-time basis in the county.

Sec. 8. Section 692A.3, subsection 4, Code 1999, is amended to read as follows:

4. A person required to register under this chapter shall notify the sheriff of the county in which the person is registered, within ten days of changing residence to a location outside this state, of the new residence address and any changes in telephone number or name. The sheriff shall send a copy of the change to the department within three working days of receipt of notice of the change. The person must register with the registering agency of the other state within ten days of changing residency, if persons are required to register under the laws of the other state. The department ~~or the sheriff of the county in this state in which the person last resided may~~ shall notify the registering agency in the other state of the registrant's new address, telephone number, or name.

Sec. 9. Section 692A.5, Code 1999, is amended by adding the following new subsection*:

NEW SUBSECTION.* f. Inform the person that if the person is a nonresident of a state where the person is a full-time or part-time student or is employed on a full-time or part-time basis, the person must register with the sheriff of the county where the person is employed or attending school. Full-time or part-time means a period of time exceeding fourteen days or an aggregate period of time exceeding thirty days during any calendar year pursuant to 42 U.S.C. § 14071(a)(3)(F).

Sec. 10. Section 692A.10, subsection 4, Code 1999, is amended to read as follows:

4. Adopt rules under chapter 17A, as necessary, to ensure compliance with registration and verification requirements of this chapter, to provide guidelines for persons required to assist in obtaining registry information, and to provide a procedure for the dissemination of information contained in the registry. The procedure for the dissemination of information shall include, but not be limited to, practical guidelines for use by criminal or juvenile justice agencies in determining when public release of information contained in the registry is appropriate and a requirement that if a member of the general public requests information regarding a specific individual in the manner provided in section 692A.13, ~~subsection 6,~~ the information shall be released. The department, in developing the procedure, shall consult with associations which represent the interests of law enforcement officers. Rules adopted shall also include a procedure for removal of information from the registry upon the reversal or setting aside of a conviction of a person who is registered under this chapter.

* New paragraph probably intended

Sec. 11. Section 692A.10, Code 1999, is amended by adding the following new subsection: NEW SUBSECTION. 5. Submit sex offender registry data to the federal bureau of investigation for entry of the data into the national sex offender registry.

Sec. 12. Section 692A.13, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Information contained in the sex offender registry is a confidential record under section 22.7, subsection 9, and shall only be disseminated or redisseminated as provided in section 692A.13A or as follows:

Sec. 13. Section 692A.13, subsections 1 and 2, Code 1999, are amended to read as follows:

1. The department, ~~or a sheriff, or a police department~~ may disclose information to criminal or juvenile justice agencies for law enforcement or prosecution purposes.

2. ~~The~~ A department listed under section 692A.13A or a juvenile court officer conducting a risk assessment may disclose information to government agencies which are conducting confidential background investigations.

Sec. 14. Section 692A.13, subsection 3, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The department or a criminal or juvenile justice agency may release relevant information from the registry except as otherwise provided in section 692A.13A, subsection 3, to members of the general public concerning a specific person who is required to register under this chapter as follows:

Sec. 15. Section 692A.13, subsection 3, paragraph b, Code 1999, is amended to read as follows:

b. A county sheriff or a police department shall also provide to any person upon request a, access to the list of all registrants in that county who have been classified as "at-risk" in this state, however, records of persons protected under 18 U.S.C. § 3521 shall not be disclosed.

Sec. 16. Section 692A.13, subsection 3, paragraph c, Code 1999, is amended by striking the paragraph.

Sec. 17. Section 692A.13, subsection 3, paragraph d, Code 1999, is amended to read as follows:

~~d. c. The~~ Upon the appropriation of sufficient funds, the department shall provide electronic access to relevant information from the registry ~~pertaining to offenders who are convicted of a criminal offense against a minor, sexual exploitation, an other relevant offense, or a sexually violent offense on or after the effective date of this Act and who have been classified as "at risk" for the following:~~

(1) Persons who commit a criminal offense against a minor, an aggravated offense, sexual exploitation, a sexually violent offense, or an other relevant offense on or after the effective date of this Act and who have been assessed to be a "moderate-risk" or "high-risk".

(2) Persons who committed an offense prior to July 1, 1999, and who have been assessed to be a "moderate-risk" or "high-risk" and whose opportunity to request a hearing regarding the assessment of risk has lapsed.

Sec. 18. Section 692A.13, subsections 6 and 7, Code 1999, are amended by striking the subsections.

Sec. 19. NEW SECTION. 692A.13A RISK ASSESSMENT AND PUBLIC NOTIFICATION.

1. The department of corrections, the department of human services, and the department of public safety shall, in consultation with one another, develop methods and procedures for the assessment of the risk that persons required to register under this chapter pose of

reoffending. The department of corrections, in consultation with the department of human services, the department of public safety, and the attorney general, shall adopt rules relating to assessment procedures. The assessment procedures shall include procedures for the sharing of information between the department of corrections, department of human services, the juvenile court, and the division of criminal investigation of the department of public safety, as well as the communication of the results of the risk assessment to criminal and juvenile justice agencies. The assignment of responsibility for the assessment of risk shall be as follows:

a. The department of corrections or a judicial district department of correctional services shall perform the assessment of risk for persons who are incarcerated in institutions under the control of the director of the department of corrections, persons who are under the supervision of the department of corrections or a judicial district department of correctional services, and persons who are under the supervision or control of the department of corrections or a judicial district department of correctional services through an interstate compact.

b. The department of human services shall perform the assessment of risk for persons who are confined in institutions under the control of the director of human services, persons who are under the supervision of the department of human services, and persons who are under the supervision or control of the department of human services through an interstate compact.

c. The division of criminal investigation of the department of public safety shall perform the assessment of risk for persons who have moved to Iowa but are not under the supervision of the department of corrections, a judicial district department of correctional services, or the department of human services; federal parolees or probationers; persons who have been released from a county jail but are not under the supervision of the department of corrections, a judicial district department of correctional services, a juvenile court officer of the judicial branch, or the department of human services; and persons who are convicted and released by the courts and are not incarcerated or placed under supervision pursuant to the court's sentencing order. Assessments of persons who have moved to Iowa and persons on federal parole or probation shall be performed on an expedited basis if the person was classified as a person with a high degree of likelihood of reoffending by the other jurisdiction or the federal government.

d. A juvenile court officer shall perform the assessment of risk for a juvenile who is adjudicated delinquent for a criminal offense listed in section 692A.1 and who is under the juvenile court officer's supervision.

2. Each department under subsection 1 or each juvenile court officer conducting the assessment of risk shall notify the offender as to the determination of the assessment conducted by that department or officer. An appeal of an assessment of risk determination performed by a department shall be made in accordance with chapter 17A. An appeal of an assessment of risk determination performed by a juvenile court officer shall be made in accordance with rules adopted by the department of public safety in consultation with the judicial branch.

3. The department of public safety shall be responsible for disclosing the assessment of risk information to a criminal or juvenile justice agency for law enforcement, prosecution, or for public notification purposes. A department, or a criminal or juvenile justice agency, may release the offender's name, address, a photograph, locations frequented by the offender, and relevant criminal history information from the registry and other relevant information. The degree of public notification utilized by a criminal or juvenile justice agency shall be determined as follows:

a. For offenders classified as "low-risk", registry information may be distributed to a criminal or juvenile justice agency or to members of the public upon requests made through a criminal or juvenile justice agency or by electronic access as provided in section 692A.13, subsection 3.

b. For offenders classified as “at-risk”, including “moderate-risk” or “high-risk”, registry information may be provided to any criminal or juvenile justice agency and to the public which includes public and private agencies, organizations, public places, public and private schools, child care facilities, religious and youth organizations, neighbors, and employers. However, if an offender is classified as “high-risk”, information may also be provided to neighborhood associations or at community meetings. Registry information may be distributed to the public by printed materials, visual or audio press releases, and by a criminal or juvenile justice agency’s web page. The scope of notification may include where the registrant resides, works, attends school, or frequents.

Sec. 20. Section 901.4, Code 1999, is amended to read as follows:

901.4 PRESENTENCE INVESTIGATION REPORT CONFIDENTIAL — DISTRIBUTION.

The presentence investigation report is confidential and the court shall provide safeguards to ensure its confidentiality, including but not limited to sealing the report, which may be opened only by further court order. At least three days prior to the date set for sentencing, the court shall serve all of the presentence investigation report upon the defendant’s attorney and the attorney for the state, and the report shall remain confidential except upon court order. However, the court may conceal the identity of the person who provided confidential information. The report of a medical examination or psychological or psychiatric evaluation shall be made available to the attorney for the state and to the defendant upon request. The reports are part of the record but shall be sealed and opened only on order of the court. If the defendant is committed to the custody of the Iowa department of corrections and is not a class “A” felon, a copy of the presentence investigation report shall be forwarded to the director with the order of commitment by the clerk of the district court and to the board of parole at the time of commitment. The presentence investigation report may also be released by the department of corrections or a judicial district department of correctional services pursuant to section 904.602 to another jurisdiction for the purpose of providing interstate probation and parole compact services or evaluations. The defendant or the defendant’s attorney may file with the presentence investigation report, a denial or refutation of the allegations, or both, contained in the report. The denial or refutation shall be included in the report. If the person is sentenced for an offense which requires registration under chapter 692A, the court shall release the report to the department which is responsible under section ~~692A.13~~ 692A.13A for performing the assessment of risk.

Approved May 11, 1999

CHAPTER 113

REGISTRATION AND TITLING OF ALL-TERRAIN VEHICLES AND SNOWMOBILES

S.F. 407

AN ACT relating to title certificates for and registration of all-terrain vehicles and snowmobiles and providing for and applying penalties.

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

Section 1. Section 321G.1, subsection 1, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Two-wheeled off-road motorcycles shall be considered all-terrain vehicles only for the purpose of titling and registration and not for purposes of regulation.

Sec. 2. Section 321G.4, unnumbered paragraph 2, Code 1999, is amended to read as follows:

The owner of the all-terrain vehicle or snowmobile shall file an application for registration with the appropriate county recorder on forms provided by the commission. The application shall be completed and signed by the owner of the all-terrain vehicle or snowmobile and shall be accompanied by a fee of twenty dollars and a writing fee. An all-terrain vehicle or a snowmobile shall not be registered by the county recorder until the county recorder is presented with receipts, bills of sale, or other satisfactory evidence that the sales or use tax has been paid for the purchase of the all-terrain vehicle or snowmobile or that the owner is exempt from paying the tax. However, an owner of an all-terrain vehicle, except an all-terrain vehicle purchased new on or after January 1, 1990, may apply for registration without proof of sales or use tax paid until one year after January 1, 1990. An all-terrain vehicle or snowmobile that has an expired registration certificate from another state may be registered in this state upon proper application, payment of all applicable registration and writing fees, and payment of a penalty of five dollars.

PARAGRAPH DIVIDED. Upon receipt of the application in approved form accompanied by the required fees, the county recorder shall enter it upon the records and shall issue to the applicant a pocket-size registration certificate. The certificate shall be executed in triplicate, one copy to be delivered to the owner, one copy to the commission, and one copy to be retained on file by the county recorder. The registration certificate shall bear the number awarded to the all-terrain vehicle or snowmobile and the name and address of the owner. The registration certificate shall be carried either in the all-terrain vehicle or snowmobile or on the person of the operator of the machine when in use. The operator of an all-terrain vehicle or snowmobile shall exhibit the registration certificate to a peace officer upon request, to a person injured in an accident involving an all-terrain vehicle or snowmobile, or to the owner or operator of another all-terrain vehicle or snowmobile or the owner of personal or real property when the all-terrain vehicle or snowmobile is involved in a collision or accident of any nature with another all-terrain vehicle or snowmobile or the property of another person or to the property owner or tenant when the all-terrain vehicle or snowmobile is being operated on private property without permission from the property owner or tenant.

Sec. 3. Section 321G.6, unnumbered paragraph 6, Code 1999, is amended to read as follows:

Upon the transfer of ownership of an all-terrain vehicle or snowmobile, the owner shall complete the form on the back of a current registration certificate and shall deliver it to the purchaser or transferee at the time of delivering the all-terrain vehicle or snowmobile. If an all-terrain vehicle or snowmobile is stored by the transferor pursuant to section 321G.4 at the time of transfer, the transferor shall provide the transferee with a copy of the affidavit filed with the county recorder pursuant to section 321G.4 at the time of delivering the all-terrain vehicle or snowmobile. The purchaser or transferee shall, within five days of transfer, file a new application form with the county recorder with a fee of one dollar and the writing fee, and a transfer of number shall be awarded in the same manner as provided in an original registration. If the purchaser or transferee does not file a new application form within five days of transfer, the transfer of number shall be awarded upon payment of all applicable fees plus a penalty of five dollars.

Sec. 4. Section 321G.29, subsections 1 and 3 through 9, Code 1999, are amended to read as follows:

1. The owner of a snowmobile acquired on or after January 1, 1998, or an all-terrain vehicle acquired on or after January 1, 2000, other than a snowmobile or all-terrain vehicle 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 or all-terrain vehicle. The owner of a snowmobile or all-terrain vehicle used exclusively as a farm implement may obtain a certificate of title.

3. An owner of a snowmobile or all-terrain vehicle 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 all-terrain vehicle 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 or all-terrain vehicle 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 or all-terrain vehicle 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 or all-terrain vehicle, 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 or all-terrain vehicle 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 or new all-terrain vehicle 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 or all-terrain vehicle by the department upon good cause shown by the owner.

6. A dealer transferring ownership of a snowmobile or all-terrain vehicle under this chapter shall assign the title to the new owner, or in the case of a new snowmobile or new all-terrain vehicle, 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 or new all-terrain vehicle, 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 or all-terrain vehicle 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 or all-terrain vehicle 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 and all-terrain vehicles.

Sec. 5. Section 321G.31, Code 1999, is amended to read as follows:

321G.31 TRANSFER OR REPOSSESSION OF SNOWMOBILE OR ALL-TERRAIN VEHICLE BY OPERATION OF LAW.

1. If ownership of a snowmobile or all-terrain vehicle 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 or all-terrain vehicle, 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 or all-terrain vehicle 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. 6. Section 321G.32, subsection 1, unnumbered paragraph 1, Code 1999, is amended to read as follows:

A security interest created in this state in a snowmobile or all-terrain vehicle is not perfected until the security interest is noted on the certificate of title.

Approved May 11, 1999

CHAPTER 114

SUBSTANTIVE CODE CORRECTIONS

H.F. 242

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 dates and for retroactive applicability.

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

Section 1. Section 12D.2, subsection 12, Code 1999, is amended to read as follows:

12. Invest moneys ~~within~~ from the endowment fund and the program fund in any investments which are determined by the treasurer of state to be appropriate.

Sec. 2. Section 12D.6, subsection 6, Code 1999, is amended to read as follows:

6. A participant may transfer ownership rights to another eligible ~~participant~~ individual, including a gift of the ownership rights to a minor beneficiary. The transfer shall be made and the property distributed in accordance with rules adopted by the treasurer of state or with the terms of the participation agreement.

Sec. 3. Section 15.241, subsection 1, unnumbered paragraph 1, Code 1999, is amended to read as follows:

A "self-employment loan program account" is established within the strategic investment fund created in section 15.313 to provide funding for the self-employment loan program ~~which is to be conducted in coordination with the job training partnership program and other programs administered under section 15.108, subsection 6, paragraph "e"~~. The department may contract with local community action agencies or other local entities in administering the program, and shall work with the department of workforce development and the department of human services in developing the program. The department shall cooperate with the division of vocational rehabilitation under the department of education to implement a business development initiative for entrepreneurs with disabilities.

Sec. 4. Section 87.11, unnumbered paragraph 6, Code 1999, is amended to read as follows:

Financial statements provided to the commissioner of insurance pursuant to this section may be held as confidential, proprietary trade secrets, pursuant to section 22.7, subsection 3, upon the request of the employer, subject to rules adopted by the commissioner of insurance, and are not subject to disclosure or examination under chapter 22.

Sec. 5. Section 135C.33, subsection 2, Code 1999, is amended to read as follows:

2. If the department of public safety determines that a person has committed a crime or has a record of founded dependent adult abuse and is to be employed in a facility licensed

under this chapter, 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 employment is warranted. If a department of human services child abuse record check determines the person has a record of founded child abuse, the department of human services shall inform the licensee that an evaluation will be conducted to determine whether prohibition of the person's employment is warranted.

Sec. 6. Section 144.36, subsection 4, Code 1999, is amended to read as follows:

4. The county registrar shall record and forward to the state registrar on or before the tenth day of each calendar month the original certificates of marriages filed with the county registrar during the preceding calendar month and the fees collected by the county registrar on behalf of the state for applications for a license to marry in accordance with section 331.605, subsection 7 ~~6~~.

Sec. 7. Section 144.46, Code 1999, is amended to read as follows:

144.46 FEE FOR COPY OF RECORD.

The department by rule shall establish fees based on the average administrative cost which shall be collected by the state registrar or the county registrar for each certified copy or short form certification of certificates or records, or for a search of the files or records when no copy is made, or when no record is found on file. Fees collected by the state registrar and by the county registrar on behalf of the state under this section shall be deposited in the general fund of the state. Fees collected by the county registrar pursuant to section 331.605, subsection 6 ~~5~~, shall be deposited in the county general fund. A fee shall not be collected from a political subdivision or agency of this state.

Sec. 8. Section 147.111, Code 1999, is amended to read as follows:

147.111 REPORT OF TREATMENT OF WOUNDS AND OTHER INJURIES.

Any person licensed under the provisions of this subtitle who shall administer any treatment to any person suffering a gunshot or stab wound or other serious ~~bodily~~ injury, as defined in section 702.18, which appears to have been received in connection with the commission of a criminal offense, or to whom an application is made for treatment of any nature because of any such gunshot or stab wound or other serious injury, as defined in section 702.18, shall at once but not later than twelve hours thereafter, report that fact to the law enforcement agency within whose jurisdiction the treatment was administered or an application therefor was made, or if ascertainable, to the law enforcement agency in whose jurisdiction the gunshot or stab wound or other serious ~~bodily~~ injury occurred, stating the name of such person, the person's residence if ascertainable, and giving a brief description of the gunshot or stab wound or other serious ~~bodily~~ injury. Any provision of law or rule of evidence relative to confidential communications is suspended insofar as the provisions of this section are concerned.

Sec. 9. Section 147.112, Code 1999, is amended to read as follows:

147.112 INVESTIGATION AND REPORT BY LAW ENFORCEMENT AGENCY.

The law enforcement agency who has received any report required by this chapter and who has any reason to believe that the person injured was involved in the commission of any crime, either as perpetrator or victim, shall at once commence an investigation into the circumstances of the gunshot or stab wound or other serious ~~bodily~~ injury and make a report of the investigation to the county attorney in whose jurisdiction the gunshot or stab wound or other serious ~~bodily~~ injury occurred. Law enforcement personnel shall not divulge any information received under the provisions of this section and section 147.111 to any person other than a law enforcing officer, and then only in connection with the investigation of the alleged commission of a crime.

Sec. 10. Section 166.6, unnumbered paragraph 1, Code 1999, is amended to read as follows:

An application for a permit to deal in biological products shall be accompanied by a separate bond for each place of business, with sureties to be approved by the department, in the sum of ~~one~~ five thousand dollars for each place of business, which bond shall be conditioned:

Sec. 11. Section 200A.3, subsection 4, Code 1999, is amended to read as follows:

4. "Distribute" means to offer for sale, sell, hold out for sale, exchange, barter, ~~or~~ supply, or furnish a bulk dry animal nutrient product on a commercial basis.

Sec. 12. Section 216.15B, subsection 1, Code 1999, is amended to read as follows:

1. ~~For the purposes of this section, "mediator"~~ A mediator shall be the person designated in writing by the commission to conduct mediation of a complaint filed under this chapter. The written designation must specifically refer to this section.

Sec. 13. Section 216A.78, Code 1999, is amended to read as follows:

216A.78 ADMINISTRATOR.

The commission officers may designate the duties and obligations of the position of administrator. ~~Any person so employed may be the employee of another agency of state government appointed with the consent of the executive officer of such agency.~~ The officers administrator may appoint such other personnel as may be necessary for the efficient performance of the duties prescribed by this part. The administrator shall carry out programs and policies as determined by the commission.

Sec. 14. Section 216B.3, subsection 14, Code 1999, is amended to read as follows:

14. In conjunction with the recommendations made by the department of natural resources, purchase and use recycled printing and writing paper in accordance with the schedule established in section 18.18; establish a wastepaper recycling program, by January 1, 1990, in accordance with the recommendations made by the department of natural resources and requirements of section 18.20; and, in accordance with section 18.6, require product content statements, ~~the provision of information regarding on-site review of waste management in product bidding and contract procedures,~~ and compliance with requirements regarding contract bidding.

Sec. 15. Section 260C.47, subsection 1, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The state board of education shall establish an accreditation process for community college programs by July 1, 1997. The process shall be jointly developed and agreed upon by the department of education and the community colleges. The state accreditation process shall be integrated with the accreditation process of the north central association of colleges and schools, including the evaluation cycle, the self-study process, and the criteria for evaluation, which shall incorporate the standards for community colleges developed under section 260C.48; and shall identify and make provision for the needs of the state that are not met by the association's accreditation process. ~~If a joint agreement has not been reached by July 1, 1997, the approval process provided under section 260C.4, subsection 4, shall remain the required accreditation process for community colleges.~~ For the academic year commencing July 1, 1998, and in succeeding school years, the department of education shall use a two-component process for the continued accreditation of community college programs.

Sec. 16. Section 262.9, subsection 6, Code 1999, is amended to read as follows:

6. In conjunction with the recommendations made by the department of natural resources, purchase and use recycled printing and writing paper, with the exception of specialized paper when no recyclable product is available, in accordance with the schedule established in section 18.18; establish a wastepaper recycling program for all institutions governed by the board in accordance with recommendations made by the department of natural resources and the requirements of section 18.20; shall, in accordance with the requirements of section 18.6, require product content statements, ~~the provision of information regarding~~

~~on-site review of waste management in product bidding and contract procedures, and compliance with requirements regarding procurement specifications; and shall comply with the requirements for the purchase of lubricating oils and industrial oils as established pursuant to section 18.22.~~

Sec. 17. Section 307.21, subsection 4, paragraph b, subparagraph (3), Code 1999, is amended to read as follows:

(3) Require in accordance with section 18.6 product content statements, ~~the provision of information regarding on-site review of waste management in product bidding and contract procedures,~~ and compliance with requirements regarding procurement specifications.

Sec. 18. Section 312.2, subsection 17, Code 1999, is amended to read as follows:

17. The treasurer of state, before making the allotments provided for in this section, shall credit monthly from the road use tax fund to the motorcycle rider education fund established in section ~~321.189, subsection 9~~ 321.180B, an amount equal to one dollar per year of license validity for each issued or renewed driver's license which is valid for the operation of a motorcycle. Moneys credited to the motorcycle rider education fund under this subsection shall be taken from moneys credited to the road use tax fund under section 423.24.

Sec. 19. Section 321.20B, subsection 4, paragraph c, Code 1999, is amended to read as follows:

c. An owner or driver cited for a violation of subsection 1, who produces to the clerk of court within thirty days of the issuance of the citation proof that financial liability coverage was in effect for the motor vehicle at the time the person was stopped and cited ~~as provided in paragraph "b"~~, shall not be convicted of such violation and the citation issued shall be dismissed.

Sec. 20. Section 321.34, subsection 11B, paragraph c, Code 1999, is amended to read as follows:

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 "c", the treasurer of state shall transfer monthly from those revenues to the department for use in accordance with section ~~321.189, subsection 9~~ 321.180B, subsection 6, the amount of the special fees collected in the previous month for the motorcycle rider education plates.

Sec. 21. Section 321G.4, unnumbered paragraph 2, Code 1999, is amended to read as follows:

The owner of the all-terrain vehicle or snowmobile shall file an application for registration with the appropriate county recorder on forms provided by the commission. The application shall be completed and signed by the owner of the all-terrain vehicle or snowmobile and shall be accompanied by a fee of ~~twenty~~ twenty-five dollars and a writing fee. An all-terrain vehicle or a snowmobile shall not be registered by the county recorder until the county recorder is presented with receipts, bills of sale, or other satisfactory evidence that the sales or use tax has been paid for the purchase of the all-terrain vehicle or snowmobile or that the owner is exempt from paying the tax. However, an owner of an all-terrain vehicle, except an all-terrain vehicle purchased new on or after January 1, 1990, may apply for registration without proof of sales or use tax paid until one year after January 1, 1990. Upon receipt of the application in approved form accompanied by the required fees, the county recorder shall enter it upon the records and shall issue to the applicant a pocket-size registration certificate. The certificate shall be executed in triplicate, one copy to be delivered to

the owner, one copy to the commission, and one copy to be retained on file by the county recorder. The registration certificate shall bear the number awarded to the all-terrain vehicle or snowmobile and the name and address of the owner. The registration certificate shall be carried either in the all-terrain vehicle or snowmobile or on the person of the operator of the machine when in use. The operator of an all-terrain vehicle or snowmobile shall exhibit the registration certificate to a peace officer upon request, to a person injured in an accident involving an all-terrain vehicle or snowmobile, or to the owner or operator of another all-terrain vehicle or snowmobile or the owner of personal or real property when the all-terrain vehicle or snowmobile is involved in a collision or accident of any nature with another all-terrain vehicle or snowmobile or the property of another person or to the property owner or tenant when the all-terrain vehicle or snowmobile is being operated on private property without permission from the property owner or tenant.

Sec. 22. Section 322B.3, subsection 5, Code 1999, is amended to read as follows:

5. MOBILE HOME HOOKUPS. A mobile home dealer or an employee of a mobile home dealer may perform water, gas, electrical, and other utility service connections in a mobile home, space, or within ten feet of such space, located in a mobile home park, and the dealer or an employee of the dealer may install a tie-down system on a mobile home located in a mobile home park. The connections are subject to inspection and approval by local building code officials and the mobile home dealer shall pay the inspection fee, if any.

Sec. 23. Section 357A.24, subsections 3 and 4, Code 1999, are amended to read as follows:

3. Upon filing the petition, the auditor shall prepare for a hearing on the petition by following the same procedures as provided in section 357A.3. The notice of the hearing shall include all of the following:

- a. The location of the area subject to the petition.
- b. The time and place of the hearing as established by the ~~board of~~ supervisors for the county in which the area to be detached is located.
- c. That all owners or tenants of real property within the boundaries of the area may appear and be heard.

4. After the hearing the ~~board of~~ supervisors shall order that the area subject to the petition be detached from one district and attached to the other district if the ~~board determines~~ supervisors determine that all of the following have been satisfied:

- a. The petition meets the requirements of this section.
- b. The information included in the petition is accurate.
- c. Notice required in this section has been provided.
- d. The detachment and attachment is in the best interest of the residents of the area subject to the petition.

The order shall be published in the same newspaper which published the notice of the hearing.

Sec. 24. Section 420.207, Code 1999, is amended to read as follows:

420.207 TAXATION IN GENERAL.

Sections 427.1, 427.3 to 427.11, 428.4, 428.20, 428.22, 428.23, 436.10, 436.11, 437.1, 437.3, ~~437.14~~, 441.21, 443.1 to 443.3, 444.2 to 444.5, and 447.9 to 447.13, so far as applicable, apply to cities acting under special charters.

Sec. 25. Section 422.9, subsection 2, paragraph i, Code 1999, is amended to read as follows:

- i. If the taxpayer has a deduction for medical care expenses under section 213 of the Internal Revenue Code, the taxpayer shall recompute for the purposes of this subsection the amount of the deduction under section 213 by excluding from medical care, as defined in section 213, the amount subtracted under section 422.7, subsection ~~32~~ 29.

Sec. 26. Section 435.26, subsection 3, Code 1999, is amended to read as follows:

3. When the property is entered on the tax rolls, the assessor shall also enter on the tax rolls the title number last assigned to the mobile home, ~~modular home~~, or manufactured home and the manufacturer's identification number.

Sec. 27. Section 437A.3, subsection 28, Code 1999, is amended to read as follows:

28. "Transfer replacement tax" means the excise tax imposed in a competitive service area of a municipal utility which replaces transfers made by the municipal utility in accordance with section 384.89.

Sec. 28. Section 441.21, subsection 2, unnumbered paragraph 1, Code 1999, is amended by striking the unnumbered paragraph.

Sec. 29. Section 455B.202, subsection 2, paragraph b, Code 1999, is amended to read as follows:

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~~ the 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.

Sec. 30. Section 455B.203A, subsection 5, paragraph b, subparagraph (2), unnumbered paragraph 1, Code 1999, is amended to read as follows:

The person is acting under the instructions and control of a certified ~~commercial~~ confinement site manure applicator who is both of the following:

Sec. 31. Section 455G.8, subsections 2 and 4, Code 1999, are amended to read as follows:

2. USE TAX. The revenues derived from the use tax imposed under chapter 423. The proceeds of the use tax under section 423.24, subsection 1, paragraph "a", subparagraph (1), shall be allocated, consistent with this chapter, among the fund's accounts, for debt service and other fund expenses, according to the fund budget, resolution, trust agreement, or other instrument prepared or entered into by the board or authority under direction of the board. ~~The proceeds of the use tax under section 423.24, subsection 1, paragraph "a", subparagraph (2), shall be allocated in accordance with section 455G.21.~~

4. ~~INSURANCE PREMIUMS. Insurance premium income as provided by section 455G.11 shall be credited to the insurance fund.~~

Sec. 32. Section 455G.11, subsection 1, Code 1999, is amended to read as follows:

1. UNDERGROUND STORAGE TANK INSURANCE FUND.

a. An Iowa underground storage tank insurance fund is created as a separate fund in the state treasury on July 1, 1998, consisting of all moneys held in the insurance account of the comprehensive petroleum underground storage tank fund.

Notwithstanding section 8.33, moneys remaining in the underground storage tank insurance fund at the end of each fiscal year shall not revert to the general fund but shall remain in the underground storage tank insurance fund. Notwithstanding section 12C.7, interest or earnings on moneys in the underground storage tank insurance fund shall be credited to the underground storage tank insurance fund in addition to any other income specifically allocated to the underground storage tank insurance fund.

b. Amounts in the underground storage tank insurance fund shall not be subject to appropriation for any purpose by the general assembly, but shall be used only for the purposes set forth in this section. The treasurer of state shall act as custodian of the underground storage tank insurance fund and disperse* moneys contained in it as directed by the board. The treasurer of state is authorized to invest the moneys deposited in the underground storage tank insurance fund at the discretion of the board. The income from such investments shall be credited to and deposited in the underground storage tank insurance fund. The underground

* The word "disburse" probably intended

storage tank insurance fund shall be administered by the board which shall make expenditures from the underground storage tank insurance fund consistent with the purposes of the programs provided for in this chapter without further appropriation.

c. No later than July 1, 2004, all moneys in the underground storage tank insurance fund shall be transferred to the insurance board when restructured as an independent nonprofit entity organized to provide an allowable mechanism to demonstrate financial responsibility as required in 40 C.F.R. pts. 280 and 281, owned and operated by insureds, as determined by the comprehensive petroleum underground storage tank fund board.

Sec. 33. Section 455G.11, subsection 2, paragraph c, Code 1999, is amended to read as follows:

c. Members of the insurance board are entitled to receive reimbursement of actual expenses incurred in the discharge of their duties within the limits of the moneys appropriated to the insurance board or made available to the underground storage tank insurance fund.

Sec. 34. Section 455G.11, subsection 8, unnumbered paragraph 1, Code 1999, is amended to read as follows:

An owner or operator applying for coverage shall pay an annually adjusted insurance premium for coverage by the insurance fund. Premiums paid shall be credited to and deposited in the insurance fund. The board may only approve fund coverage through the payment of a premium established on an actuarially sound basis. Risk factors shall be taken into account in establishing premiums. It is the intent of the general assembly that an actuarially sound premium reflect the risk to the insurance fund presented by the insured. Risk factor adjustments should reflect the range of risk presented by the variety of tank systems, monitoring systems, and risk management practices in the general insurable tank population. Premium adjustments for risk factors should at minimum take into account lifetime costs of a tank and monitoring system and insurance fund premiums for that tank system so as to provide a positive economic incentive to the owner or operator to install the more environmentally safe option so as to reduce the exposure of the insurance fund to loss. Actuarially sound is not limited in its meaning to fund premium revenue equaling or exceeding fund expenditures for the general tank population.

Sec. 35. Section 455G.11, subsection 11, paragraphs a and b, Code 1999, are amended to read as follows:

a. Directly through the underground storage tank insurance fund with premiums and deductibles as provided in subsection 10.

b. In cooperation with a private insurance carrier with excess or stop loss coverage provided by the underground storage tank insurance fund to reduce the cost of insurance to such installers or inspectors, and including such other terms and conditions as the board deems necessary and convenient to provide adequate coverage for a certified tank installation at a reasonable premium. An installer or inspector obtaining insurance coverage pursuant to this paragraph, may purchase excess coverage of up to five million dollars, subject to the terms and conditions as determined by the board.

Sec. 36. Section 455G.13, subsection 12, Code 1999, is amended to read as follows:

12. RECOVERY OR SUBROGATION — INSTALLERS AND INSPECTORS. Notwithstanding any other provision contained in this chapter, the board or a person insured under the insurance fund has no right of recovery or right of subrogation against an installer or an inspector insured by the insurance fund for the tank giving rise to the liability other than for recovery of any deductibles paid.

Sec. 37. Section 455G.21, subsection 1, Code 1999, is amended to read as follows:

1. A marketability fund is created as a separate fund in the state treasury under the control of the board. The board shall administer the marketability fund. Notwithstanding section 8.33, moneys remaining in the marketability fund at the end of each fiscal year shall not

revert to the general fund but shall remain in the marketability fund. The marketability fund shall include the following:

a. ~~Moneys allocated to the fund pursuant to section 423.24, subsection 1, paragraph "a", subparagraph (2).~~

b. ~~Notwithstanding, notwithstanding~~ section 12C.7, interest earned by the marketability fund or other income specifically allocated to the marketability fund.

Sec. 38. Section 455G.21, subsection 2, paragraph a, Code 1999, is amended to read as follows:

a. ~~Five million dollars per year shall be allocated to the~~ The innocent landowners fund ~~which~~ shall be established as a separate fund in the state treasury under the control of the board. The innocent landowners fund shall ~~also~~ include any moneys recovered pursuant to cost recovery enforcement under section 455G.13. Notwithstanding section 455G.1, subsection 2, benefits for the costs of corrective action shall be provided to the owner of a petroleum-contaminated property, who is not otherwise eligible to receive benefits under section 455G.9. An owner of a petroleum-contaminated property shall be eligible for payment of total corrective action costs subject to copayment requirements under section 455G.9, subsection 4. The board may adopt rules conditioning receipt of benefits under this paragraph to those petroleum-contaminated properties which present a higher degree of risk to the public health and safety or the environment and may adopt rules providing for denial of benefits under this paragraph to a person who did not make a good faith attempt to comply with the provisions of this chapter. This paragraph does not confer a legal right to an owner of petroleum-contaminated property for receipt of benefits under this paragraph.

Sec. 39. Section 455H.103, subsection 15, Code 1999, is amended by striking the subsection.

Sec. 40. Section 486A.906, subsection 3, paragraphs b and c, Code 1999, are amended to read as follows:

b. All other obligations of the surviving entity incurred before the merger by a party to the merger, but those obligations may be satisfied only out of property of the surviving entity.

c. Except as otherwise provided in section 486A.306, all obligations of the surviving entity incurred after the merger takes effect, but those obligations may be satisfied only out of property of the surviving entity if the partner is a limited partner.

Sec. 41. Section 505.8, subsection 2, Code 1999, 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 by the community health management information system.~~

Sec. 42. Section 524.1202, subsection 2, paragraph b, Code 1999, is amended to read as follows:

b. For purposes of this subsection, "urban complex" means the geographic area bounded by the corporate limits of two or more municipal corporations, each of which being contiguous to or cornering upon at least one of the other municipal corporations within the complex. ~~A state bank located in a municipal corporation or urban complex which is located on a boundary of this state and contiguous to a municipal corporation in another state may have one bank office in addition to the number of bank offices permitted by paragraph "a"; provided that nothing~~ Nothing contained in this paragraph authorizes a state bank to establish a bank office outside of the boundaries of this state.

Sec. 43. Section 524.1213, subsection 3, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Any two or more state banks, national banks, or state and national banks that are located in this state, that are affiliates as defined in section 524.1101, and that individually have been in existence and operated as banks continuously in this state for at least five years, may be merged or consolidated into a single state or national bank, and the resulting entity shall be a "united community bank". ~~Subject to subsection 12, the~~ The resulting united community bank of the merger or consolidation:

Sec. 44. Section 595.2, subsection 4, Code 1999, is amended to read as follows:

4. A marriage license may be issued to a male and a female either or both of whom are sixteen or seventeen years of age if both of the following apply:

a. The parents of the underaged party or parties certify in writing that they consent to the marriage. If one of the parents of any underaged party to a proposed marriage is dead or incompetent the certificate may be executed by the other parent, if both parents are dead or incompetent the guardian of the underaged party may execute the certificate, and if the parents are divorced the parent having legal custody may execute the certificate and

b. The certificate of consent of the parents, parent, or guardian is approved by a judge of the district court or, if both parents of any underaged party to a proposed marriage are dead, incompetent, or cannot be located and the party has no guardian, the proposed marriage is approved by a judge of the district court. A judge shall grant approval under this subsection only if the judge finds the underaged party or parties capable of assuming the responsibilities of marriage and that the marriage will serve the best interest of the underaged party or parties. Pregnancy alone does not establish that the proposed marriage is in the best interest of the underaged party or parties, however, if pregnancy is involved the court records which pertain to the fact that the female is pregnant shall be sealed and available only to the parties to the marriage or proposed marriage or to any interested party securing an order of the court.

e. 5. If a parent or guardian withholds consent, the judge upon application of a party to a proposed marriage shall determine if the consent has been unreasonably withheld. If the judge so finds, the judge shall proceed to review the application under subsection 4, paragraph "b".

Sec. 45. Section 708.2A, subsection 6, paragraph b, Code 1999, is amended to read as follows:

b. A person convicted of violating subsection 4 shall be sentenced as provided under section 902.9, subsection 4, committed to the custody of the director of the department of corrections, and shall be assessed a fine of at least seven hundred fifty dollars. The person shall be denied parole or work release until the person has served a minimum of one year of the person's sentence. Notwithstanding section 901.5, ~~subsection~~ subsections 1, 3, and 5, and section 907.3, ~~subsection 3~~, the person cannot receive a suspended or deferred sentence or a deferred judgment; however, the person sentenced shall receive credit for any time the person was confined in a jail or detention facility following arrest.

Sec. 46. Section 904.108, subsection 1, paragraph d, Code 1999, is amended to read as follows:

d. Establish and maintain acceptable standards of treatment, training, education, and rehabilitation in the various state penal and corrective institutions which shall include habilitative services and treatment for offenders with mental retardation. For the purposes of this paragraph, "habilitative services and treatment" means medical, mental health, social, educational, counseling, and other services which will assist a person with mental retardation to become self-reliant. However, the director may also provide rehabilitative treatment and services to other persons who require the services. The director shall identify all individuals entering the correctional system who are persons with mental retardation,

as defined in section 222.2, subsection 4. Identification shall be made by a qualified professional in the area of mental retardation. In assigning an offender with mental retardation, or an offender with an inadequately developed intelligence or with impaired mental abilities, to a correctional facility, the director shall consider both the program needs and the security needs of the offender. The director shall consult with the department of human services in providing habilitative services and treatment to offenders with mental illness or mental retardation. The director may enter into agreements with the department of human services to utilize mental health institutions and share staff and resources for purposes of providing habilitative services and treatment services, as well as providing other special needs programming. Any agreement to utilize mental health institutions and to share staff and resources shall provide that the costs of the habilitative services and treatment services shall be paid from state funds. Not later than twenty days prior to entering into any agreement to utilize mental health institution staff and resources, other than the use of a building or facility, for purposes of providing habilitative services and treatment services, as well as other special needs programming, the directors of the departments of corrections and human services shall each notify the chairpersons and ranking members of the joint appropriations subcommittees that last handled the appropriation for their respective departments of the pending agreement. Use of a building or facility shall require approval of the general assembly if the general assembly is in session or, if the general assembly is not in session, the legislative council may grant temporary authority, which shall be subject to final approval of the general assembly during the next succeeding legislative session.

Sec. 47. Section 915.10, subsection 3, Code 1999, is amended to read as follows:

3. "Victim" means a person who has suffered physical, emotional, or financial harm as the result of a public offense or a delinquent act, other than a simple misdemeanor, committed in this state. "Victim" also includes the immediate family members of a victim who died or was rendered incompetent as a result of the offense or who was under eighteen years of age at the time of the offense.

Sec. 48. Section 915.41, Code 1999, is amended to read as follows:

915.41 MEDICAL EXAMINATION COSTS.

The cost of a medical examination of a victim for the purpose of gathering evidence and the cost of treatment of a victim for the purpose of preventing venereal disease shall be paid from the fund established in section 915.94.

Sec. 49. Section 915.42, subsection 4, paragraph a, Code 1999, is amended to read as follows:

a. Prior to the scheduling of a hearing, refer the victim for counseling by a victim counselor or a person requested by the victim who is authorized to provide the counseling required pursuant to section 141.22, regarding the nature, reliability, and significance of the HIV-related test and of the serologic status of the convicted or alleged offender.

Sec. 50. Section 915.42, subsection 6, paragraph b, Code 1999, is amended to read as follows:

b. An authorized representative of the petitioner or victim, the county attorney, or the court sought to obtain written informed consent from the convicted or alleged offender.

Sec. 51. Section 915.43, subsection 11, Code 1999, is amended to read as follows:

11. Notwithstanding the provisions of this subchapter requiring initial testing, if a petition is filed with the court under section 915.42 requesting an order for testing and the order is granted, and if a test has previously been performed on the convicted or alleged offender while under the control of the department of corrections, the test results shall be provided in lieu of the performance of an initial test of the convicted or alleged offender, in accordance with this subchapter.

Sec. 52. Section 915.50, subsection 2, Code 1999, is amended to read as follows:

2. The right, pursuant to section 236.12, for law enforcement to remain on the scene, to assist the victim in leaving the scene, to ~~transport~~ assist the victim in obtaining transportation to medical care, and to provide the person with a written statement of victim rights and information about domestic abuse shelters, support services, and crisis lines.

Sec. 53. Section 915.100, subsection 2, paragraph h, Code 1999, is amended to read as follows:

h. If a convicted felon ~~attempts to or the representative of a convicted felon receives or is owed any profit from which is realized as a result of~~ the commission of the crime, and the attorney general brings an action to recover such profits, the victim may be entitled to funds held in escrow, pursuant to the provisions of section 910.15.

Sec. 54. Sections 236A.1, 307.38, 428.9, 428.11, 428.13, 428.14, 428.15, 428.34, 428.36, 441.30, 455H.501, 455H.502, and 505.20, Code 1999, are repealed.

Sec. 55. Chapter 7G, Code 1999, is repealed.

Sec. 56. 1998 Iowa Acts, chapter 1138, section 35, is amended to read as follows:

SEC. 35. EFFECTIVE DATES. Division VI of this Act takes effect ~~upon enactment or~~ April 16, 1998, ~~whichever is later.~~

Sec. 57. 1998 Iowa Acts, chapter 1209, section 28, is amended to read as follows:

SEC. 28. Section ~~445B.201~~ 455B.201, subsection 4, Code 1997, is amended by striking the subsection.

Sec. 58. 1998 Iowa Acts, chapter 1209, section 53, is amended to read as follows:

SEC. 53. EFFECTIVE DATES.

1. Sections 9, 10, 14, 27, 29, 38, 39, 40 through 43, 48, 49, and this section, being deemed of immediate importance, take effect upon enactment.

2. Sections 11, 13, 15, 16, 18 through 21, 23, 26, 30, 31, and 33 through 35 take effect on January 1, 1999.

3. In section 455B.162, subsections 1, 1A, and 1C, as enacted by sections 15 and 16 of this Act, and in section 455B.163, as amended by section 18 of this Act, and in section 657.11, subsection 7, as enacted by section 38 of this Act, the words "the effective date of this section" shall mean the effective date of the section of this Act in which the enactments or amendments are made as specified in subsections 1 and 2 of this section of this Act.

Sec. 59. EFFECTIVE DATES — RETROACTIVE APPLICABILITY.

1. Sections 56, 57, and 58 of this Act, being deemed of immediate importance, take effect upon enactment.

2. Section 56 of this Act applies retroactively to April 16, 1998.

3. Section 57 of this Act applies retroactively to July 1, 1998.

4. Section 58 of this Act applies retroactively to May 21, 1998.

Approved May 11, 1999

CHAPTER 115**CHILD CUSTODY ORDERS — VISITATION BETWEEN SIBLINGS***H.F. 255*

AN ACT relating to visitation provisions between siblings under a custody order.

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

Section 1. Section 598.41, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 5A. If the parties have more than one minor child, and the court awards each party the physical custody of one or more of the children, upon application by either party, and if it is reasonable and in the best interest of the children, the court shall include a provision in the custody order directing the parties to allow visitation between the children in each party's custody.

Approved May 11, 1999

CHAPTER 116**DEMAND DEPOSIT ACCOUNTS WITH LINES OF CREDIT — FEES***H.F. 345*

AN ACT relating to permissible fees to be charged for maintaining a demand deposit account with a line of credit.

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

Section 1. Section 537.2501, subsection 1, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. i. A reasonable annual account maintenance fee, payable in advance, for the privilege of maintaining a demand deposit account with a line of credit that may be accessed by the account holder writing a check.

Approved May 11, 1999

CHAPTER 117**DEPOSIT OF PUBLIC FUNDS — DEPOSITORY STANDARDS***H.F. 571*

AN ACT relating to the deposit of public funds and the conditions which must be met by a savings and loan association or savings bank to be eligible to receive such deposits, and providing an effective date.

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

Section 1. Section 12C.1, subsection 2, paragraph c, Code 1999, is amended to read as follows:

c. “Bank” means a corporation engaged in the business of banking authorized by law to receive deposits and whose deposits are insured by the bank insurance fund of the federal deposit insurance corporation and includes any office of a bank. “Bank” also means a savings and loan or savings association.

Sec. 2. Section 12C.1, subsection 2, paragraph f, Code 1999, is amended to read as follows:

f. “Financial institution” means a bank, ~~savings and loan~~, or a credit union.

Sec. 3. Section 12C.1, subsection 3, paragraph a, Code 1999, is amended to read as follows:

a. If a depository is ~~a savings and loan or~~ a credit union, then public deposits in the ~~savings and loan or~~ credit union shall be secured pursuant to sections 12C.16 through 12C.19 and sections 12C.23 and 12C.24.

Sec. 4. Section 12C.1, subsection 3, paragraph b, Code 1999, is amended to read as follows:

b. If a depository is a bank, ~~then~~ public deposits in the bank shall be secured pursuant to sections ~~12C.21~~, 12C.23, and 12C.24.*

Sec. 5. Section 12C.6A, subsection 5, paragraphs a, b, and c, Code 1999, are amended to read as follows:

a. A person who believes a bank, ~~savings and loan association, or savings bank~~ has failed to meet its community reinvestment responsibility may file a complaint with the committee detailing the basis for that belief.

b. If any committee member, in the member’s discretion, finds that the complaint has merit, the member may order the bank, ~~savings and loan association, or savings bank~~ alleged to have failed to meet its community reinvestment responsibility to attend and participate in a meeting with the complainant. The committee member may specify who, at minimum, shall represent the financial institution at the meeting. At the meeting, or at any other time, the ~~financial institution bank~~ may, but is not required to, enter into an agreement with a complainant to correct alleged failings.

c. A majority of the committee may order a bank, ~~savings and loan association, or savings bank~~, against which a complaint has been filed pursuant to this subsection, to disclose such additional information relating to community reinvestment as required by the order of the majority of the committee.

Sec. 6. Section 12C.15, Code 1999, is amended to read as follows:

12C.15 RESTRICTION ON REQUIRING COLLATERAL.

A local government shall not require a pledge of collateral for that portion of the local government’s deposits in a ~~savings and loan or~~ credit union that is covered by insurance of a federal agency or instrumentality.

* See chapter 208, §42 herein

Sec. 7. Section 12C.16, Code 1999, is amended to read as follows:

12C.16 SECURITY FOR DEPOSIT OF PUBLIC FUNDS.

1. Before a deposit of public funds is made by a public officer with a ~~savings and loan or credit union~~ in excess of the amount federally insured, the public officer shall obtain security for the deposit by one or more of the following:

a. The ~~savings and loan or credit union~~ may give to the public officer a corporate surety bond of a surety corporation approved by the treasury department of the United States and authorized to do business in this state, which bond shall be in an amount equal to the public funds on deposit at any time. The bond shall be conditioned that the deposit shall be paid promptly on the order of the public officer making the deposit and shall be approved by the officer making the deposit.

b. The ~~savings and loan or credit union~~ may deposit, maintain, pledge and assign for the benefit of the public officer in the manner provided in this chapter, securities approved by the public officer, the market value of which is not less than one hundred ten percent of the total deposits of public funds placed by that public officer in the ~~savings and loan or credit union~~. The securities shall consist of any of the following:

(1) Direct obligations of, or obligations that are insured or fully guaranteed as to principal and interest by, the United States of America or an agency or instrumentality of the United States of America.

(2) Public bonds or obligations of this state or a political subdivision of this state.

(3) Public bonds or obligations of another state or a political subdivision of another state whose bonds are rated within the two highest classifications of prime as established by at least one of the standard rating services approved by the superintendent of banking pursuant to chapter 17A.

(4) To the extent of the guarantee, loans, obligations, or nontransferable letters of credit upon which the payment of principal and interest is fully secured or guaranteed by the United States of America or an agency or instrumentality of the United States of America or the U.S. central credit union, and the rating of the U.S. central credit union remains within the two highest classifications of prime established by at least one of the standard rating services approved by the superintendent of banking by rule pursuant to chapter 17A. The treasurer of state shall adopt rules pursuant to chapter 17A to implement this section.

(5) First lien mortgages which are valued according to practices acceptable to the treasurer of state.

(6) Investments in an open-end management investment company registered with the federal securities and exchange commission under the federal Investment Company Act of 1940, 15 U.S.C. § 80(a), which is operated in accordance with 17 C.F.R. § 270.2a-7.

Direct obligations of, or obligations that are insured or fully guaranteed as to principal and interest by, the United States of America, which may be used to secure the deposit of public funds under subparagraph (1), include investments in an investment company or investment trust registered under the federal Investment Company Act of 1940, 15 U.S.C. § 80a, the portfolio of which is limited to the United States government obligations described in subparagraph (1) and to repurchase agreements fully collateralized by the United States government obligations described in subparagraph (1), if the investment company or investment trust takes delivery of the collateral either directly or through an authorized custodian.

2. If public funds are secured by both the assets of a ~~savings and loan or credit union~~ and a bond of a surety company, the assets and bond shall be held as security for a rateable proportion of the deposit on the basis of the market value of the assets and of the total amount of the surety bonds.

Sec. 8. Section 12C.17, Code 1999, is amended to read as follows:

12C.17 DEPOSIT OF SECURITIES.

1. A ~~savings and loan or credit union~~ which receives public funds shall pledge securities owned by it as required by this chapter in one of the following methods:

a. The securities shall be deposited with the county, city, or other public officers at the option of the officers.

b. The securities shall be deposited pursuant to a bailment agreement with a financial institution having facilities for the safekeeping of securities and doing business in the state. A financial institution which receives securities for safekeeping is liable to the public officer to whom the securities are pledged for any loss suffered by the public officer if the financial institution relinquishes custody of the securities contrary to the provisions of this chapter or the instrument governing the pledge of the securities.

c. The securities shall be deposited with the federal reserve bank of ~~Chicago, Illinois~~, the federal home loan bank of Des Moines, Iowa, or the U.S. central credit union pursuant to a bailment agreement or a pledge custody agreement.

d. The securities may be deposited by any combination of methods specified in paragraphs "a", "b", and "c".

2. A deposit of securities shall not be made in a facility owned or controlled directly or indirectly by the financial institution which deposits the securities.

3. All deposits of securities, other than deposits of securities with the appropriate public officer, shall have a joint custody receipt taken for the securities with one copy delivered to the public officer and one copy delivered to the ~~savings and loan or~~ credit union. A ~~savings and loan or~~ credit union pledging securities with a public officer may cause the securities to be examined in the officer's office to show the securities are placed with the officer as collateral security and are not transferable except upon the conditions provided in this chapter.

4. Upon written request from the appropriate public officer but not less than ~~quarterly, a savings and loan or credit union~~ monthly, the federal home loan bank of Des Moines, Iowa, or the U.S. central credit union, shall report a description, the par value and the market value of any pledged collateral ~~and the total deposits of public funds of that officer in the savings and loan or by a~~ credit union.

Sec. 9. Section 12C.18, Code 1999, is amended to read as follows:

12C.18 CONDITION OF SECURITY.

The condition of the surety bond or the deposit of securities, instruments, or a joint custody receipt, must be that the ~~savings and loan or~~ credit union will promptly pay to the parties entitled public funds, including any interest on the funds, in its custody upon lawful demand and, when required by law, pay the funds to the public officer who made the deposit.

Sec. 10. Section 12C.19, subsections 3 and 4, Code 1999, are amended to read as follows:

3. In the event of substitution, addition, or exchange of securities, the holder or custodian of the securities shall, on the same day, forward by ~~certified mail, return receipt requested, regular mail~~ to the public officer and the ~~savings and loan or~~ credit union, a receipt specifically describing and identifying both the substituted or additional securities ~~and those released and returned to the savings and loan or credit union~~.

4. The public officer which deposits public funds with a ~~savings and loan or~~ credit union shall require, if the market value of the securities deposited with or for the benefit of the officer falls below one hundred ten percent of the deposit liability to the public officer, the deposit of additional security to bring the total market value of the security to one hundred ten percent of the amount of public funds held by the ~~savings and loan or~~ credit union.

Sec. 11. Section 12C.23, Code 1999, is amended to read as follows:

12C.23 PAYMENT OF LOSSES IN A CREDIT UNION.

1. The pledging of securities by a depository credit union pursuant to this chapter constitutes consent by the depository credit union to the disposition of the securities in accordance with this section.

The acceptance of public funds by a depository credit union pursuant to this chapter constitutes consent by the depository credit union to assessments by the treasurer of state in accordance with this chapter.

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

3. If a depository credit union is closed by its primary regulatory officials, the public body with deposits in the depository shall notify the treasurer of state of the amount of any claim within thirty days of the closing credit union may sell the collateral to pay for any loss of principal and accrued interest. ~~The treasurer of state shall implement the following procedures:~~

a. In cooperation with the responsible regulatory officials for the depository credit union, the ~~treasurer~~ public body shall validate the amount of public funds on deposit at the defaulting depository credit union and the amount of deposit insurance applicable to the deposits.

b. The loss to public depositors shall be satisfied, first through any applicable deposit insurance and then through the sale of securities pledged by the defaulting depository credit union, and then the assets of the defaulting depository credit union. The priority of claims are those established pursuant to ~~section 524.1312, subsection 2, section 533.22, subsection 1, paragraph "b", or section 534.517.~~ To the extent permitted by federal law, in the distribution of an insolvent federally chartered depository's credit union's assets, the order of payment of liabilities if its assets are insufficient to pay in full all its liabilities for which claims are made shall be in the same order as for the equivalent type of state chartered depository credit union as provided in ~~section 524.1312, subsection 2, section 533.22, subsection 1, paragraph "b", or section 534.517.~~

c. The claim of a public depositor for purposes of this section shall be the amount of the depositor's deposits plus interest to the date the funds are distributed to the public depositor at the rate the ~~depository institution~~ credit union agreed to pay on the funds reduced by the portion of the funds which is insured by federal deposit insurance.

d. If the loss to public funds is not covered by insurance and the proceeds of the failed depository's credit union's assets which are liquidated within thirty days of the closing of the depository credit union and pledged collateral, the treasurer shall provide coverage of the remaining loss ~~as follows:~~

~~(1) If the loss was incurred in a bank, then any further payments to cover the loss will come from the state sinking fund for public deposits in banks. If the balance in that sinking fund is inadequate to pay the entire loss, then the treasurer shall obtain the additional amount needed by making an assessment against other banks whose public funds deposits exceed deposit insurance coverage. A bank's assessment shall be determined by multiplying the total amount of the remaining loss to all public depositors by a percentage that represents that bank's proportional share of the average of uninsured public funds deposits held by all banks as of the reporting date under section 12C.21 immediately preceding the date the depository was closed. Each bank shall pay its assessment to the treasurer within three business days after it receives notice of assessment. If a bank fails to pay its assessment when due, the treasurer shall satisfy the assessment by selling securities pledged by that bank. If the securities pledged by that bank are inadequate to pay the assessment, the treasurer of state shall make additional assessments as may be necessary against other banks which hold uninsured public funds to satisfy any unpaid assessment. Any additional assessments shall be determined, collected, and satisfied in the same manner as the first assessment. If a bank fails to pay its assessment when due, the treasurer of state shall initiate a lawsuit to collect the assessment. If a bank is found to have failed to pay the assessment as required by this subparagraph, the court shall order it to pay the assessment, court costs, reasonable attorney's fees based on the amount of time the attorney general's~~

office spent preparing and bringing the action, and reasonable expenses incurred by the treasurer of state. Idle balances in the fund shall be invested by the treasurer with earnings credited to the fund. Fees paid by banks for administration of this chapter shall be credited to the fund and the treasurer may deduct actual costs of administration from the fund.

~~(2) If the loss was incurred in a credit union, then any further payments to cover the loss will come from the state sinking fund for public deposits in credit unions. If the funds are inadequate to cover the entire loss, then the treasurer shall make an assessment against other credit unions who hold public funds. The assessment shall be determined by multiplying the total amount of the remaining loss to public depositors by a percentage that represents the average of public funds deposits held by all credit unions during the preceding twelve-month period ending on the last day of the month immediately preceding the month the depository credit union was closed. Each credit union shall pay its assessment to the treasurer within three business days after it receives notice of assessment. If a credit union fails to pay its assessment when due, the treasurer of state shall initiate a lawsuit to collect the assessment. If a credit union is found to have failed to pay the assessment as required by this subparagraph,* the court shall order it to pay the assessment, court costs, reasonable attorney's fees based upon the amount of time the attorney general's office spent preparing and bringing the action, and reasonable expenses incurred by the treasurer of state's office. Idle balances in the fund are to be invested by the treasurer with earnings credited to the fund. Fees paid by credit unions for administration of this chapter will be credited to the fund and the treasurer may deduct actual costs of administration from the fund.~~

~~(3) If the loss was incurred in a savings and loan or a savings bank, then any further payments to cover the loss will come from the state sinking fund for public deposits in savings and loan associations and savings banks. If the funds are inadequate to cover the entire loss, then the treasurer shall make an assessment against other savings and loans and savings banks who hold public funds. The assessment shall be determined by multiplying the total amount of the remaining loss to public depositors by a percentage that represents the average of public funds deposits held by all savings and loans and savings banks during the preceding twelve month period ending on the last day of the month immediately preceding the month the depository was closed. Each savings and loan and savings bank shall pay its assessment to the treasurer within three business days after it receives notice of assessment. If a savings and loan or savings bank fails to pay its assessment when due, the treasurer shall initiate a lawsuit to collect the assessment. If a savings and loan association or a savings bank is found to have failed to pay the assessment as required by this subparagraph, the court shall order it to pay the assessment, court costs of the action, reasonable attorney's fees based upon the amount of time the attorney general's office spent preparing and bringing the action, and reasonable expenses incurred by the treasurer of state's office.~~

e. Any amount realized from the sale of collateral pursuant to paragraph "d", subparagraphs (1) and (2) in excess of the amount of a depository's credit union's assessment, shall continue to be held by the treasurer, in the same interest bearing investments available for public funds, as collateral until that depository credit union provides substitute collateral or is otherwise entitled to its release.

~~f. Following collection of the assessments, the state treasurer shall distribute funds to the public depositors of the failed depository according to their validated claims. If the assets available are less than the total deposits, the treasurer shall prorate the claims. A public depositor receiving payment under this section shall assign to the treasurer any interest the public depositor may have in funds that subsequently become available to depositors of the defaulting depository.~~

Sec. 12. NEW SECTION. 12C.23A PAYMENT OF LOSSES IN A BANK.

1. The acceptance of public funds by a bank pursuant to this chapter constitutes consent by the bank to assessments by the treasurer of state in accordance with this chapter.

* See chapter 208, §43 herein

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

3. If a bank is closed by its primary regulatory officials, the public body with deposits in the bank shall notify the treasurer of state of the amount of any claim within thirty days of the closing. The treasurer of state shall implement the following procedures:

a. In cooperation with the responsible regulatory officials for the bank, the treasurer shall validate the amount of public funds on deposit at the defaulting bank and the amount of deposit insurance applicable to the deposits.

b. The recovery of any loss to public depositors shall begin with applicable deposit insurance. The priority of claims are those established pursuant to section 524.1312, subsection 2, section 533.22, subsection 1, paragraph "b", or section 534.517.* To the extent permitted by federal law, in the distribution of an insolvent federally chartered bank's assets, the order of payment of liabilities if its assets are insufficient to pay in full all its liabilities for which claims are made shall be in the same order as for a state-chartered bank as provided in section 524.1312, subsection 2.

c. The claim of a public depositor for purposes of this section shall be the amount of the depositor's deposits plus interest to the date the funds are distributed to the public depositor at the rate the bank agreed to pay on the funds reduced by the portion of the funds which is insured by federal deposit insurance.

d. If the loss to public funds is not covered by insurance and the proceeds of the failed bank's assets which are liquidated within thirty days of the closing of the bank, are not sufficient to cover the loss, then any further payments to cover the loss will come from the state sinking fund for public deposits in banks. If the balance in that sinking fund is inadequate to pay the entire loss, then the treasurer shall obtain the additional amount needed by making an assessment against other banks whose public funds deposits exceed deposit insurance coverage. A bank's assessment shall be determined by multiplying the total amount of the remaining loss to all public depositors by a percentage that represents that bank's proportional share of the average of uninsured public funds deposits held by all banks. Each bank shall pay its assessment to the treasurer within three business days after it receives notice of assessment. If a bank fails to pay its assessment when due, the treasurer of state shall initiate a lawsuit to collect the assessment. If a bank is found to have failed to pay the assessment as required by this subparagraph, the court shall order it to pay the assessment, court costs, reasonable attorney fees based on the amount of time the attorney general's office spent preparing and bringing the action, and reasonable expenses incurred by the treasurer of state. Idle balances in the fund shall be invested by the treasurer with earnings credited to the fund. Fees paid by banks for administration of this chapter shall be credited to the fund and the treasurer may deduct actual costs of administration from the fund.**

e. Following collection of the assessments, the state treasurer shall distribute funds to the public depositors of the failed bank according to their validated claims. If the assets available are less than the total deposits, the treasurer shall prorate the claims. A public depositor receiving payment under this section shall assign to the treasurer any interest the public depositor may have in funds that subsequently become available to depositors of the defaulting bank.

Sec. 13. Section 12C.25, subsection 3, Code 1999, is amended by striking the subsection.

Sec. 14. Section 12C.21, Code 1999, is repealed.

* See chapter 208, §44 herein

** See chapter 208, §45 herein

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

Approved May 11, 1999

CHAPTER 118
DUST CONTROL ON SECONDARY ROADS --
PRIMARY ROAD FUND EXPENDITURE

H.F. 634

AN ACT relating to expenditure of moneys from the primary road fund for dust control on certain roads.

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

Section 1. Section 313.4, subsection 1, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department may expend moneys from the fund for dust control on a secondary road when there is a notable increase in traffic on the secondary road due to closure of a road by the department for purposes of establishing, constructing, or maintaining a primary road.

Approved May 11, 1999

CHAPTER 119
LOESS HILLS DEVELOPMENT AND CONSERVATION

H.F. 218

AN ACT creating a loess hills preservation and development alliance, providing for its responsibilities, and providing for other properly related matters, and providing an applicability date.

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

Section 1. Section 161D.1, subsection 4, Code 1999, is amended to read as follows:

4. This ~~section~~ chapter is not intended to affect the authority of the department of natural resources in its acquisition, development, and management of public lands within the counties represented by the authority.

Sec. 2. Section 161D.2, Code 1999, is amended to read as follows:

161D.2 LOESS HILLS DEVELOPMENT AND CONSERVATION FUND.

A loess hills development and conservation fund is created in the state treasury, ~~to~~. The fund shall include a hungry canyons account and a loess hills alliance account which shall

be administered by the loess hills development and conservation authority. The proceeds of the ~~fund~~ respective accounts shall be used for the purposes specified in section 161D.1 or 161D.6 as applicable. The loess hills development and conservation authority may accept gifts, bequests, other moneys including, but not limited to, state or federal moneys, and in-kind contributions for deposit in the fund. The gifts, grants, bequests from public and private sources, state and federal moneys, and other moneys received by the authority shall be deposited in the fund respective accounts and any interest earned ~~on the fund~~ shall be credited to the fund respective accounts to be used for the purposes specified in section 161D.1 or 161D.6 as applicable. Notwithstanding section 8.33, any unexpended or unencumbered moneys remaining in the fund at the end of the fiscal year shall not revert to the general fund of the state, but the moneys shall remain available for expenditure by the authority in succeeding fiscal years.

Sec. 3. NEW SECTION. 161D.3 DEFINITIONS.

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

1. "Alliance" means the loess hills alliance created in section 161D.5.
2. "Authority" means the loess hills development and conservation authority created in section 161D.1.
3. "Fund" means the loess hills development and conservation fund created in section 161D.2.

Sec. 4. NEW SECTION. 161D.4 MISSION STATEMENT.

The mission of the loess hills alliance is to create a common vision for Iowa's loess hills, protecting special natural and cultural resources while ensuring economic viability and private property rights of the region.

Sec. 5. NEW SECTION. 161D.5 LOESS HILLS ALLIANCE CREATED.

1. A loess hills alliance is created. The alliance shall carry out its responsibilities under the general direction of the loess hills development and conservation authority. The alliance shall encompass the geographic region including the counties of Plymouth, Woodbury, Monona, Harrison, Pottawattamie, Mills, and Fremont. Membership and participation in projects of the alliance is not required. The alliance shall be governed by a board of directors appointed as follows:

a. Three members appointed by the board of supervisors of each county participating in the alliance and at least one of the appointees shall be a member of the board of supervisors of a county participating in the alliance.

b. Seven additional voting members who shall be persons with experience in the fields of environmental affairs, conservation, finance, development, tourism, or related fields, and who shall be appointed by the authority.

2. Each voting member of the board of directors shall be a resident of a county which is eligible for membership in the authority pursuant to section 161D.1 and shall be appointed to a term of office as determined by the authority. The directors of the alliance shall carry out their responsibilities pursuant to bylaws approved by the authority.

Sec. 6. NEW SECTION. 161D.6 RESPONSIBILITIES.

1. The board of directors of the alliance shall have the following responsibilities:

a. To prepare and adopt a comprehensive plan for the development and conservation of the loess hills area subject to the approval of the authority. The plan shall provide for the designation of significant scenic areas, the protection of native vegetation, the education of the public on the need for and methods of preserving the natural resources of the loess hills area, and the promotion of tourism and related business and industry in the loess hills area.

b. To apply for, accept, and expend public and private funds for planning and implementing projects, programs, and other components of the mission of the alliance subject to approval of the authority.

c. To study different options for the protection and preservation of significant historic, scenic, geologic, and recreational areas of the loess hills including but not limited to a federal or state park, preserve, or monument designation, fee title acquisition, or restrictive easement.

d. To make recommendations to and coordinate the planning and projects of the alliance with the authority.

e. To develop and implement pilot projects for the protection of loess hills areas with the use of restrictive easements from willing sellers and fee title ownership from willing sellers subject to approval of the authority.

f. To report annually not later than January 15 to the general assembly the activities of the alliance during the preceding fiscal year including, but not limited to, its projects, funding, and expenditures.

2. A restrictive easement authorized pursuant to this section shall be recorded as provided in section 457A.3. Any compensation agreed to for a restrictive easement shall be paid in equal annual installments during the lifetime of the restrictive easement. At the expiration of a restrictive easement or upon termination for nonperformance, the holder of the restrictive easement shall record an affidavit with the county recorder of the county in which the servient land is located releasing the servient land from the restrictive easement. The holder of the restrictive easement shall send, by certified mail, a copy of the affidavit verifying the recording of the release of the restrictive easement to the landowner. If a holder of the restrictive easement fails to record the release of a restrictive easement at its expiration or for nonperformance, the owner of the servient land may petition the district court for an order removing the restrictive easement. As used in this subsection, "nonperformance" means the failure to make an annual payment of any compensation within ninety days of the annual due date.

Sec. 7. Section 161D.6, subsection 2, as enacted in this Act, is amended by striking the subsection.

Sec. 8. NEW SECTION. 161D.7 PROGRAM COORDINATION.

The department of natural resources shall coordinate the bluffland protection program with the program and projects of the loess hills alliance.

Sec. 9. Section 7 of this Act takes effect July 1, 2004.

Sec. 10. INTERIM STUDY ON RESTRICTIVE EASEMENTS. The legislative council is requested to establish an interim study committee to study restrictive easements and covenants as a tool to carry out projects and programs to protect, conserve, or develop various areas of the loess hills. The study committee shall report its findings and recommendations to the legislative council.

Approved May 12, 1999

CHAPTER 120

**TRANSPORTATION — REVERSION, NONREVERSION,
AND APPROPRIATION OF CERTAIN FUNDS**

S.F. 76

AN ACT relating to the administration of the state department of transportation by allowing the use of reverting operating funds for training and technology, making an appropriation, and providing for the nonreversion of certain railroad funds and providing an effective date.

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

Section 1. NEW SECTION. 307.46 USE OF REVERSIONS.

1. Notwithstanding the provisions of section 8.33 or any other provision of law to the contrary, if on June 30 of a fiscal year a balance of an operational appropriation remains unexpended or unencumbered, not more than fifty percent of the balance may be encumbered by the department and used as provided in this section and the remaining balance shall be deposited in the fund from which the money was appropriated. The department shall not encumber an amount in excess of five hundred thousand dollars under this section in any fiscal year. Moneys encumbered under this section shall be used by the department during the succeeding fiscal year for employee training and for technology enhancement. Moneys which are encumbered under this section but not used shall revert to the fund from which the money was appropriated on June 30 of the succeeding fiscal year.

2. On or before June 30 of the fiscal year following the fiscal year in which funds were encumbered under this section, the department shall report to the joint transportation, infrastructure, and capitals appropriations subcommittee, the legislative fiscal bureau, the department of management, and the legislative fiscal and oversight committees of the legislative council detailing how the moneys were expended. Moneys shall not be encumbered under this section from an appropriation which received a transfer from another appropriation pursuant to section 8.39.

3. For purposes of this section, "operational appropriation" means an appropriation from the road use tax fund or primary road fund providing for salaries, support, maintenance, and miscellaneous purposes.

Sec. 2. There is appropriated from the road use tax fund to the state department of transportation for the fiscal year beginning July 1, 1999, and ending June 30, 2000, the following amount, or so much thereof as is necessary, for the purpose designated:

For costs associated with the county issuance of driver's licenses:
..... \$ 308,000

Sec. 3. REVERSION OF GRANT FUNDING. Notwithstanding section 8.33 and 1994 Iowa Acts, chapter 1199, section 8, the funds transferred to the railway finance authority for a community assistance grant in 1994 Iowa Acts, chapter 1199, section 8, subsection 7, shall not revert, but shall be transferred to the railroad revolving loan fund established in section 327H.20A.

Sec. 4. ASSISTANCE FOR RAILROAD CLOSE-CLEARANCE WARNING DEVICES. Notwithstanding any contrary provision in section 327H.20A, the state department of transportation may use moneys in the railroad revolving loan fund to erect close-clearance warning devices along railroad rights of way when necessary.

Sec. 5. EFFECTIVE DATE. Section 1 of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 14, 1999

CHAPTER 121**DEPARTMENT OF GENERAL SERVICES PRACTICES AND PROCEDURES***S.F. 282*

AN ACT relating to practices and procedures of the department of general services, regulating state purchasing of recycled paper, modifying an appropriation to the department, and providing an effective date.

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

Section 1. Section 18.6, subsection 9, paragraph b, Code 1999, is amended to read as follows:

b. In awarding a contract, the department shall let the work to the lowest responsible bidder submitting a sealed proposal. However, if the department considers the bids received not to be acceptable, all bids may be rejected and new bids requested. A bid shall be accompanied by a certified or cashier's check or bid bond in an amount designated in the advertisement for bids as security that the bidder will enter into a contract for the ~~doing of the~~ work requested. The department shall establish the bid security in an amount equal to at least five percent, but not more than ten percent of the estimated total cost of the work. The certified or cashier's checks or bid bonds of unsuccessful bidders shall be returned as soon as the successful bidder is determined. The certified or cashier's check or bid bond of the successful bidder shall be returned upon execution of the contract. This section does not apply to the construction, erection, demolition, alteration, or repair of a public improvement when the contracting procedure for the work requested is otherwise provided for in law.

Sec. 2. Section 18.12, subsection 9, paragraph a, Code 1999, is amended to read as follows:

a. Lease all buildings and office space necessary to carry out the provisions of this chapter or necessary for the proper functioning of any state agency at the seat of government, ~~with the approval of the executive council if.~~ For state agencies at the seat of government, the director may lease buildings and office space in Polk county or in a county contiguous to Polk county. If no specific appropriation has been made, the proposed lease shall be submitted to the executive council for approval. The cost of any lease for which no specific appropriation has been made shall be paid from the fund provided in section 7D.29.

Sec. 3. Section 18.18, Code 1999, is amended to read as follows:

18.18 STATE PURCHASES — RECYCLED PRODUCTS — SOYBEAN-BASED INKS.

1. When purchasing paper products other than printing and writing paper, the department shall, when the price is reasonably competitive and the quality as intended, purchase the recycled product. The department shall also purchase, when the price is reasonably competitive and the quality as intended, and in keeping with the schedule established in this subsection, soybean-based inks and plastic products with recycled content including but not limited to plastic garbage can liners.

a. One hundred percent of the purchases of inks which are used for newsprint printing services performed internally or contracted for by the department shall be soybean-based.

b. One hundred percent of the purchases of inks, other than inks which are used for newsprint printing services, and which are used internally or contracted for by the department, shall be soybean-based to the extent formulations for such inks are available.

c. A minimum of ten percent of the purchases of garbage can liners made by the department shall be plastic garbage can liners with recycled content. The percentage shall increase by ten percent annually until fifty percent of the purchases of garbage can liners are plastic garbage can liners with recycled content.

d. The department shall report to the general assembly on February 1 of each year the following:

(1) A listing of plastic products which are regularly purchased by the department and other state agencies for which recycled content product alternatives are available, including the cost of the plastic products purchased and the cost of the recycled content product alternatives.

(2) Information relating to soybean-based inks and plastic garbage can liners with recycled content regularly purchased by the department and other state agencies, including the cost of purchasing soybean-based inks and plastic garbage can liners with recycled content and the percentages of soybean-based inks and plastic garbage can liners with recycled content that have been purchased.

e. For purposes of this section ~~subsection~~ "recycled content" means that the content of the product contains a minimum of thirty percent postconsumer material.

2. a. ~~As used in this subsection, unless the context otherwise requires:~~

~~(1) "Postconsumer material" means only those products generated by a business or consumer which have served their intended end uses, and which have been separated or diverted from solid waste for the purposes of collection, recycling, and disposition. Postconsumer material does not include manufacturing wastes.~~

~~(2) "Recycled paper" means a paper product with not less than fifty percent of its total weight consisting of secondary and postconsumer material. At least ten percent of the total weight of recycled paper shall be postconsumer materials.~~

~~(3) "Secondary material" means fragments of finished products or finished products of a manufacturing process which has converted a resource into a commodity of real economic value, and includes postconsumer material but does not include excess virgin resources of the manufacturing process.~~

~~b. The Except as otherwise provided in this section, the department, in conjunction with recommendations made by the department of natural resources, shall purchase and use recycled printing and writing paper so that fifty percent by January 1, 1992, seventy five percent by January 1, 1996, and ninety percent by January 1, 2000, of the volume of printing and writing paper purchased is recycled paper. The recycled printing and writing paper shall meet the requirements for procuring recycled printing and writing paper set forth in 40 C.F.R., pt. 247, and in related recovered materials advisory notices issued by the United States environmental protection agency.~~

~~e. The department shall adopt standards for the allowable content of postconsumer and secondary material of recycled paper which shall conform with but may be more stringent than the American society for testing and materials standards.~~

~~d. b. The department shall establish a prioritization procedure for the purchase of recycled paper which provides for a five percent differential in the cost of the purchase of paper which has been recycled through the use of a nonchlorinated process.~~

~~c. If a provision under this subsection results in the limitation of sources for the purchase of printing and writing paper to three or fewer sources, the department may waive the requirement in order to purchase necessary amounts of printing and writing paper.~~

~~f. The department of general services, in conjunction with the department of natural resources, shall review the availability of a higher percentage content of postconsumer content printing and writing paper and shall, by rule, adjust the percentage requirement accordingly.~~

~~g. d. Notwithstanding the requirements of this subsection regarding the purchase of recycled printing and writing paper, the department shall purchase acid-free permanent paper in the amount necessary for the production or reproduction of documents, papers, or similar materials produced or reproduced for permanent preservation pursuant to law.~~

3. The department of general services, in conjunction with the department of natural resources, shall review the procurement specifications currently used by the state to eliminate, wherever possible, discrimination against the procurement of products manufactured with recovered materials and soybean-based inks.

4. The department of natural resources shall assist the department of general services in locating suppliers of recycled products and soybean-based inks and collecting data on recycled content and soybean-based ink purchases.

5. Information on recycled content shall be requested on all bids for paper products other than printing and writing paper issued by the state and on other bids for products which could have recycled content such as oil, plastic products, including but not limited to compost materials, aggregate, solvents, soybean-based inks, and rubber products. Except for purchases of printing and writing paper made pursuant to subsection 2, paragraphs "c" and "d", the department of general services shall require persons submitting bids for printing and writing paper to certify that the printing and writing paper proposed complies with the requirements referred to in subsection 2, paragraph "a".

6. The department of general services, in conjunction with the department of natural resources, shall adopt rules ~~and regulations to carry out the provisions of~~ administer this section.

7. All state agencies shall fully cooperate with the departments of general services and natural resources in all phases of implementing this section.

8. The department, whenever technically feasible, shall purchase and use degradable loose foam packing material manufactured from grain starches or other renewable resources, unless the cost of the packing material is more than ten percent greater than the cost of packing material made from nonrenewable resources. For the purposes of this subsection, "packing material" means material, other than an exterior packing shell, that is used to stabilize, protect, cushion, or brace the contents of a package.

Sec. 4. Section 18.27, subsection 5, Code 1999, is amended by striking the subsection.

Sec. 5. Section 18.28, Code 1999, is amended to read as follows:

18.28 "PRINTING" DEFINED.

As used in chapter 7A and sections 18.26 to 18.103, "printing" means the reproduction of an image from a printing surface made generally by a contact impression that causes a transfer of ink, ~~or~~ the reproduction of an impression by a photographic process, or the reproduction of an image by electronic means and shall include binding and may include material, processes, or operations necessary to produce a finished printed product, but shall not include binding, rebinding or repairs of books, journals, pamphlets, magazines and literary articles by any library of the state or any of its offices, departments, boards and commissions held as a part of their library collection.

Sec. 6. Section 18.37, Code 1999, is amended to read as follows:

18.37 DEPOSIT WITH BID OR YEARLY BOND.

When a bidder submits a bid to the department, the director may require the bidder to file a bid bond or a certified or cashier's check payable to the state treasurer in an amount to be fixed in the bid specifications, either covering all classes or items or services, or separate certified or cashier's checks for each bid in case the bidder makes more than one bid. In lieu of a certified or cashier's check, the bidder may furnish a yearly bond in an amount to be established by the director. Certified or cashier's checks deposited by unsuccessful bidders, and by successful bidders when they have entered into the contract, shall be returned to them.

Sec. 7. Section 18.43, Code 1999, is amended to read as follows:

18.43 DUTY TO ENTER INTO CONTRACT — FORFEITURE.

If the department requires a bid bond or certified or cashier's check as provided in section 18.37, a successful bidder shall, within ten days after the award, enter into a contract in accordance with the bid. Unless this is done, or the delay is for reasons satisfactory to the director, the bid bond or certified or cashier's check submitted with the bid shall be forfeited to the state. The bid specifications on which the bid is made constitute a part of the contract.

Sec. 8. Section 216B.3, subsection 14, Code 1999, is amended to read as follows:

14. ~~In conjunction with the recommendations made by the department of natural resources, purchase~~ Purchase and use recycled printing and writing paper in accordance with the schedule established in section 18.18; establish a wastepaper recycling program, by January 1, 1990, in accordance with the recommendations made by the department of natural resources and requirements of section 18.20; and, in accordance with section 18.6, require product content statements, the provision of information regarding on-site review of waste management in product bidding and contract procedures, and compliance with requirements regarding contract bidding.

Sec. 9. Section 262.9, subsection 6, Code 1999, is amended to read as follows:

6. ~~In conjunction with the recommendations made by the department of natural resources, purchase~~ Purchase and use recycled printing and writing paper, with the exception of specialized paper when no recyclable product is available, in accordance with the schedule established in section 18.18; establish a wastepaper recycling program for all institutions governed by the board in accordance with recommendations made by the department of natural resources and the requirements of section 18.20; shall, in accordance with the requirements of section 18.6, require product content statements, the provision of information regarding on-site review of waste management in product bidding and contract procedures, and compliance with requirements regarding procurement specifications; and shall comply with the requirements for the purchase of lubricating oils and industrial oils as established pursuant to section 18.22.

Sec. 10. Section 307.21, subsection 4, paragraph b, subparagraph (1), Code 1999, is amended to read as follows:

(1) Purchase and use recycled printing and writing paper in accordance with the schedule established in section 18.18 ~~and in conjunction with recommendations made by the department of natural resources.~~

Sec. 11. 1998 Iowa Acts, chapter 1219, section 6, subsection 1, unnumbered paragraph 3, is amended to read as follows:

Of the amount appropriated in this subsection, up to \$1,250,000 may be used by the department for the purchase of property located at the southwest corner of Lyon street and East Tenth street, together with the contiguous property south of the southwest corner property and the property between East Tenth street and East Eleventh street between Lyon street and Des Moines street, all in the city of Des Moines.

Sec. 12. EFFECTIVE DATE. Section 11 of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 14, 1999

CHAPTER 122

IOWA EDUCATIONAL SAVINGS PLAN TRUST — MISCELLANEOUS PROVISIONS

S.F. 457

AN ACT relating to the Iowa educational savings plan trust, and including an effective date and retroactive applicability provision.

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

Section 1. Section 12D.2, unnumbered paragraph 2, Code 1999, is amended by striking the unnumbered paragraph.

Sec. 2. Section 12D.3, subsection 1, paragraph a, Code 1999, is amended to read as follows:

a. Each participation agreement ~~shall~~ may require a participant to agree to invest a specific amount of money in the trust for a specific period of time for the benefit of a specific beneficiary. A participant shall not be required to make an annual contribution on behalf of a beneficiary. The minimum contribution per beneficiary per year, in a year in which a participant is making a contribution, shall be ~~three hundred~~ fifty dollars, and the maximum contribution shall not exceed two thousand dollars per beneficiary per year adjusted annually to reflect increases in the consumer price index. However, the treasurer of state may set a maximum, as necessary, to maintain compliance with section 529 of the Internal Revenue Code.

Sec. 3. Section 12D.3, subsection 2, Code 1999, is amended to read as follows:

2. Beneficiaries designated in participation agreements may be designated from date of birth up to, but not including, their ~~seventeenth~~ eighteenth birthday. A substitute beneficiary may be older than age eighteen provided that the substitute beneficiary is not older than the original beneficiary when the substitution is made.

Sec. 4. Section 12D.3, subsection 3, Code 1999, is amended by striking the subsection and inserting in lieu thereof the following:

3. A participant's account balance shall be refunded to the participant, less endowment fund earnings, and less a refund penalty levied by the trust against account balance earnings, if any, in the event an account balance remains in the account for a thirty-day period following the beneficiary's thirtieth birthday.

Sec. 5. NEW SECTION. 12D.4A ADMINISTRATIVE FUND — APPROPRIATION.

For the fiscal year beginning July 1, 1998, and ending June 30, 1999, and for the fiscal year beginning July 1, 1999, and ending June 30, 2000, an amount, not to exceed four hundred thousand dollars annually, shall be transferred from the unclaimed property trust fund established in section 556.18 to the administrative fund for the payment of costs of administration and operation of the trust. For the fiscal year beginning July 1, 2000, and succeeding fiscal years, there shall be appropriated to the administrative fund by the general assembly from the general fund of the state an amount sufficient for the payment of costs of administration and operation of the trust.

Sec. 6. Section 12D.5, subsection 1, Code 1999, is amended by striking the subsection and inserting in lieu thereof the following:

1. A participant may cancel a participation agreement at will. Upon cancellation of a participation agreement, a participant shall be entitled to the return of the participant's account balance, less endowment fund investment earnings, and less a refund penalty levied by the trust against the participant's account balance earnings, if any. The penalty shall be deposited into the administrative fund.

Sec. 7. Section 12D.5, subsection 2, paragraph b, Code 1999, is amended to read as follows:

b. In the event of cancellation of a participation agreement for any of the causes listed in paragraph "a", the participant shall be entitled to receive ~~the principal amount of all payments made by the participant under the participation agreement plus the actual program fund investment income earned on the payments, but not the participant's account balance,~~ less endowment fund investment income.

Sec. 8. Section 12D.6, subsection 2, unnumbered paragraph 1, Code 1999, is amended to read as follows:

In the event the program is terminated prior to payment of higher education costs for the beneficiary, the participant is entitled to a full refund of ~~all payments made under the participation agreement and all investment income credited on all the payments~~ the participant's account balance.

Sec. 9. Section 12D.9, subsection 1, paragraph f, Code 1999, is amended to read as follows:

f. Pursuant to section 12D.5, subsection 1, ~~paragraphs "a" and "b"~~, penalties are provided on refunds of earnings which are not used for qualified higher education expenses of the beneficiary, made on account of the death or disability of the designated beneficiary, or made due to scholarship, allowance, or payment receipt as provided in section 529(b)(3) of the Internal Revenue Code.

Sec. 10. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY. This Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to July 1, 1998.

Approved May 14, 1999

CHAPTER 123

VEHICULAR HOMICIDE — BAIL ON APPEAL

H.F. 395

AN ACT providing that defendants convicted of class "C" vehicular manslaughter are not bailable on appeal.

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

Section 1. Section 811.1, subsection 2, Code 1999, is amended to read as follows:

2. A defendant appealing a conviction of a class "A" felony; murder; any class "B" or "C" 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; any felony included in section 124.401, subsection 1, paragraph "a"; or a violation of section 124.401, subsection 1, paragraph "b".

Approved May 14, 1999

CHAPTER 124**ESTATES AND TRUSTS — DETERMINATION AND
DISTRIBUTION OF PRINCIPAL AND INCOME***H.F. 584*

AN ACT relating to the uniform principal and income Act and providing for its applicability.

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

CHAPTER 637
UNIFORM PRINCIPAL AND INCOME ACT
SUBCHAPTER 1
DEFINITIONS AND FIDUCIARY DUTIES

Section 1. NEW SECTION. 637.101 SHORT TITLE.

This Act may be cited as the “Uniform Principal and Income Act”.

Sec. 2. NEW SECTION. 637.102 DEFINITIONS.

As used in this chapter:

1. “Accounting period” means a calendar year, unless another twelve-month period is selected by a fiduciary. The term includes a portion of a calendar year or other twelve-month period that begins when an income interest begins or ends when an income interest ends.

2. “Beneficiary” includes, in the case of a decedent’s estate, an heir, legatee, and devisee, and, in the case of a trust, an income beneficiary and a remainder beneficiary.

3. “Fiduciary” means a personal representative or a trustee. The term includes an executor, administrator, successor personal representative, special administrator, and a person performing substantially the same function.

4. “Income” means money or property a fiduciary receives as the current return from a principal asset. The term includes a portion of the receipts from a sale, exchange, or liquidation of a principal asset, to the extent provided in subchapter 4.

5. “Income beneficiary” means a person to whom a trust’s net income is or may be payable.

6. “Income interest” means an income beneficiary’s right to receive all or part of the net income, whether the terms of the trust require it to be distributed or authorize it to be distributed in the trustee’s discretion.

7. “Mandatory income interest” means an income beneficiary’s right to receive net income that the terms of the trust require the fiduciary to distribute.

8. “Net income” means the total receipts allocated to income during an accounting period minus the disbursements made from income during the period. In this definition, receipts and disbursements include items transferred to or from income during the period under this chapter.

9. “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or any other legal or commercial entity. The term does not include a government or governmental subdivision, agency, or instrumentality.

10. “Principal” means property held in trust for distribution to a remainder beneficiary when the trust terminates.

11. “Remainder beneficiary” means a person, including another trust, entitled to receive principal when an income interest ends.

12. “Terms of a trust” means the manifestation of the intent of a settlor or decedent with respect to the trust, expressed in a manner that admits of its proof in a judicial proceeding, whether by written or spoken words or by conduct.

13. “Trustee” includes an original, additional, or successor trustee, whether or not appointed or confirmed by a court.

Sec. 3. NEW SECTION. 637.103 FIDUCIARY DUTIES — GENERAL PRINCIPLES.

1. In allocating receipts and disbursements to or between principal and income, and in any matter within the scope of subchapters 2 and 3, a fiduciary shall do all of the following:

a. Administer a trust or estate in accordance with the terms of the trust or the will, even if there is a different provision in this chapter.

b. Administer a trust or estate by the exercise of a discretionary power of administration given the fiduciary by the terms of the trust or the will, although the fiduciary may exercise that power in a manner different from a provision of this chapter.

c. Administer a trust or estate in accordance with this chapter if the terms of the trust or the will do not contain a different provision or do not give the fiduciary a discretionary power of administration.

d. Add a receipt or charge a disbursement to principal to the extent that the terms of the trust and this chapter do not provide a rule for allocating the receipt or disbursement to or between principal and income.

2. In exercising a discretionary power of administration regarding a matter within the scope of this chapter, whether granted by the terms of a trust, a will, or this chapter, a fiduciary shall administer a trust or estate impartially, based on what is fair and reasonable to all of the beneficiaries, unless the terms of the trust or the will clearly manifest an intention that the fiduciary shall or may favor one or more of the beneficiaries. A determination in accordance with this chapter is presumed to be fair and reasonable to all of the beneficiaries.

SUBCHAPTER 2
DECEDENT'S ESTATE OR TERMINATING INCOME INTEREST

Sec. 4. NEW SECTION. 637.201 DETERMINATION AND DISTRIBUTION OF NET INCOME.

After a decedent dies, in the case of an estate, or after an income interest in a trust ends, the following rules apply:

1. A fiduciary of an estate or a terminating income interest shall determine the amount of net income and net principal receipts received from property specifically given to a beneficiary under the rules in subchapters 3 through 5 that apply to trustees, and under the rules in subsection 5. The fiduciary shall distribute the net income and net principal receipts to the beneficiary who is to receive the specific property.

2. A fiduciary shall determine the remaining net income of a decedent's estate or a terminating income interest under the rules in subchapters 3 through 5 that apply to trustees, and by doing the following:

a. Including in net income all income from property used to discharge liabilities.

b. Paying from income or principal, in the fiduciary's discretion, fees of attorneys, accountants, and fiduciaries; court costs and other expenses of administration; and interest on death taxes, but the fiduciary may pay those expenses from income of property passing to a trust for which the fiduciary claims an estate tax marital or charitable deduction only to the extent that the payment of those expenses from income will not cause the loss of the deduction.

c. Paying from principal all other disbursements made or incurred in connection with the settlement of a decedent's estate or the winding up of a terminating income interest, including debts, funeral expenses, disposition of remains, family allowances, and death taxes and related penalties that are apportioned to the estate or terminating income interest by the will, the terms of the trust, or applicable law.

3. A fiduciary shall distribute to a beneficiary who receives a pecuniary amount outright the amount, if any, provided by the will, the terms of the trust, or applicable law, from net income determined under subsection 2 or from principal to the extent the net income is insufficient. If a beneficiary is to receive a pecuniary amount outright from a trust after an income interest ends and no amount is provided for by the terms of the trust or applicable

law, the fiduciary shall distribute the amount to which the beneficiary would be entitled under applicable law if the pecuniary amount were required to be paid under a will.

4. A fiduciary shall distribute the net income remaining after distributions required by subsection 3 in the manner described in section 637.202 to all other beneficiaries, including a beneficiary who receives a pecuniary amount in trust, even if the beneficiary holds an unqualified power to withdraw assets from the trust or other presently exercisable general power of appointment over the trust.

5. A fiduciary shall not reduce principal or income receipts from property described in subsection 1 because of a payment described in section 637.501 or 637.502 to the extent that the will, the terms of the trust, or applicable law requires the fiduciary to make the payment from assets other than the property or to the extent that the fiduciary recovers or expects to recover the payment from a third party. The property's net income and principal receipts are determined by including all of the amounts the fiduciary receives or pays with respect to the property, whether those amounts accrued or became due before, on, or after the date of a decedent's death or an income interest's terminating event, and by making a reasonable provision for amounts that the fiduciary believes the estate or terminating income interest may become obligated to pay after the property is distributed.

Sec. 5. NEW SECTION. 637.202 DISTRIBUTION TO RESIDUARY AND REMAINDER BENEFICIARIES.

1. Each beneficiary described in section 637.201, subsection 4, is entitled to receive a portion of the net income equal to the beneficiary's fractional interest in undistributed principal assets, using values as of the distribution date. If a fiduciary makes more than one distribution of assets to beneficiaries to whom this section applies, each beneficiary, including one who does not receive part of the distribution, is entitled, as of each distribution date, to the net income the fiduciary has received after the date of death or terminating event or earlier distribution date but has not distributed as of the current distribution date.

2. In determining a beneficiary's share of net income, the following rules apply:

a. The beneficiary is entitled to receive a portion of the net income equal to the beneficiary's fractional interest in the undistributed principal assets immediately before the distribution date, including assets that later may be sold to meet principal obligations.

b. The beneficiary's fractional interest in the undistributed principal assets must be calculated without regard to property specifically given to a beneficiary and property required to be* pay pecuniary amounts not in trust.

c. The beneficiary's fractional interest in the undistributed principal assets must be calculated on the basis of the aggregate value of those assets as of the distribution date without reducing the value by any unpaid principal obligation.

d. The distribution date for purposes of this section may be the date as of which the fiduciary calculates the value of the assets if that date is reasonably near the date on which assets are actually distributed.

3. The rules in this section apply to net gain or loss realized after the date of death or terminating event or earlier distribution date from the disposition of a principal asset if this section applies to the income from the asset.

4. If a fiduciary does not distribute all of the collected but undistributed net income or gain to each person as of a distribution date, the fiduciary shall maintain appropriate records showing the interest of each beneficiary in that net income or gain.

**SUBCHAPTER 3
APPORTIONMENT AT BEGINNING AND END OF INCOME INTEREST**

Sec. 6. NEW SECTION. 637.301 WHEN RIGHT TO INCOME BEGINS AND ENDS.

1. An income beneficiary is entitled to net income from the date on which the income interest begins. An income interest begins on the date specified in the terms of the trust or,

* According to enrolled Act

if no date is specified, on the date an asset becomes subject to a trust or successive income interest.

2. An asset becomes subject to a trust at the first occurrence of one of the following events:

a. On the date it is transferred to the trust in the case of an asset that is transferred to a trust during the transferor's life.

b. On the date of a testator's death in the case of an asset that becomes subject to a trust by reason of a will, even if there is an intervening period of administration of the testator's estate.

c. On the date of an individual's death in the case of an asset that is transferred to a fiduciary by a third party because of the individual's death.

3. An asset becomes subject to a successive income interest on the day after the preceding income interest ends, as determined under subsection 4, even if there is an intervening period of administration to wind up the preceding income interest.

4. An income interest ends on the day before an income beneficiary dies or another terminating event occurs. For purposes of this chapter, an income interest also ends on the last day of a period during which there is no beneficiary to whom a trustee may distribute income.

Sec. 7. NEW SECTION. 637.302 APPORTIONMENT OF RECEIPTS AND DISBURSEMENTS WHEN DECEDENT DIES OR INCOME INTEREST BEGINS.

1. An income receipt or disbursement other than one to which section 637.201, subsection 1, applies must be allocated to principal if its due date occurs before a decedent dies in the case of an estate, or before an income interest begins in the case of a trust or successive income interest.

2. An income receipt or disbursement must be allocated to income if its due date occurs on or after the date on which a decedent dies or an income interest begins and it is a periodic due date. An income receipt or disbursement must be treated as accruing from day to day if its due date is not periodic or it has no due date. The portion of the receipt or disbursement accruing before the date on which a decedent dies or an income interest begins must be allocated to principal and the balance must be allocated to income.

3. An item of income or an obligation is due on the date on which the payor is required to make a payment. If there is no stated payment date, there is no due date for the purposes of this chapter. Distributions to shareholders or other owners from an entity to which section 637.401 applies are deemed to be due on the date fixed by the entity for determining who is entitled to receive the distribution or, if no date is fixed, on the declaration date for the distribution. A due date is periodic for receipts or disbursements that must be paid at regular intervals under a lease or an obligation to pay interest or if an entity customarily makes distributions at regular intervals.

Sec. 8. NEW SECTION. 637.303 APPORTIONMENT WHEN INCOME INTEREST ENDS.

1. For purposes of this section, "undistributed income" means net income received before the date on which an income interest ends. The term does not include an item of income or expense that is due or accrued or net income that has been added or is required to be added to principal pursuant to the terms of the trust.

2. When a mandatory income interest ends, the trustee shall pay to a mandatory income beneficiary who survives that date, or the estate of a deceased mandatory income beneficiary whose death causes the interest to end, the beneficiary's share of the undistributed income that is not disposed of pursuant to the terms of the trust unless the beneficiary has an unqualified power to revoke more than five percent of the trust immediately before the income interest ends. In the latter case, the undistributed income from the portion of the trust that may be revoked must be added to principal.

3. When a trustee's obligation to pay a fixed annuity or a fixed fraction of the value of the trust's assets ends, the trustee shall prorate the final payment if and to the extent required by

applicable law to accomplish a purpose of the trust or its settlor relating to income, gift, estate, or other tax requirements.

SUBCHAPTER 4
ADMINISTRATION OF TRUST
Part 1
RECEIPTS FROM ENTITIES

Sec. 9. NEW SECTION. 637.401 CHARACTER OF RECEIPTS.

1. For purposes of this section, "entity" means a corporation, partnership, joint venture, limited liability company, regulated investment company, real estate investment trust, common trust fund, and any other organization in which a trustee has an interest other than a trust or estate to which section 637.402 applies or a business or activity to which section 637.403 applies.

2. Except as otherwise provided in this section, cash received by a trustee from an entity must be allocated to income.

3. Receipts from an entity which must be allocated to principal include the following items:

- a. Property other than cash, except as otherwise provided in paragraph "d".
- b. Cash or property received in one distribution or a series of related distributions in exchange for part or all of a trust's interest in the entity.
- c. Cash or property received in total or partial liquidation of the entity.
- d. Cash or property received from an entity that is a regulated investment company or a real estate investment trust if the distribution is a capital gain dividend for federal income tax purposes.

4. Cash or property is received in partial liquidation according to one of the following principles:

- a. To the extent that the entity, at or near the time of a distribution, indicates that it is a distribution in partial liquidation.
- b. If the total amount received in a distribution or series of related distributions is greater than twenty percent of the entity's gross assets, as shown by the entity's year-end financial statements immediately preceding the initial receipt.

5. Cash shall not be received in partial liquidation, nor shall it be taken into account under subsection 4, paragraph "b", to the extent that it does not exceed the amount of income tax that a trustee or beneficiary must pay on taxable income of the entity that distributes the cash.

6. A trustee may rely upon a statement made by an entity about the source or character of a distribution if the statement is made at or near the time of distribution by the entity's board of directors or other person or group of persons authorized to exercise powers to pay money or transfer property comparable to those of a corporation's board of directors.

Sec. 10. NEW SECTION. 637.402 DISTRIBUTION FROM TRUST OR ESTATE.

1. Subject to the terms of a recipient trust, an amount received as a distribution of income from a trust or an estate in which the trust has an interest other than a purchased interest shall be allocated to income.

2. An amount received as a distribution of principal from such a trust or estate shall be allocated to principal.

3. If a trustee purchases an interest in a trust that is an investment entity, or a decedent or donor transfers an interest in such a trust to a trustee, section 637.401 applies to a receipt from the trust.

Sec. 11. NEW SECTION. 637.403 BUSINESS AND OTHER ACTIVITIES CONDUCTED BY TRUSTEE.

1. If a trustee who conducts a business or other activity determines that it is in the best interest of all the beneficiaries to account separately for the business or activity instead of

accounting for it as part of the trust's general accounting records, the trustee may maintain separate accounting records for its transactions, whether or not its assets are segregated from other trust assets.

2. A trustee who accounts separately for a business or other activity shall determine the extent to which its net cash receipts must be retained for working capital, the acquisition or replacement of fixed assets, and other reasonably foreseeable needs of the business or activity, and the extent to which the remaining net cash receipts are accounted for as principal or income in the trust's general accounting records. If a trustee sells assets of the business or other activity, other than in the ordinary course of the business or activity, the trustee shall account for the net amount received as principal in the trust's general accounting records to the extent the trustee determines that the amount received is no longer required in the conduct of the business.

3. The trustee may maintain separate accounting records for any of the following activities:

- a. Retail, manufacturing, service, and other traditional business activities.
- b. Farming.
- c. Raising and selling livestock and other animals.
- d. Management of rental properties.
- e. Extraction of minerals and other natural resources.
- f. Timber operations.
- g. Activities to which section 637.426 applies.

Part 2

RECEIPTS NOT NORMALLY APPORTIONED

Sec. 12. NEW SECTION. 637.410 PRINCIPAL RECEIPTS.

The following items must be allocated to principal:

1. To the extent not allocated to income under this chapter, assets received from any of the following sources:
 - a. A transferor during the transferor's lifetime.
 - b. A decedent's estate.
 - c. A trust with a terminating income interest.
 - d. A payor pursuant to a contract naming the trust or its trustee as beneficiary.
2. Cash or other property received from the sale, exchange, liquidation, or change in form of a principal asset, including realized profit, subject to this subchapter.
3. Amounts recovered from third parties to reimburse the trust because of disbursements described in section 637.502, subsection 1, paragraph "g", or for other reasons to the extent not based on the loss of income.
4. Proceeds of property taken by eminent domain, but a separate award made for the loss of income with respect to an accounting period during which a current income beneficiary had a mandatory income interest is income.
5. Net income received in a period during which there is no beneficiary to whom a trustee may or must distribute income.
6. Other receipts, as provided in part 3.

Sec. 13. NEW SECTION. 637.411 RENTAL PROPERTY.

1. An amount received as rent of real or personal property, including an amount received for cancellation or renewal of a lease, must be allocated to income.
2. An amount received as a refundable deposit, including a security deposit or a deposit that is to be applied as rent for future periods, must be added to principal and held subject to the terms of the lease and is not available for distribution to a beneficiary until the trustee's contractual obligations have been satisfied with respect to that amount.

Sec. 14. NEW SECTION. 637.412 OBLIGATION TO PAY MONEY.

1. An amount received as interest, whether determined at a fixed, variable, or floating rate, on an obligation to pay money to the trustee, including an amount received as consideration

for prepaying principal, must be allocated to income without any provision for amortization of premium.

2. An amount received from the sale, redemption, or other disposition of an obligation to pay money to the trustee more than one year after it is purchased or acquired by the trustee, including an obligation whose purchase price or value when it is acquired is less than its value at maturity, must be allocated to principal. If the obligation matures within one year after it is purchased or acquired by the trustee, an amount received in excess of its purchase price or its value when acquired by the trust must be allocated to income.

3. This section does not apply to obligations to which sections 637.421 through 637.424, 637.426, and 637.427 apply.

Sec. 15. NEW SECTION. 637.413 INSURANCE POLICIES AND SIMILAR CONTRACTS.

1. Proceeds from a life insurance policy whose beneficiary is the trust or its trustee or a policy that insures the trust or its trustee against loss for the damage or destruction of, or loss of title to, a principal asset must be allocated to principal. Dividends received from an insurance policy and the proceeds of any other contract in which the trust or its trustee is named as beneficiary must also be allocated to principal.

2. Insurance proceeds must be allocated to income if they are from a policy that insures the trustee against the loss of occupancy or other use by an income beneficiary, the loss of income, or, subject to section 637.403, the loss of profits from a business.

3. This section does not apply to a contract to which section 637.421 applies.

Part 3
RECEIPTS NORMALLY APPORTIONED

Sec. 16. NEW SECTION. 637.420 INSUBSTANTIAL ALLOCATIONS NOT REQUIRED.

1. If a trustee determines that an allocation between principal and income required by sections 637.421 through 637.424 or section 637.427 is insubstantial, the trustee may allocate the entire receipt to principal.

2. An allocation is presumed to be insubstantial if either of the following would be true if an allocation was made:

a. The amount of the allocation would increase or decrease an accounting period's net income, as determined before the allocation, by less than ten percent.

b. The value of the asset producing the receipt for which the allocation would be made is less than ten percent of the total value of the trust's assets at the beginning of the accounting period.

Sec. 17. NEW SECTION. 637.421 DEFERRED COMPENSATION, ANNUITIES, AND SIMILAR PAYMENTS.

1. This section applies to payments that a trustee may receive over a fixed number of years or during the life of one or more individuals because of services rendered or property transferred to the payor in exchange for future payments. The payments include those made in cash or property from the payor's general assets or from a separate fund created by the payor, including a private or commercial annuity, an individual retirement account, and a pension, profit sharing, stock bonus, or stock ownership plan. This section does not apply to payments to which section 637.422 applies.

2. To the extent that a payment is characterized as interest or a dividend or a payment made in lieu of interest or a dividend, it must be allocated to income. The balance of the payment and any other payment received in the same accounting period that is not characterized as interest, a dividend, or an equivalent payment must be allocated to principal.

3. If no part of a payment is characterized as interest, a dividend, or an equivalent payment, and all or part of the payment is required to be made, a trustee shall allocate to income ten percent of the part that is required to be made during the accounting period and the balance to principal. If no part of a payment is required to be made or the payment received

is the entire amount to which the trustee is entitled, the entire payment must be allocated to principal.

4. If, to obtain an estate tax marital deduction for a trust, a trustee must allocate more of a payment to income than provided for by this section, the trustee shall allocate to income the additional amount necessary to obtain the marital deduction.

Sec. 18. NEW SECTION. 637.422 LIQUIDATING ASSET.

1. In this section, "liquidating asset" means an asset whose value will diminish or terminate because the asset is expected to produce receipts for a period of limited duration. The term includes leaseholds, patents, trademarks, copyrights, royalty rights, and rights to receive payments during a period of more than one year under an arrangement that does not provide for the payment of interest on the unpaid balance. The term does not include deferred compensation that is subject to section 637.421, natural resources that are subject to section 637.423, timber that is subject to section 637.424, an activity that is subject to section 637.426, or any asset for which the trustee establishes a reserve for depreciation under section 637.503.

2. A trustee shall allocate to income ten percent of the receipts from a liquidating asset and the balance to principal.

Sec. 19. NEW SECTION. 637.423 MINERALS, WATER, AND OTHER NATURAL RESOURCES.

1. Receipts from an interest in minerals or other natural resources must be allocated according to the type of payment, as follows:

a. If received as nominal delay rental or annual rent on a lease, a receipt must be allocated to income.

b. If received from a production payment, a receipt must be allocated to income to the extent that the agreement creating the production payment provides a factor for interest or its equivalent. The balance must be allocated to principal.

c. If an amount received as a royalty, bonus, or delay rental is more than nominal, ninety percent must be allocated to principal and the balance to income.

d. If an amount is received from a working interest or any other interest not provided for in paragraph "a", "b", or "c", ninety percent of the net amount received must be allocated to principal and the balance to income.

2. An amount received on account of an interest in water that is renewable must be allocated to income. If the water is not renewable, ninety percent of the amount must be allocated to principal and the balance to income.

3. This chapter applies without regard to whether a decedent or donor was extracting minerals, water, or other natural resources before the interest became subject to the trust.

4. If a trust owns an interest in minerals, water, or other natural resources on or before July 1, 1999,* the trustee may allocate receipts from the interest as provided in this section or in the manner used by the trustee before July 1, 1999.* If the trust acquires an interest in minerals, water, or other natural resources after July 1, 1999,* the trustee shall allocate receipts from the interest as provided in this section.

Sec. 20. NEW SECTION. 637.424 TIMBER.

1. A trustee may account for net receipts from the sale of timber and related products under subsection 2 or section 637.403 or, if the trustee determines that net receipts are insubstantial, may allocate the net receipts to principal. The presumptions in section 637.420 apply in determining whether net receipts are insubstantial. If a trust owns more than one block of timberland, the trustee may use different methods to account for net receipts from different blocks.

2. If a trustee does not account under section 637.403 for net receipts from the sale of timber and related products or allocate the net receipts to principal because they are insubstantial, the trustee shall allocate the net receipts according to one of the following rules:

* July 1, 2000, probably intended

a. Allocate the net receipts to income to the extent that the amount of timber removed from the land does not exceed the rate of growth of the block as a whole during the accounting periods in which a beneficiary has a mandatory income interest.

b. Allocate the net receipts to principal to the extent that the amount of timber removed from the land exceeds the block's rate of growth or the net receipts are from the sale of standing timber.

c. Allocate the net receipts to or between income and principal if the net receipts are from the lease of timberland or from a contract to cut timber from land owned by a trust, by determining the amount of timber removed from the land under the lease or contract and applying the rules in paragraphs "a" and "b".

d. Allocate the net receipts to principal to the extent that advance payments, bonuses, and other payments are not allocated pursuant to paragraph "a", "b", or "c".

3. In determining the net receipts from the sale of timber, a trustee shall deduct and transfer to principal a reasonable amount for depletion.

4. This chapter applies regardless of whether a decedent or transferor was harvesting timber from the property before it became subject to the trust.

5. If a trust owns an interest in timberland on or before July 1, 1999,* the trustee may allocate net receipts from the sale of timber and related products as provided in this section or in the manner used by the trustee before July 1, 1999.* If the trust acquires an interest in timberland after July 1, 1999,* the trustee shall allocate net receipts from the sale of timber and related products as provided in this section.

Sec. 21. NEW SECTION. 637.425 PROPERTY NOT PRODUCTIVE OF INCOME.

1. If a marital deduction is allowed for all or part of a trust whose assets consist substantially of property that does not provide the surviving spouse with sufficient income from or use of the trust assets, the spouse may require the trustee to make property productive of income or convert property within a reasonable time. The trustee may decide which action or combination of actions to take.

2. In all other cases, proceeds from the sale or other disposition of an asset are principal without regard to the amount of income the asset produces during any accounting period.

Sec. 22. NEW SECTION. 637.426 DERIVATIVES AND OPTIONS.

1. For purposes of this section, "derivative" means a contract or financial instrument or a combination of contracts and financial instruments which gives a trust the right or obligation to participate in some or all changes in the price of a tangible or intangible asset or group of assets, or changes in a rate, an index of prices or rates, or other market indicator for an asset or a group of assets.

2. To the extent that a trustee does not account under section 637.403 for transactions in derivatives, receipts from and disbursements made in connection with those transactions must be allocated to principal.

3. If a trustee grants an option to buy property from the trust, whether or not the trust owns the property when the option is granted, grants an option that permits another person to sell property to the trust, or acquires an option to buy property for the trust or an option to sell an asset owned by the trust, and the trustee or other owner of the asset is required to deliver the asset if the option is exercised, an amount received for granting the option must be allocated to principal, and an amount paid to acquire the option must be paid from principal. A gain or loss realized upon the exercise of an option, including an option granted to a settlor of the trust for services rendered, must be allocated to principal.

Sec. 23. NEW SECTION. 637.427 ASSET-BACKED SECURITIES.

1. For purposes of this section, "asset-backed security" means an asset whose value is based upon the right it gives the owner to receive distributions from the proceeds of financial assets that provide collateral for the security. The term includes an asset that gives the owner the right to receive only the interest or other current return from the collateral financial assets

* July 1, 2000, probably intended

or only the proceeds from the capital investment in the collateral financial assets. It does not include an asset to which section 637.401 or 637.421 applies.

2. If a trust receives a payment from the interest or other current return and the capital investment of the collateral financial assets, the trustee shall allocate to income the portion of a payment that the payor identifies as being from the interest or other current return, and shall allocate the balance of the payment to principal.

3. If a trust receives one or more payments in exchange for the trust's entire interest in an asset-backed security in one accounting period, the trustee shall allocate the payments to principal. If a payment is one of a series of payments that will result in the liquidation of the trust's interest in the security over more than one accounting period, the trustee shall allocate ten percent of the payment to income and the balance to principal.

SUBCHAPTER 5 ALLOCATION OF DISBURSEMENTS DURING ADMINISTRATION OF TRUST

Sec. 24. NEW SECTION. 637.501 DISBURSEMENTS FROM INCOME.

A trustee shall make disbursements from income, to the extent that they are not disbursements to which section 637.201, subsection 2, paragraph "b" or "c", applies, according to the following:

1. One-half of the regular compensation of the trustee and of any person providing investment advisory or custodial services to the trustee.

2. One-half of all expenses for accountings, judicial proceedings, or other matters that involve both the income and remainder interests.

3. All of the other ordinary expenses incurred in connection with the administration, management, or preservation of trust property and the distribution of income, including interest, ordinary repairs, regularly recurring taxes assessed against principal, and expenses of a proceeding or other matter that concerns primarily the income interest.

4. Recurring premiums on insurance covering the loss of a principal asset or the loss of income from or use of the asset.

Sec. 25. NEW SECTION. 637.502 DISBURSEMENTS FROM PRINCIPAL.

1. A trustee shall make disbursements from principal according to the following:

a. The remaining one-half of the disbursements described in section 637.501, subsections 1 and 2.

b. All of the trustee's compensation calculated on principal as an acceptance, distribution, or termination fee, and disbursements made to prepare property for sale.

c. Payments on the principal of a trust debt.

d. Expenses of a proceeding that concerns primarily principal, including a proceeding to construe the trust or to protect the trust or its property.

e. Insurance premiums paid on a policy not described in section 637.501, subsection 4, of which the trust is the owner and beneficiary.

f. Estate, inheritance, and other transfer taxes, including penalties, apportioned to the trust.

g. Disbursements related to environmental matters, including reclamation, assessing environmental conditions, remedying and removing environmental contamination, monitoring remedial activities and the release of substances, preventing future releases of substances, collecting amounts from persons liable or potentially liable for the costs of those activities, penalties imposed under environmental laws or regulations and other payments made to comply with those laws or regulations, statutory or common law claims by third parties, and defending claims based on environmental matters.

2. If a trust owns a policy of insurance on the life of an individual and the trust is not the beneficiary of the policy, premiums paid on the policy are a distribution from principal to the policy beneficiary.

3. If a principal asset is encumbered with an obligation that requires income from that asset to be paid directly to the creditor, the trustee shall transfer from principal to income an amount equal to the income paid to the creditor in reduction of the obligation's principal balance.

Sec. 26. NEW SECTION. 637.503 TRANSFERS FROM INCOME TO PRINCIPAL FOR DEPRECIATION.

1. For purposes of this section, "depreciation" means a reduction in value of a fixed asset having a useful life of more than one year due to wear, tear, decay, corrosion, or gradual obsolescence.

2. A trustee may transfer to principal a reasonable amount of the net cash receipts from a principal asset that is subject to depreciation, but a transfer shall not be made for depreciation under any of the following circumstances:

a. When the depreciation involves the portion of real property used or available for use by a beneficiary as a residence, or tangible personal property held or made available for the personal use or enjoyment of a beneficiary.

b. When the depreciation occurs during the administration of a decedent's estate.

c. If the trustee is accounting under section 637.403 for the business or activity in which the asset is used.

3. An amount transferred to principal need not be held as a separate fund.

Sec. 27. NEW SECTION. 637.504 TRANSFERS FROM INCOME TO REIMBURSE PRINCIPAL.

1. If a trustee makes or expects to make a principal disbursement described in this section, the trustee may transfer an appropriate amount from income to principal in one or more accounting periods to reimburse principal or to provide a reserve for future principal disbursements.

2. Principal disbursements to which subsection 1 applies include all of the following, but only to the extent that the trustee has not been and does not expect to be reimbursed by a third party:

a. An amount chargeable to income but paid from principal because it is unusually large, including extraordinary repairs.

b. A capital improvement to a principal asset, whether in the form of changes to an existing asset or the construction of a new asset, including special assessments.

c. Disbursements made to prepare property for rental, including leasehold improvements and broker's commissions.

d. Periodic payments on an obligation secured by a principal asset to the extent that the amount transferred from income to principal for depreciation is less than the periodic payments.

e. Disbursements described in section 637.502, subsection 1, paragraph "g".

3. If the asset whose ownership gives rise to the disbursements becomes subject to a successive income interest after an income interest ends, a trustee may continue to transfer amounts from income to principal as provided in subsection 1.

Sec. 28. NEW SECTION. 637.505 INCOME TAXES.

1. A tax required to be paid by a trustee based on receipts allocated to income must be paid from income.

2. A tax required to be paid by a trustee based on receipts allocated to principal must be paid from principal, even if the tax is called an income tax by the taxing authority.

3. A tax required to be paid by a trustee on the trust's share of an entity's taxable income must be paid proportionately, according to all of the following principles:

a. From income, to the extent that receipts from the entity are allocated to income.

b. From principal, to the extent that the following principles are observed:

- (1) Receipts from the entity are allocated to principal.
- (2) The trust's share of the entity's taxable income exceeds the total receipts in paragraph "a" and in subparagraph (1).
4. For purposes of this section, receipts allocated to principal or income shall be reduced by the amount distributed to a beneficiary from principal or income for which the trust receives a deduction in calculating the tax.

Sec. 29. **NEW SECTION. 637.506 ADJUSTMENTS BETWEEN PRINCIPAL AND INCOME BECAUSE OF TAXES.**

1. A fiduciary may make adjustments between principal and income to offset the shifting of economic interests or tax benefits between income beneficiaries and remainder beneficiaries which arise from any of the following:

- a. Elections and decisions, other than those described in subsection 2, that the fiduciary makes from time to time regarding tax matters.
- b. An income tax or any other tax that is imposed upon the fiduciary or a beneficiary as a result of a transaction involving or a distribution from the estate or trust.
- c. The ownership by an estate or trust of an interest in an entity whose taxable income, whether or not distributed, is includable in the taxable income of the estate, trust, or a beneficiary.

2. If the amount of an estate tax marital deduction or charitable contributions deduction is reduced because a fiduciary deducts an amount that is paid from principal for income tax purposes instead of deducting it for estate tax purposes, and as a result estate taxes paid from principal are increased and income taxes paid by an estate, trust, or beneficiary are decreased, each estate, trust, or beneficiary that benefits from the decrease in income tax shall reimburse the principal from which the increase in estate tax is paid. The total reimbursement must equal the increase in the estate tax to the extent that the principal used to pay the increase would have qualified for a marital* deduction or charitable contributions deduction but for the payment. The proportionate share of the reimbursement for each estate, trust, or beneficiary whose income taxes are reduced must be the same as its proportionate share of the total decrease in income tax. An estate or trust shall reimburse principal from income.

**SUBCHAPTER 6
MISCELLANEOUS PROVISIONS**

Sec. 30. **NEW SECTION. 637.601 APPLICATION OF CHAPTER TO EXISTING TRUSTS AND ESTATES — CHAPTER PREVAILS.**

This chapter applies to every trust or decedent's estate on and after July 1, 2000, except as otherwise expressly provided in the will, the terms of the trust, or in this chapter. Notwithstanding any Code provision to the contrary, the provisions of this chapter shall prevail over any other applicable Code provision.

Sec. 31. Section 633.352, Code 1999, is amended to read as follows:

633.352 COLLECTION OF RENTS AND PAYMENT OF TAXES AND CHARGES.

Unless otherwise provided by the will, the personal representative shall ~~collect the income from the property of which the personal representative has possession, pay the taxes and fixed charges thereon and apply the balance of such income to general estate obligations allocate and distribute income of an estate in accordance with chapter 637. Unless otherwise provided by will, any unexpended portion of such income shall become a part of the general assets of such estate.~~

Sec. 32. Section 633.103, Code 1999, is repealed.

Approved May 14, 1999

* The word "marital" probably intended

CHAPTER 125
PROBATE — IOWA TRUST CODE
H.F. 663

AN ACT relating to the establishment of an Iowa trust code, and providing an effective date.

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

DIVISION XX
TRUST CODE
Part 1
DEFINITIONS AND GENERAL PROVISIONS

Section 1. NEW SECTION. 633.1101 SHORT TITLE.

This division may be cited as the “Iowa Trust Code” or “Trust Code”.

Sec. 2. NEW SECTION. 633.1102 DEFINITIONS.

For purposes of this division:

1. “Beneficiary”, as it relates to a trust beneficiary, includes a person who has any present or future interest in the trust, vested or contingent, and also includes the owner of an interest by assignment or other transfer.
2. “Charitable trust” means a trust created for a charitable purpose as specified in section 633.5101.
3. “Competency” means any one of the following:
 - a. In the case of a revocable transfer, “competency” means the degree of understanding required to execute a will.
 - b. In the case of an irrevocable transfer, “competency” means the degree of understanding required to execute a contract.
 - c. In other circumstances not clearly relating to a revocable or irrevocable transfer, “competency” means the ability to make rational decisions regarding one’s financial affairs.
4. “Conservator” means a person appointed by a court to manage the estate of a minor or adult individual.
5. “Court” means any Iowa district court.
6. “Fiduciary” includes a personal representative, executor, administrator, guardian, conservator, and trustee.
7. “Guardian” means a person appointed by a court to make decisions with respect to the support, care, education, health, and welfare of a minor or adult individual, but excludes one who is merely a guardian ad litem. A minor’s custodial parent shall be deemed to be the child’s guardian in the absence of a court-appointed guardian.
8. “Instrument” means a signed writing.
9. “Interested person” includes a trustee, an acting successor trustee, a beneficiary who may receive income or principal currently from the trust, or would receive principal of the trust if the trust were terminated at the time relevant to the determination, and a fiduciary representing an interested person. The meaning as it relates to particular persons may vary from time to time according to the particular purpose of, and matters involved in, any proceeding.
10. “Person” means an individual or any legal or commercial entity.
11. “Petition” includes a complaint or statement of claim.
12. “Property” means anything that may be the subject of ownership, whether real or personal, legal or equitable, tangible or intangible, and includes any interest in such item, including a chose in action, claim, or beneficiary designation under a policy of insurance, employees’ trust, or other arrangement, whether revocable or irrevocable.
13. “Settlor” means a person, including a testator, who creates a trust.

14. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States.

15. "Term" or "terms", when used in relation to a trust, means the manifestation of the settlor's intent regarding a trust's provisions at the time of the trust's creation or amendment. "Term" includes those concepts expressed directly in writing, as well as those inferred from constructional preferences or rules.

16. "Trust" means an express trust, charitable or noncharitable, with additions thereto, wherever and however created, including a trust created or determined by a judgment or decree under which the trust is to be administered in the manner of an express trust. "Trust" does not include any of the following:

- a. A Totten trust account.
- b. A custodial arrangement pursuant to the uniform transfers to minors Act of any state.
- c. A business trust that is taxed as a partnership or corporation.
- d. An investment trust subject to regulation under the laws of this state or any other jurisdiction.
- e. A common trust fund.
- f. A voting trust.
- g. A security arrangement.
- h. A transfer in trust for purpose of suit or enforcement of a claim or right.
- i. A liquidation trust.
- j. A trust for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, or employee benefits of any kind.
- k. An arrangement under which a person is a nominee or escrow agent for another.
- l. Constructive or resulting trusts.

17. "Trust company" means a person who has qualified to engage in and conduct a trust business in this state.

18. "Trustee" includes an original, additional, or successor trustee, whether or not appointed or confirmed by a court.

Sec. 3. NEW SECTION. 633.1103 PER STIRPES RULE OF DESCENT.

Unless the trust instrument provides otherwise, all gifts to multigeneration classes shall be per stirpes.

Sec. 4. NEW SECTION. 633.1104 COMMON LAW OF TRUSTS.

Except to the extent that this division modifies the common law governing trusts, the common law of trusts shall supplement this trust code.

Sec. 5. NEW SECTION. 633.1105 TRUST PROVISIONS CONTROL.

The provisions of a trust shall always control and take precedence over any section of this trust code to the contrary.

Sec. 6. NEW SECTION. 633.1106 GENERAL RULE CONCERNING APPLICATION OF THE IOWA TRUST CODE.

1. This trust code applies to all trusts within the scope of this trust code, regardless of whether the trust was created before, on, or after the effective date of this Act, except as otherwise stated in this trust code.

2. This trust code applies to all proceedings concerning trusts within the scope of this trust code commenced on or after the effective date of this Act.

3. This trust code applies to all trust proceedings commenced before the effective date of this Act unless the court finds that application of a particular provision of this trust code would substantially interfere with the effective conduct of the proceedings or the rights of the parties or other interested persons. In that case, the particular provision of this trust code at issue shall not apply, and the court shall apply prior law.

Sec. 7. NEW SECTION. 633.1107 SCOPE OF TRUST CODE.

This trust code is intended to apply to trusts, as defined in section 633.1102, subsection 16, that are intentionally created, or deemed to be intentionally created, by individuals and other entities.

Part 2

CREATION, VALIDITY, MODIFICATION, AND TERMINATION OF TRUSTS

Subpart 1

CREATION AND VALIDITY OF TRUSTS

Sec. 8. NEW SECTION. 633.2101 METHODS OF CREATING TRUSTS.

A trust may be created by any of the following methods:

1. Transfer of property to another person as trustee during the settlor's lifetime, or by will taking effect upon the settlor's death.
2. Declaration by the owner of property that the owner holds property as trustee.
3. Exercise of a power of appointment in favor of another person as trustee.
4. A promise enforceable by the trustee to transfer property to the trustee.

Sec. 9. NEW SECTION. 633.2102 REQUIREMENTS FOR VALIDITY.

1. A trust is created only if all of the following elements are satisfied:

- a. The settlor was competent and indicated an intention to create a trust.
- b. The same person is not the sole trustee and sole beneficiary.
- c. Unless the trust is a charitable trust, an honorary trust, or a trust for the care of an animal, the trust has a definite beneficiary or a beneficiary who will be definitely ascertained within the period of the applicable rule against perpetuities.

2. A definite or definitely ascertainable beneficiary includes a beneficiary or class of beneficiaries designated under a power to select the beneficiaries granted by the terms of the trust to the trustee or another person.

Sec. 10. NEW SECTION. 633.2103 STATUTE OF FRAUDS.

1. A trust is enforceable when evidenced by either of the following:

- a. A written instrument signed by the trustee, or by the trustee's agent if authorized in writing.
- b. A written instrument conveying the trust property signed by the settlor, or by the settlor's agent if authorized in writing.

2. If an owner of property declares that property is held upon a trust for which a written instrument is required, the written instrument evidencing the trust must be signed by the settlor according to one of the following:

- a. Before or at the time of the declaration.
 - b. After the time of the declaration but before the settlor has transferred the property.
3. If an owner of property while living transfers property to another person to hold upon a trust for which a written instrument is required, the written instrument evidencing the trust must be signed according to one of the following:
- a. By the settlor, concurrently with or before the transfer.
 - b. By the trustee, concurrently with or before the transfer, or after the transfer but before the trustee has transferred the property to a third person.

Sec. 11. NEW SECTION. 633.2104 TRUST PURPOSES.

1. A trust is created only if it has a private or charitable purpose that is not unlawful or against public policy.
2. A trust created for a private purpose must be administered for the benefit of its beneficiaries.

Sec. 12. NEW SECTION. 633.2105 HONORARY TRUSTS — TRUSTS FOR PETS.

1. A trust for a lawful noncharitable purpose for which there is no definite or definitely ascertainable beneficiary is valid but may be performed by the trustee for only twenty-one years, whether or not the terms of the trust contemplate a longer duration.

2. A trust for the care of an animal living at the settlor's death is valid. The trust terminates when no living animal is covered by its terms.

3. A portion of the property of a trust authorized by this section shall not be converted to any use other than its intended use unless the terms of the trust so provide or the court determines that the value of the trust property substantially exceeds the amount required.

4. The intended use of a trust authorized by this section may be enforced by a person designated for that purpose in the terms of the trust or, if none, by a person appointed by the court.

Sec. 13. NEW SECTION. 633.2106 RESULTING TRUSTS.

1. Where the owner of property gratuitously transfers the property and manifests in the trust instrument an intention that the transferee should hold the property in trust but the trust fails, the transferee holds the trust estate as a resulting trust for the transferor or the transferor's estate, unless all of the following is true:

a. The transferor manifested in the trust instrument an intention that no resulting trust should arise.

b. The intended trust fails for illegality and the policy against unjust enrichment of the transferee is outweighed by the policy against giving relief to a person who has entered into an illegal transaction.

2. Where the owner of property gratuitously transfers the property subject to a trust which is properly declared and which has fully performed without exhausting the trust estate, the trustee holds the surplus as a resulting trust for the transferor or the transferor's estate, unless the transferor manifested in the trust instrument an intention that no resulting trust of the surplus should arise.

3. If the transferor's estate is the recipient of property under this section and the administration of that estate has been closed and there is no question as to the proper recipients of the property, it is not necessary to reopen the estate administration for the purpose of distribution.

Sec. 14. NEW SECTION. 633.2107 CONSTRUCTIVE TRUSTS.

A constructive trust arises when a person holding title to property is subject to an equitable duty to convey the property to another, on the ground that the person holding title would be unjustly enriched if the person were permitted to retain the property.

Subpart 2

MODIFICATION AND TERMINATION OF TRUSTS

Sec. 15. NEW SECTION. 633.2201 TERMINATION OR MODIFICATION OF TRUST.

1. In addition to the methods specified in sections 633.2202 through 633.2205, a trust terminates when any of the following occurs:

a. The term of the trust expires.

b. The trust purpose is fulfilled.

c. The trust purpose becomes unlawful or impossible to fulfill.

d. The trust is revoked.

2. On termination of a trust, the trustee may exercise the powers necessary to wind up the affairs of the trust and distribute the trust property to those entitled to the trust property.

3. For purposes of sections 633.2202 through 633.2205, a beneficiary is limited to a person that is an eligible recipient of income or principal, or would receive principal or income from the trust if it were terminated.

Sec. 16. NEW SECTION. 633.2202 MODIFICATION OR TERMINATION BY SETTLOR AND ALL BENEFICIARIES.

1. An irrevocable trust may be modified or terminated upon the consent of the settlor and all of the beneficiaries.

2. Upon termination of the trust, the trustee shall distribute the trust property as agreed by the settlor and all beneficiaries, or in the absence of unanimous agreement, as ordered by the court.

3. For purposes of this section, the consent of a person who may bind a beneficiary or otherwise act on a beneficiary's behalf is considered the consent of the beneficiary.

Sec. 17. NEW SECTION. 633.2203 MODIFICATION OR TERMINATION OF IRREVOCABLE TRUST IF NO MATERIAL PURPOSE.

1. An irrevocable trust may be terminated or modified either by the court or upon consent of all of the beneficiaries if continuance of the trust on the same or different terms is not necessary to carry out a material purpose.

2. Upon petition to the court by the settlor, trustee, or other interested person, the court may set aside an improper termination or modification by the beneficiaries.

3. Upon termination of the trust, the trustee shall distribute the trust property in accordance with the probable intention of the settlor or as agreed by the beneficiaries.

4. For purposes of this section, the consent of a person who may bind a beneficiary is considered the consent of the beneficiary.

Sec. 18. NEW SECTION. 633.2204 NONCHARITABLE TRUST WITH UNECONOMICALLY LOW VALUE.

1. On petition by a trustee or beneficiary, the court may terminate or modify a noncharitable trust or appoint a new trustee if the court determines that the value of the trust property is insufficient to justify the cost of administration involved and that continuation of the trust under its existing terms would defeat or significantly impair the accomplishment of the trust purposes.

2. Upon termination of a trust under this section, the trustee shall distribute the trust property in accordance with the probable intention of the settlor under the circumstances.

Sec. 19. NEW SECTION. 633.2205 REFORMATION — TAX OBJECTIVES.

1. The terms of a trust may be reformed to conform to the settlor's intent if the failure to conform was due to a mistake of fact or law and the settlor's intent can be established.

2. The terms of the trust may be construed or modified, in a manner that does not violate the settlor's probable intent, to achieve the settlor's tax objectives.

Sec. 20. NEW SECTION. 633.2206 COMBINATION OF TRUSTS.

1. A trustee, without approval of court, may combine two or more trusts with substantially similar beneficial interests.

2. On petition by a trustee or beneficiary, the court may combine two or more trusts, whether or not the beneficial interests are substantially similar, if the court determines that administration as a single trust will not defeat or significantly impair the accomplishment of the trust purposes or the rights of the beneficiaries.

3. Where the court orders the combination of two trusts that are not essentially identical, the court shall include in its order a finding as to which trust provisions control.

Sec. 21. NEW SECTION. 633.2207 DIVISION OF TRUSTS.

1. Without approval of a court, a trustee may divide a trust into two or more separate trusts with substantially similar terms if the division will not defeat or substantially impair the accomplishment of the trust purposes or the rights of the beneficiaries.

2. On petition by a trustee or beneficiary, the court may divide a trust into two or more separate trusts, whether or not their terms are similar, if the court determines that dividing the trust is in the best interest of the beneficiaries and will not defeat or substantially impair the accomplishment of the trust purposes or the rights of the beneficiaries.

Subpart 3
SPENDTHRIFT PROTECTION

Sec. 22. NEW SECTION. 633.2301 SPENDTHRIFT PROTECTION RECOGNIZED.

Except as otherwise provided in section 633.2302, if the terms of the trust provide that a beneficiary's interest in the income and principal is not subject to either voluntary or involuntary transfer, the beneficiary's interest shall not be transferred and is not subject to enforcement of a money judgment until paid to the beneficiary.

Sec. 23. NEW SECTION. 633.2302 EXCEPTIONS TO SPENDTHRIFT PROTECTION.

A term of a trust prohibiting an involuntary transfer of a beneficiary's interest shall be invalid as against claims by any of the following:

1. Any creditor of the beneficiary if the beneficiary is the settlor.
2. Any creditor of the beneficiary as to a distribution to be made upon an event terminating or partially terminating the trust.

Sec. 24. NEW SECTION. 633.2303 SELF-SETTLED TRUSTS.

1. If a settlor is a beneficiary of a trust created by the settlor, a transferee or creditor of the settlor may reach the maximum amount that the trustee could pay to or for the settlor's benefit.

2. In the case of a trust with multiple settlors, the amount the creditor or transferee of a particular settlor may reach shall not exceed the portion of the trust attributable to that settlor's contribution.

Part 3
PROVISIONS RELATING TO REVOCABLE TRUSTS

Sec. 25. NEW SECTION. 633.3101 COMPETENCY TO CREATE, REVOKE, OR MODIFY A REVOCABLE TRUST.

1. The competency necessary to create, revoke, or modify a revocable trust that contains dispositive provisions upon the death of the settlor is the same as the competency required to make a will. An aggrieved person shall have all causes of action and remedies available to the aggrieved person in attacking the creation, revocation, or modification of a trust as one would if attacking the propriety of the execution of a will.

2. The level of competency required of a settlor to direct the actions of the trustee, or to contribute property to, or to withdraw property from, a trust is the same as that required to create a revocable trust.

Sec. 26. NEW SECTION. 633.3102 REVOCATION OR MODIFICATION.

1. Unless the terms of the trust expressly provide that the trust is irrevocable, the settlor may revoke or modify the trust. This subsection does not apply to trusts created under instruments executed before the effective date of this Act.

2. Except as otherwise provided by the terms of the trust, if a trust is created or funded by more than one settlor, each settlor may revoke or modify the trust as to the portion of the trust contributed by that settlor.

3. A trust that is revocable by the settlor may be revoked or modified by any of the following methods:

- a. By compliance with any method specified by the terms of the trust.
- b. Unless the terms of the trust expressly make the method specified exclusive, then either of the following:

(1) By a writing, other than a will, signed by the settlor and delivered to the trustee during the settlor's lifetime.

(2) By a later will or codicil expressly referring to the trust and which makes a devise of the property that would otherwise have passed by the terms of the trust.

4. Upon termination of a revocable trust, the trustee must distribute the trust property as the settlor directs.

5. The settlor's powers with respect to revocation or modification may be exercised by an agent under a power of attorney only and to the extent the power of attorney expressly so authorizes.

6. Except to the extent prohibited by the terms of the trust, a conservator may revoke or modify a trust with the approval of the court supervising the conservatorship.

Sec. 27. NEW SECTION. 633.3103 OTHER RIGHTS OF SETTLOR.

Except to the extent the terms of the trust otherwise provide, while a trust is revocable and the individual holding the power to revoke the trust is competent, all of the following apply:

1. The holder of the power, and not the beneficiary, has the rights afforded beneficiaries.
2. The duties of the trustee are owed to the holder of the power.
3. The trustee shall follow a written direction given by the holder of the power, or a person to whom the power has been delegated in writing, without liability for so doing, so long as the action by the delegate is authorized by the trust.

Sec. 28. NEW SECTION. 633.3104 CREDITOR CLAIMS AGAINST REVOCABLE TRUST.

1. During the lifetime of the settlor, the trust property of a revocable trust is subject to the claims of the settlor's creditors to the extent of the settlor's power of revocation.

2. Following the death of a settlor, the property of a revocable trust subject to the settlor's power of revocation at the time of death is subject to the claims of the settlor's creditors and costs of administration of the settlor's estate to the extent of the value of the property over which the settlor's power of revocation and the settlor's estate is inadequate to satisfy those claims and costs.

Sec. 29. NEW SECTION. 633.3105 RIGHTS OF AND CREDITOR CLAIMS AGAINST HOLDER OF GENERAL POWER OF APPOINTMENT.

1. The holder of a presently exercisable general power of appointment over trust property has the rights of a holder of the power to revoke a trust under section 633.3103 to the extent of the property subject to the power.

2. Property in trust subject to a presently exercisable general power of appointment is chargeable with the claims of the holder's creditors and costs of administration of the holder's estate to the same extent as if the holder was a settlor and the power of appointment was a power of revocation.

Sec. 30. NEW SECTION. 633.3106 CHILDREN BORN OR ADOPTED AFTER EXECUTION OF A REVOCABLE TRUST.

When a settlor fails to provide in a revocable trust for any of the settlor's children born to or adopted by the settlor after the making of the trust, such child, whether born before or after the settlor's death, shall receive a share of the trust equal in value to that which the child would have received under section 633.211, 633.212, or 633.219, whichever is applicable, as if the settlor had died intestate, unless it appears from the terms of the trust or decedent's will that such omission was intentional.

Sec. 31. NEW SECTION. 633.3107 EFFECT OF DIVORCE OR DISSOLUTION.

1. If, after executing a revocable trust, the settlor is divorced or the settlor's marriage is dissolved, all provisions in the trust in favor of the settlor's spouse are revoked by divorce or dissolution of marriage.

2. In the event the settlor and spouse remarry each other, the provisions of the revocable trust revoked by the divorce or dissolution of marriage shall be reinstated unless otherwise modified by the settlor.

Sec. 32. NEW SECTION. 633.3108 LIMITATION ON CONTEST OF REVOCABLE TRUST.

1. Unless previously barred by adjudication, consent, or other limitation, a proceeding to contest the validity of a revocable trust must be brought no later than one year following the death of the settlor.

2. Unless the trustee is a party to a pending proceeding contesting its validity, six months following the death of the settlor, the trustee of a revocable trust may assume the trust's validity and proceed to distribute the trust property in accordance with the terms of the trust, without liability for so doing. Liability for an improper distribution in such a case is solely on the beneficiaries.

3. If notice is given pursuant to section 633.3109, the six month period in subsection 2 is ineffectual and the applicable time period shall be determined by section 633.3109.

Sec. 33. NEW SECTION. 633.3109 NOTICE TO CREDITORS, HEIRS, SPOUSE, AND BENEFICIARIES.

1. As used in this section, "intestate heir" means only such person as would, in an intestate estate, be entitled to a share under section 633.219, subsection 1, 2, or 3.

2. A creditor of a deceased settlor of a revocable trust must bring suit to enforce its claim against the assets of the decedent's trust within one year of the decedent's death or be forever barred from collection against the trust assets. If a probate administration is commenced for the decedent and notice is properly given pursuant to section 633.230 or 633.304, a creditor's rights shall be determined under those sections and section 633.3104.

3. If no notice is given to creditors and heirs pursuant to subsection 1, a creditor's rights may be established or terminated if the trustee gives notice as follows:

a. The trustee shall publish a notice once each week for two consecutive weeks in a daily or weekly newspaper of general circulation published in the county in which the settlor was domiciled.

b. If the decedent was a nonresident of the county in which some real estate of the trust is located, and at any time during the pendency of the trust administration the trustee has knowledge of the name and address of a person believed to own or possess a claim which will not, or may not, be paid or otherwise satisfied during administration, the trustee shall provide a notice by ordinary mail to each such claimant at the claimant's last known address.

c. As soon as practicable, the trustee shall give a notice by ordinary mail to the surviving spouse, the intestate heirs of the decedent, and each beneficiary under the trust whose identities are reasonably ascertainable, at such person's last known addresses.

d. The notice in paragraphs "a", "b", and "c" shall include notification of the decedent's death, and the fact that any action to contest the validity of the trust must be brought within the later to occur of sixty days from the date of the second publication of the notice made pursuant to paragraph "a" or thirty days from the date of mailing of the notice pursuant to paragraph "b" or "c". A person who does not make a claim within the appropriate period is forever barred.

e. The trustee shall give notice to debtors to make payment, and to creditors having claims against the trust assets to mail to the trustee via certified mail, return receipt requested, within the later to occur of sixty days from the second publication of the notice or thirty days from the date of mailing of the notice, or thereafter be forever barred.

4. The notice described in subsection 3 shall be substantially in the following form:

To all persons regarding _____, deceased, who died on or about _____, (year) _____. You are hereby notified that _____ is the trustee of the _____ Trust. At this time, no probate administration is contemplated with regard to the above-referenced decedent's estate.

Any action to contest the validity of the trust must be brought in the District Court of _____ County, Iowa, within the later to occur of sixty days from the date of second publication of this notice, or thirty days from the date of mailing this notice to all heirs of the decedent, spouse of the decedent, and beneficiaries under the trust whose identities are reasonably ascertainable. Any claim not filed within this period shall be forever barred.

Notice is further given that all persons indebted to the decedent or to the trust are requested to make immediate payment to the undersigned trustee. Creditors having claims against the trust must mail them to the trustee at the address listed below via certified mail, return receipt

requested. Unless creditor claims are mailed by the later to occur of sixty days from the second publication of this notice or thirty days from the date of mailing this notice, a claim shall be forever barred, unless otherwise allowed or paid.

Dated this _____ day of _____, (year) _____.

_____ Trust

Trustee _____

Address: _____

Date of second publication _____ day of _____, (year) _____.

5. The claimant either must receive satisfaction of its claim within sixty days of mailing its claim to the trustee, or must file suit against the trust to enforce collection of the creditor's claim. The trustee and creditor may agree to extend the limitations period for filing an action to enforce the claim. If the claimant fails to properly file its claim within the established time period or bring an action to enforce its claim within the established time period, the creditor's claim shall be forever barred.

Sec. 34. NEW SECTION. 633.3110 RIGHTS OF TRUSTEE REGARDING CLAIMS IN A PROBATE ADMINISTRATION.

1. If a probate administration has been commenced for which a revocable trust could be held responsible for the payment of claims, expenses, or taxes, the trustee shall be an interested party in that probate administration.

2. The trustee shall receive notice of all potential charges against the trust assets and must either authorize the payments for which the trust may be found liable or be given the opportunity to dispute or defend any such payment.

Sec. 35. NEW SECTION. 633.3111 TRUSTEE'S LIABILITY FOR DISTRIBUTIONS.

1. A trustee who distributes trust assets without making adequate provisions for the payment of creditor claims that are known or reasonably ascertainable shall be jointly and severally liable with the beneficiaries to the extent of the distributions made.

2. A trustee shall be entitled to indemnification from the beneficiaries for all amounts paid to creditors under this section.

Part 4
TRUST ADMINISTRATION
Subpart 1
OFFICE OF TRUSTEE

Sec. 36. NEW SECTION. 633.4101 ACCEPTANCE OR REJECTION OF TRUST BY TRUSTEE.

1. A person named as trustee accepts the office of trustee by doing one of the following:

a. Signing the trust instrument, or signing a separate written acceptance.

b. Except as provided in subsection 3, knowingly accepting delivery of the trust property or exercising powers or performing duties as trustee.

2. A person named as trustee who has not yet accepted the office of trustee may in writing reject the trust.

3. If there is an immediate risk of damage to the trust property, the person named as trustee may act to preserve the trust property without accepting the office of trustee, if within a reasonable time after acting, the person delivers a written rejection of the trust to the settlor, or if the settlor is dead or lacks capacity, to the beneficiaries eligible to receive income or principal distributions from the trust.

Sec. 37. NEW SECTION. 633.4102 TRUSTEE'S BOND.

1. A trustee is not required to give a bond to secure performance of the trustee's duties unless one of the following applies:

- a. A bond is expressly required by the terms of the trust.
 - b. A bond is found by the court to be necessary to protect the interests of beneficiaries, regardless of the terms of the trust.
2. If a bond is required, it must be filed, and be in an amount and with sureties and liabilities as the court may order. The court may excuse a requirement of a bond, reduce or increase the amount of a bond, release a surety, or permit the substitution of another bond with the same or different sureties.
 3. The amount of a bond otherwise required may be reduced by the value of trust property deposited with a financial institution in a manner that prevents its unauthorized disposition, and by the value of real property which the trustee, by express limitation of power, lacks power to convey without court authorization.
 4. Except as otherwise provided by the terms of the trust or ordered by the court, the cost of a bond is charged to the trust.
 5. A bank or trust company shall not be required to give a bond, whether or not the terms of the trust require a bond.

Sec. 38. NEW SECTION. 633.4103 ACTIONS BY COTRUSTEES.

Unless the terms of the trust provide otherwise, the following apply to actions of cotrustees:

1. A power held by cotrustees may be exercised by majority action.
2. If impasse occurs due to the failure to reach a majority decision, any trustee may petition the court to decide the issue, or a majority of the trustees may consent to an alternative form of dispute resolution.
3. If a vacancy occurs in the office of a cotrustee, the remaining cotrustees may act for the trust as if they are the only trustees.
4. If a cotrustee is unavailable to perform duties because of absence, illness, or other temporary incapacity, the remaining cotrustees may act for the trust, as if they were the only trustees, if necessary to accomplish the purposes of the trust or to avoid irreparable injury to the trust property.

Sec. 39. NEW SECTION. 633.4104 VACANCY IN OFFICE OF TRUSTEE.

A vacancy in the office of trustee exists if any of the following occurs:

1. The person named as trustee rejects the trust.
2. The person named as trustee cannot be identified or does not exist.
3. The trustee resigns or is removed.
4. The trustee dies.
5. A guardian or conservator of the trustee's person or estate is appointed.

Sec. 40. NEW SECTION. 633.4105 FILLING VACANCY.

1. For purposes of this section, "adult beneficiaries" shall not include either of the following:
 - a. Beneficiaries who are not competent and are not represented by a guardian, conservator, or agent.
 - b. Beneficiaries who are not entitled or eligible to receive trust income or a distribution of principal were the trust to terminate at the time the agreement is made.
2. A trustee must be appointed to fill a vacancy in the office of the trustee only if the trust has no trustee or the terms of the trust require a vacancy in the office of cotrustee to be filled.
3. A vacancy in the office of trustee shall be filled according to the following:
 - a. By the person named in or nominated pursuant to the method specified by the terms of the trust.
 - b. If the terms of the trust do not name a person or specify a method for filling the vacancy, or if the person named or nominated pursuant to the method specified fails to accept, one of the following methods shall be used:
 - (1) By a trust company designated by agreement of the adult beneficiaries specified in subsection 1.

(2) By majority vote of all adult beneficiaries and the parent or legal guardian of any minor or incompetent beneficiary.

(3) By a person appointed by the court on petition of an interested person or of a person named as trustee by the terms of the trust. The court, in selecting a trustee, shall consider any nomination made by the adult beneficiaries.

Sec. 41. NEW SECTION. 633.4106 RESIGNATION OF TRUSTEE.

1. A trustee who has accepted a trust may resign by any of the following methods:

a. As provided by the terms of the trust.

b. With the consent of the person holding the power to revoke the trust if the holder is competent or is represented by a guardian, conservator, or agent.

c. With the consent of the adult beneficiaries as defined in section 633.4105, subsection 1, if the trust is irrevocable or the holder of the power to revoke lacks competency or is not represented by a guardian, conservator, or agent.

d. Upon written notice to the holder of the power to revoke if the holder substantially changes the trustee's duties and the trustee does not concur.

e. By filing a petition to resign under section 633.6202. The resignation takes effect ninety days after the filing, or upon approval of the petition by the court, whichever first occurs. The court must accept the trustee's resignation but may impose such orders and conditions as are reasonably necessary for the protection of the trust property, including the appointment of a receiver or temporary trustee.

2. The liability for acts or omissions of a resigning trustee or of any sureties on the trustee's bond is not released or affected by the trustee's resignation.

Sec. 42. NEW SECTION. 633.4107 REMOVAL OF TRUSTEE.

1. A trustee may be removed in accordance with the terms of the trust, by the court on its own motion, or on petition of a settlor, cotrustee, or beneficiary under section 633.6202.

2. The court may remove a trustee, or order other appropriate relief if any of the following occurs:

a. If the trustee has committed a material breach of the trust.

b. If the trustee is unfit to administer the trust.

c. If hostility or lack of cooperation among cotrustees impairs the administration of the trust.

d. If the trustee's investment performance is consistently and substantially substandard.

e. If the trustee's compensation is excessive under the circumstances.

f. For other good cause shown.

3. If it appears to the court that trust property or the interests of a beneficiary may suffer loss or injury pending a final decision on a petition for removal of a trustee, the court may suspend the powers of the trustee, compel the trustee to surrender trust property to a cotrustee, receiver, or temporary trustee, or order other appropriate relief.

Sec. 43. NEW SECTION. 633.4108 DELIVERY OF PROPERTY BY FORMER TRUSTEE.

Unless a cotrustee remains in office, a former trustee, or if the trustee's appointment terminated because of death or disability, the former trustee's personal representative or guardian or conservator, is responsible for and has the powers necessary to protect the trust property and other powers essential to the trust's administration until the property is delivered to a successor trustee or a person appointed by the court to receive the property.

Sec. 44. NEW SECTION. 633.4109 COMPENSATION OF TRUSTEE.

1. If the terms of the trust do not specify the trustee's compensation, a trustee or cotrustee is entitled to compensation that is reasonable under the circumstances.

2. If the terms of the trust specify the trustee's compensation, the trustee is entitled to be compensated as so provided, except that upon proper showing, the court may allow more or less compensation in the following instances:

a. If the duties of the trustee are substantially different from those contemplated when the trust was created.

- b. If the compensation specified by the terms of the trust would be inequitable, or unreasonably low or high.
- c. In extraordinary circumstances calling for equitable relief.

Sec. 45. NEW SECTION. 633.4110 REPAYMENT FOR EXPENDITURES.

A trustee is entitled to be repaid out of the trust property, with interest as appropriate, for all of the following expenditures:

- 1. Expenditures that were properly incurred in the administration of the trust.
- 2. To the extent that they benefited the trust, expenditures that were not properly incurred in the administration of the trust.

Sec. 46. NEW SECTION. 633.4111 NOTICE OF INCREASED TRUSTEE'S FEE.

1. As used in this section, "trustee's fee" includes a trustee's periodic base fee, rate of percentage compensation, minimum fee, hourly rate, and transaction charge, but does not include fees for extraordinary services.

2. A trustee shall not charge an increased trustee's fee for administration of a trust unless the trustee first gives at least thirty days' written notice of the increased fee to all of the following beneficiaries:

- a. Each beneficiary who is entitled to an accounting under section 633.4213, subsection 6.
- b. Each beneficiary who was given the last preceding account.
- c. Each beneficiary who has made a written request to the trustee for notice of an increased trustee's fee, and has given an address for receiving notice by mail.

3. If a beneficiary files a petition for review of an increased trustee's fee or for removal of a trustee and serves a copy of the petition on the trustee within the thirty-day period, the increased fee does not take effect until otherwise ordered by the court or the petition is dismissed.

Subpart 2

FIDUCIARY DUTIES OF TRUSTEE

Sec. 47. NEW SECTION. 633.4201 DUTY TO ADMINISTER TRUST — ALTERATION BY TERMS OF TRUST.

1. On acceptance of a trust, the trustee shall administer the trust according to the terms of the trust and according to this trust code, except to the extent the terms of the trust provide otherwise.

2. The terms of the trust may expand, restrict, eliminate, or otherwise alter the duties prescribed by this trust code, and the trustee may reasonably rely on those terms, but nothing in this trust code authorizes a trustee to act in bad faith or in disregard of the purposes of the trust or the interest of the beneficiaries.

Sec. 48. NEW SECTION. 633.4202 DUTY OF LOYALTY — IMPARTIALITY — CONFIDENTIAL RELATIONSHIP.

1. A trustee shall administer the trust solely in the interest of the beneficiaries, and shall act with due regard to their respective interests.

2. Any transaction involving the trust which is affected by a substantial conflict between the trustee's fiduciary and personal interests is voidable by a beneficiary affected by the transaction unless one of the following applies:

- a. The transaction was expressly authorized by the terms of the trust.
- b. The beneficiary consented to or affirmed the transaction or released the trustee from liability as provided in section 633.4506.
- c. The transaction is approved by the court after notice to interested persons.
- 3. A transaction affected by a substantial conflict between personal and fiduciary interests includes any sale, encumbrance, or other transaction involving the trust property entered into

by the trustee, the spouse, descendant, agent, or attorney of a trustee, or corporation or other enterprise in which the trustee has a substantial beneficial interest.

4. A transaction not involving trust property between a trustee and a beneficiary which occurs during the existence of the trust or while the trustee retains significant influence over the beneficiary and from which the trustee obtains an advantage is an abuse of a confidential relationship unless the trustee establishes that the transaction was fair.

5. This section does not apply to any of the following:

a. An agreement between a trustee and a beneficiary relating to the appointment of the trustee.

b. The payment of compensation to the trustee, whether by agreement, the terms of the trust, or this trust code.

c. A transaction between a trust and another trust, decedent's or conservatorship estate of which the trustee is a fiduciary if the transaction is fair to the beneficiaries of the trust.

Sec. 49. NEW SECTION. 633.4203 STANDARD OF PRUDENCE.

A trustee shall administer the trust with the reasonable care, skill, and caution as a prudent person would, by considering the purposes, terms, distribution requirements, and other circumstances of the trust.

Sec. 50. NEW SECTION. 633.4204 COSTS OF ADMINISTRATION.

A trustee may only incur costs that are reasonable in relation to the trust property, purposes, and other circumstances of the trust.

Sec. 51. NEW SECTION. 633.4205 SPECIAL SKILLS.

A trustee who has special skills or expertise, or is named trustee in reliance upon the trustee's representation that the trustee has special skills or expertise, has a duty to use those special skills or expertise.

Sec. 52. NEW SECTION. 633.4206 DELEGATION.

1. A trustee shall not delegate to an agent or cotrustee the entire administration of the trust or the responsibility to make or participate in the making of decisions with respect to discretionary distributions, but a trustee may otherwise delegate the performance of functions that a prudent trustee of comparable skills might delegate under similar circumstances.

2. The trustee shall exercise reasonable care, skill, and caution in the following activities:

a. Selecting an agent.

b. Establishing the scope and terms of a delegation, consistent with the purposes and terms of the trust.

c. Periodically reviewing an agent's overall performance and compliance with the terms of the delegation.

d. Redressing an action or decision of an agent which would constitute a breach of trust if performed by the trustee.

3. A trustee who complies with the requirements of subsections 1 and 2 is not liable to the beneficiaries or to the trust for the decisions or actions of the agent to whom a function was delegated.

4. In performing a delegated function, an agent shall exercise reasonable care to comply with the terms of the delegation.

5. By accepting the delegation of a trust function from the trustee of a trust that is subject to the law of this state, an agent submits to the jurisdiction of the courts of this state.

Sec. 53. NEW SECTION. 633.4207 DIRECTORY POWERS.

1. If the terms of the trust grant a person other than the trustee power to direct certain actions of the trustee, the trustee shall act in accordance with the exercise of the power unless an attempted exercise violates the terms of the trust or the trustee is aware that the attempted exercise violates a fiduciary duty which the person owes the beneficiaries of the trust or the trustee believes or has reason to know that the individual is incompetent.

2. The holder of a directory power who violates a fiduciary duty owed to the beneficiaries is liable for any loss which results.

Sec. 54. NEW SECTION. 633.4208 COTRUSTEES.

1. If a trust has more than one trustee, each trustee shall perform all of the following duties:

a. Participate in the administration of the trust.

b. Take reasonable steps to prevent a cotrustee from committing a breach of trust, and to compel a cotrustee to redress a breach of trust.

2. A trustee who complies with subsection 1 is not liable to the beneficiaries or to the trust for the decisions or actions of a cotrustee.

Sec. 55. NEW SECTION. 633.4209 CONTROL AND SAFEGUARDING OF TRUST PROPERTY.

A trustee shall take reasonable steps under the circumstances to take control of and to safeguard the trust property unless it is in the best interests of the trust to abandon or refuse acceptance of the property.

Sec. 56. NEW SECTION. 633.4210 SEPARATION AND IDENTIFICATION OF TRUST PROPERTY.

A trustee shall do all of the following:

1. Keep the trust property separate from other property of the trustee unless the trust provides otherwise.

2. Cause the trust property to be designated in such a manner that the interest of the trust clearly appears.

Sec. 57. NEW SECTION. 633.4211 ENFORCEMENT AND DEFENSE OF CLAIMS AND ACTIONS.

A trustee shall take reasonable steps to enforce claims that are part of the trust property and to defend against actions that may result in a loss to the trust.

Sec. 58. NEW SECTION. 633.4212 PRIOR FIDUCIARIES.

A trustee shall take reasonable steps to do all of the following:

1. Compel a former trustee or other fiduciary to deliver trust property to the trustee.

2. Redress a breach of trust known to the trustee to have been committed by a prior trustee or other fiduciary.

Sec. 59. NEW SECTION. 633.4213 DUTY TO INFORM AND ACCOUNT.

1. A trustee shall keep the beneficiaries of the trust reasonably informed of the administration of the trust.

2. Within thirty days after accepting the office of the trustee, the trustee shall inform the beneficiaries of the acceptance. Within thirty days after the death of a settlor of a trust, the trustee shall inform the beneficiaries having vested interests of their respective interests in the trust unless the trust specifies otherwise.

3. A trustee shall inform the beneficiaries in advance of a transaction affecting trust property comprising a significant portion of the value of the trust and whose fair market value is not readily ascertainable.

4. On reasonable request of a beneficiary, a trustee shall provide the beneficiary with a copy of the trust instrument and with information about matters of administration relevant to the beneficiary's interest unless the trust specifies otherwise.

5. A trustee shall prepare and send to the beneficiaries an account of the trust property, liabilities, receipts, and disbursements at least annually, at the termination of the trust, and upon a change of a trustee. An accounting on behalf of a former trustee shall be prepared by the former trustee, or if the trustee's appointment terminated by reason of death or incapacity, by the former trustee's personal representative or guardian or conservator.

6. Copies of accountings and other information required under this section need only be sent to the following beneficiaries:

- a. The beneficiaries defined in section 633.4105.
- b. Each beneficiary who has delivered to the trustee or other fiduciary a written request for a copy of the account or other information.

7. An accounting and other information required under this section may be waived if the person entitled to a copy consents in writing.

Sec. 60. NEW SECTION. 633.4214 DUTIES WITH REGARD TO DISCRETIONARY POWERS.

1. A trustee shall exercise a discretionary power within the bounds of reasonable judgment and in accordance with applicable fiduciary principles and the terms of the trust.

2. Notwithstanding the use of such terms as “absolute”, “sole”, or “uncontrolled” in the grant of discretion, a trustee shall act in accordance with fiduciary principles and shall not act in bad faith or in disregard of the purposes of the trust or the power. Absent an abuse of discretion, a trustee’s exercise of discretion is not subject to control by a court.

Subpart 3 UNIFORM PRUDENT INVESTOR ACT

Sec. 61. NEW SECTION. 633.4301 SHORT TITLE.

This subpart may be cited as the “Uniform Prudent Investor Act”.

Sec. 62. NEW SECTION. 633.4302 STANDARD OF CARE — PORTFOLIO STRATEGY — RISK AND RETURN OBJECTIVES.

1. A trustee shall invest and manage trust property as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care, skill, and caution.

2. A trustee’s investment and management decisions respecting individual assets must be evaluated not in isolation but in the context of the trust portfolio as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the trust.

3. A trustee shall consider all of the following circumstances, to the extent relevant to the trust or its beneficiaries in investing and managing trust property:

- a. General economic conditions.
- b. The possible effect of inflation or deflation.
- c. The expected tax consequences of investment decisions or strategies.
- d. The role that each investment or course of action plays within the overall trust portfolio, which may include financial assets, interests in closely held enterprises, tangible and intangible personal property, and real property.
- e. The expected total return from income and the appreciation of capital.
- f. Other resources of the beneficiaries.
- g. Needs for liquidity, regularity of income, and preservation or appreciation of capital.
- h. An asset’s special relationship or special value, if any, to the purposes of the trust or to one or more of the beneficiaries.

4. A trustee shall make a reasonable effort to verify facts relevant to the investment and management of trust property.

5. A trustee may invest in any kind of property or type of investment consistent with the standards of this subpart.

Sec. 63. NEW SECTION. 633.4303 DIVERSIFICATION.

A trustee shall diversify the investments of the trust unless the trustee reasonably determines that the purposes of the trust are better served without diversifying.

Sec. 64. NEW SECTION. 633.4304 DUTIES AT INCEPTION OF TRUSTEESHIP.

Within a reasonable time after accepting a trusteeship or receiving trust property, a trustee shall review the trust property and make and implement decisions concerning the retention and disposition of assets, in order to bring the trust portfolio into compliance with the purposes, terms, distribution requirements, and other circumstances of the trust, and with the requirements of this subpart.

Sec. 65. NEW SECTION. 633.4305 LOYALTY.

A trustee shall invest and manage the trust property solely in the interest of the beneficiaries.

Sec. 66. NEW SECTION. 633.4306 IMPARTIALITY.

If a trust has two or more beneficiaries, the trustee shall act impartially in investing and managing the trust property, taking into account any differing interests of the beneficiaries.

Sec. 67. NEW SECTION. 633.4307 INVESTMENT COSTS.

In investing and managing trust property, a trustee may only incur costs that are appropriate and reasonable in relation to the property, the purposes of the trust, and the skills of the trustee.

Sec. 68. NEW SECTION. 633.4308 REVIEWING COMPLIANCE.

Compliance with the prudent investor rule is determined in light of the facts and circumstances existing at the time of a trustee's decision or action and not by hindsight.

Sec. 69. NEW SECTION. 633.4309 DELEGATION OF INVESTMENT AND MANAGEMENT FUNCTIONS.

1. A trustee may delegate investment and management functions that a prudent trustee of comparable skills could properly delegate under the circumstances. The trustee shall exercise reasonable care, skill, and caution in all of the following activities:

- a. Selecting an agent.
- b. Establishing the scope and terms of the delegation, consistent with the purposes and terms of the trust.
- c. Periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the terms of the delegation.

2. In performing a delegated function, an agent owes a duty to the trust to exercise reasonable care to comply with the terms of the delegation.

3. A trustee who complies with the requirements of subsection 1 is not liable to the beneficiaries or to the trust for the decisions or actions of the agent to whom the function was delegated.

4. By accepting the delegation of a trust function from the trustee of a trust that is subject to the law of this state, an agent submits to the jurisdiction of the courts of this state.

Sec. 70. NEW SECTION. 633.4310 LANGUAGE INVOKING PRUDENT INVESTOR RULE.

The following terms or comparable language in the provisions of a trust, unless otherwise limited or modified, authorizes any investment or strategy permitted under this trust code:

1. Investments permissible by law for investment of trust funds.
2. Legal investments.
3. Authorized investments.
4. Using the judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital.
5. Prudent man rule.
6. Prudent trustee rule.

7. Prudent person rule.
8. Prudent investor rule.

Subpart 4
POWERS OF TRUSTEES

Sec. 71. NEW SECTION. 633.4401 GENERAL POWERS — FIDUCIARY DUTIES.

1. A trustee, without authorization by the court, may exercise the following powers:
 - a. The powers conferred by the terms of the trust.
 - b. Except as limited by the terms of the trust, powers conferred by this trust code.
2. This subpart does not affect the power of the court to relieve a trustee from restrictions in the terms of the trust on the exercise of powers, to confer on a trustee additional powers whether or not authorized by the terms of the trust, or to restrict the exercise of a power otherwise given to the trustee by the terms of the trust or this trust code.
3. The grant of a power to a trustee, whether by the terms of the trust, this trust code, or the court, does not in itself govern the exercise of the power. In exercising a power, the trustee shall act in accordance with fiduciary principles.

Sec. 72. NEW SECTION. 633.4402 SPECIFIC POWERS OF TRUSTEES.

In addition to the powers conferred by the terms of the trust, a trustee may perform all actions necessary to accomplish the proper management, investment, and distribution of the trust property, including the following powers:

1. Collect, hold, and retain trust property received from a settlor or any other person. The property may be retained even though it includes property in which the trustee is personally interested.
2. Accept or refuse to accept additions to the property of the trust from a settlor or any other person.
3. Continue or participate in the operation of a business or other enterprise that is part of the trust property and affect an incorporation, dissolution, or other change in the form of the organization of the business or enterprise.
4. Deposit trust funds in an account in a financial institution, including a financial institution operated by the trustee.
5. Acquire or dispose of property, for cash or on credit, at public or private sale, or by exchange.
6. Manage, control, divide, develop, improve, exchange, partition, change the character of, or abandon trust property.
7. Encumber, mortgage, or pledge trust property for a term within or extending beyond the term of the trust in connection with the exercise of a power vested in the trustee.
8. Make ordinary or extraordinary repairs, alterations, or improvements in buildings or other trust property; demolish improvements; and raze existing or erect new party walls or buildings.
9. Subdivide or develop land, dedicate land to public use, make or obtain the vacation of plats and adjust boundaries, adjust differences in valuation on exchange or partition by giving or receiving consideration, and dedicate easements to public use without consideration.
10. Enter into a lease for any purpose as lessor or lessee with or without the option to purchase or renew and for a term within or extending beyond the term of the trust.
11. Enter into a lease or arrangement for exploration and removal of gas, oil, or other minerals or geothermal energy, and enter into a community oil lease or a pooling or unitization agreement.
12. Grant an option involving disposition of trust property or take an option for the acquisition of property, including an option that is exercisable beyond the duration of the trust.
13. With respect to shares of stock of a domestic or foreign corporation, any membership in a nonprofit corporation, or other property, the trustee may do the following:

- a. Vote in person, and give proxies to exercise, any voting rights with respect to the shares, memberships, or property.
- b. Waive notice of a meeting or give consent to the holding of a meeting.
- c. Authorize, ratify, approve, or confirm any action that could be taken by shareholders, members, or property owners.
14. Pay calls, assessments, and any other sums chargeable or accruing against or on account of securities.
15. Sell or exercise stock subscription or conversion rights.
16. Consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise, and participate in voting trusts, pooling arrangements, and foreclosures, and in connection therewith, deposit securities with and transfer title and delegate discretion to any protective or other committee as the trustee considers advisable.
17. Hold a security in the name of a nominee or in other form without disclosure of the trust so that title to the security may pass by delivery.
18. Deposit securities in a securities' depository.
19. Insure the property of the trust against damage or loss and insure the trustee against liability with respect to third persons.
20. Borrow money for any trust purpose to be repaid from trust property.
21. Pay or contest any claim; settle a claim by or against the trust by compromise, arbitration, or otherwise; and release, in whole or in part, a claim belonging to the trust.
22. Pay taxes, assessments, reasonable compensation of the trustee and of employees and agents of the trust, and other expenses incurred in the collection, care, administration, and protection of the trust.
23. Make loans out of trust property to a beneficiary on terms and conditions the trustee considers to be fair and reasonable under the circumstances, and guarantee loans to the beneficiary by encumbrances on trust property.
24. Pay an amount distributable to a beneficiary, whether or not the beneficiary is under a legal disability, by paying the amount to the beneficiary or by paying the amount to another person for the use or benefit of the beneficiary.
25. Make a distribution of property and money in divided or undivided interests, pro rata or non-pro rata, and adjust resulting differences in valuation.
26. Employ accountants, attorneys, investment advisors, appraisers, or other persons, even if they are associated or affiliated with the trustee, to advise or assist the trustee in the performance of administrative duties.
27. Expend trust funds to inspect or investigate property that the trustee has been asked to hold, or property owned or operated by an entity in which the trustee holds or has been asked to hold an interest for the purpose of determining the application of environmental law with respect to the property, and take action to prevent, abate, or otherwise remedy any actual or potential violation of any environmental law affecting property held directly or indirectly by the trustee.
28. Withhold funds from distribution for the purpose of maintaining a reserve for any valid business purpose, or as a depletion reserve, if, in the trustee's discretion, the failure to do so would unfairly, and materially reduce the value of the interest of the remainder.
29. Execute and deliver instruments that are useful to accomplish or facilitate the exercise of the trustee's powers.
30. Prosecute or defend an action, claim, or proceeding in order to protect trust property.

Subpart 5

LIABILITY OF TRUSTEES TO BENEFICIARIES

Sec. 73. NEW SECTION. 633.4501 VIOLATIONS OF DUTIES — BREACH OF TRUST.

1. A violation by a trustee of a duty the trustee owes a beneficiary is a breach of trust.

2. The remedies of a beneficiary for breach of trust are exclusively equitable and any action shall be brought in a court of equity.

Sec. 74. NEW SECTION. 633.4502 BREACH OF TRUST — ACTIONS.

To remedy a breach of trust which has occurred or may occur, a beneficiary or cotrustee of the trust may request the court to do any of the following:

1. Compel the trustee to perform the trustee's duties.
2. Enjoin the trustee from committing a breach of trust.
3. Compel the trustee to redress a breach of trust by payment of money or otherwise.
4. Appoint a receiver or temporary trustee to take possession of the trust property and administer the trust.
5. Remove the trustee.
6. Reduce or deny compensation to the trustee.
7. Subject to section 633.4603, nullify an act of the trustee, impose an equitable lien or a constructive trust on trust property, or trace trust property wrongfully disposed of and recover the property or its proceeds.

Sec. 75. NEW SECTION. 633.4503 BREACH OF TRUST — LIABILITY.

A beneficiary may charge a trustee who commits a breach of trust with the amount required to restore the value of the trust property and trust distributions to what they would have been had the breach not occurred, or, if greater, the amount of profit lost by reason of the breach.

Sec. 76. NEW SECTION. 633.4504 LIMITATION OF ACTION AGAINST TRUSTEE FOLLOWING FINAL ACCOUNT.

1. Unless previously barred by adjudication, consent, or other limitation, a claim against a trustee for breach of trust is barred as to a beneficiary who has received a final account or other report adequately disclosing the existence of the claim, unless a proceeding to assert the claim is commenced within one year after the later of the receipt of the account or report or the termination of the trust relationship between the trustee and beneficiary. An account or report adequately discloses the existence of a claim if it provides sufficient information so that the beneficiary knows of the claim or reasonably should have inquired into its existence.

2. For the purpose of subsection 1, a beneficiary is deemed to have received an account or report in the following instances:

- a. In the case of an adult who is reasonably capable of understanding the account or report, if it is received by the adult personally.
- b. In the case of an adult who is not reasonably capable of understanding the account or report, if it is received by the adult's legal representative, including a guardian ad litem or other person appointed for this purpose.
- c. In the case of a minor, if it is received by the minor's guardian or conservator or, if the minor does not have a guardian or conservator, if it is received by a parent of the minor who does not have a conflict of interest.

3. Any claim for breach of trust against a trustee who has presented a final report to a beneficiary more than one year prior to the effective date of this Act shall be time barred unless some exception stated in this section applies which tolls the statute. Any claim arising under this section within one year of the effective date of the Act shall be time barred after one year unless an exception applies to toll the statute.

Sec. 77. NEW SECTION. 633.4505 EXCULPATION OF TRUSTEE.

A provision in the terms of the trust relieving a trustee of liability for breach of trust is unenforceable to the extent that it does either of the following:

1. Relieves a trustee of liability for breach of trust committed intentionally, with gross negligence, in bad faith, or with reckless indifference to the interest of the beneficiary, or for any profit derived by the trustee from the breach.

2. Was inserted as the result of an abuse by the trustee of a fiduciary or confidential relationship to the settlor.

Sec. 78. NEW SECTION. 633.4506 BENEFICIARY'S CONSENT, RELEASE, OR AFFIRMANCE — NONLIABILITY OF TRUSTEE.

1. A beneficiary shall not hold a trustee liable for a breach of trust if the beneficiary does any of the following:

- a. Consents to the conduct constituting the breach.
- b. Releases the trustee from liability for the breach.
- c. Affirms the transaction constituting the breach.

2. Notwithstanding the provisions of subsection 1, a beneficiary may hold a trustee liable for breach of trust under either of the following circumstances:

a. The beneficiary at the time of the consent, release, or affirmation did not know of the beneficiary's rights and of the material facts the trustee knew or should have known and the trustee did not reasonably believe that the beneficiary knew.

b. The consent, release, or affirmation of the beneficiary was induced by improper conduct of the trustee.

Subpart 6 RIGHTS OF THIRD PARTIES

Sec. 79. NEW SECTION. 633.4601 PERSONAL LIABILITY — LIMITATIONS.

1. Except as otherwise provided in the contract or in this subpart, a trustee is not personally liable on a contract properly entered into in the trustee's fiduciary capacity in the course of administration of the trust unless the trustee fails to reveal the representative capacity or identify the trust in the contract.

2. A trustee is personally liable for obligations arising from ownership or control of trust property or for torts committed in the course of administering a trust only if the trustee is personally at fault.

3. A claim based on a contract entered into by a trustee in the trustee's representative capacity, on an obligation arising from ownership or control of trust property, or on a tort committed in the course of administering a trust may be asserted against the trust by proceeding against the trustee in the trustee's representative capacity, whether or not the trustee is personally liable on the claim.

4. A question of liability as between the trust and the trustee personally may be determined in a proceeding brought under section 633.6202.

Sec. 80. NEW SECTION. 633.4602 DISSENTING COTRUSTEES.

1. A cotrustee who does not join in exercising a power is not liable to a third party for the consequences of the exercise of the power.

2. A dissenting cotrustee who joins in an action at the direction of the majority cotrustees is not liable to a third party for the action if the dissenting cotrustee expresses the dissent in writing to any other cotrustee at or before the action is taken.

3. This section does not excuse a cotrustee from liability for failure to discharge a cotrustee's duties as a trustee.

Sec. 81. NEW SECTION. 633.4603 OBLIGATIONS OF THIRD PARTIES.

1. With respect to a third party dealing with a trustee or assisting a trustee in the conduct of a transaction, if the third party acts in good faith and for a valuable consideration and without knowledge that the trustee is exceeding the trustee's powers or is improperly exercising them, the following apply:

a. A third party is not bound to inquire as to whether a trustee has power to act or is properly exercising a power and may assume without inquiry the existence of a trust power and its proper exercise.

b. A third party is fully protected in dealing with or assisting a trustee, as if the trustee has and is properly exercising the power the trustee purports to exercise.

2. A third party who acts in good faith is not bound to ensure the proper application of trust property paid or delivered to the trustee.

3. If a third party acting in good faith and for a valuable consideration enters into a transaction with a former trustee without knowledge that the person is no longer a trustee, the third party is fully protected as if the former trustee were still a trustee.

Sec. 82. NEW SECTION. 633.4604 CERTIFICATION OF TRUST.

1. A trustee may present a certification of trust to any person in lieu of providing a copy of the trust instrument to establish the existence or terms of the trust.

2. The certification must contain a statement that the trust has not been revoked, modified, or amended in any manner which would cause the representations contained in the certification of trust to be incorrect and must contain a statement that it is being signed by all of the currently acting trustees of the trust and is sworn and subscribed to under penalty of perjury before a notary public.

3. A certification of trust need not contain the dispositive provisions of the trust which set forth the distribution of the trust estate.

4. A person may require that the trustee offering the certification of trust provide copies of those excerpts from the original trust instrument and amendments to the original trust instrument which designate the trustee and confer upon the trustee the power to act in the pending transaction.

5. A person who acts in reliance upon a certification of trust without knowledge that the representations contained in the certification are incorrect is not liable to any person for so acting and may assume without inquiry the existence of the facts contained in the certification. Knowledge shall not be inferred solely from the fact that a copy of all or part of the trust instrument is held by the person relying upon the trust certification. A transaction, and a lien created by a transaction, entered into by the trustee and a person acting in reliance upon a certification of trust is enforceable against the trust assets.

6. A person making a demand for the trust instrument in addition to a certification of trust or excerpts shall be liable for damages, including attorney fees, incurred as a result of the refusal to accept the certification of trust or excerpts in lieu of the trust instrument if the court determines that the person acted unreasonably in requesting the trust instrument.

7. This section does not limit the rights of beneficiaries to obtain copies of the trust instrument or rights of others to obtain copies in a proceeding concerning the trust.

Sec. 83. NEW SECTION. 633.4605 LIABILITY FOR WRONGFUL TAKING, CONCEALING, OR DISPOSING OF TRUST PROPERTY.

A person who, in bad faith, wrongfully takes, conceals, or disposes of trust property is liable for twice the value of the property, attorney fees, court costs, and where consistent with existing law, punitive damages, recoverable in an action by a trustee for the benefit of the trust.

Subpart 7
TRUST CONSTRUCTION

Sec. 84. NEW SECTION. 633.4701 SURVIVORSHIP WITH RESPECT TO FUTURE INTERESTS UNDER TERMS OF TRUST — SUBSTITUTE TAKERS.

1. Unless otherwise specifically stated by the terms of the trust, the interest of each beneficiary is contingent on the beneficiary's surviving until the date on which the beneficiary becomes entitled to possession or enjoyment of the beneficiary's interest in the trust.

2. If a beneficiary dies prior to becoming entitled to possession or enjoyment of the beneficiary's interest and the terms of the trust provide for an alternate beneficiary who is living on the date the interest becomes possessory, the alternate beneficiary succeeds to the interest in accordance with the terms of the trust.

3. If a beneficiary dies prior to becoming entitled to possession or enjoyment of the beneficiary's interest and no alternate beneficiary is named in the trust, and the beneficiary has issue who are living on the date the interest becomes possessory, the issue of the beneficiary who are living on such date shall receive the interest of the beneficiary.

4. If both a beneficiary of an interest and any alternate beneficiary of that interest named in the trust die prior to the interest becoming possessory, and the beneficiary has no issue who are living on the date the interest becomes possessory, the issue of the alternate beneficiary who are living on such date shall take the interest of the beneficiary.

5. If both the beneficiary of an interest and any alternate beneficiary of that interest named in the trust die prior to the interest becoming possessory, and neither the beneficiary nor the alternate beneficiary has issue who are living on the date the interest becomes possessory, the beneficiary's interest shall be distributed in accordance with section 633.2106.

Part 5 CHARITABLE TRUSTS

Sec. 85. NEW SECTION. 633.5101 CHARITABLE PURPOSES.

1. A charitable trust may be created for the relief of poverty, the advancement of education or religion, the promotion of health, or any other purpose the accomplishment of which is beneficial to the community.

2. If the terms of the trust do not indicate a particular charitable purpose or beneficiaries, the trustee may select one or more charitable purposes or beneficiaries.

Sec. 86. NEW SECTION. 633.5102 APPLICATION OF CY-PRES.

Unless the terms of the trust provide to the contrary the following apply:

1. A charitable trust does not fail, in whole or in part, if a particular purpose for which the trust was created becomes impracticable, unlawful, or impossible to fulfill.

2. If a particular charitable purpose for which a trust was created becomes impracticable, unlawful, or impossible to fulfill, the court may modify the terms of the trust or direct that the property of the trust be distributed in whole or in part in a manner best meeting the settlor's general charitable purposes. If an administrative provision of a charitable trust becomes impracticable, unlawful, impossible to fulfill, or otherwise impairs the effective administration of the trust, the court may modify the provision.

Sec. 87. NEW SECTION. 633.5103 TRUST WITH UNECONOMICALLY LOW VALUE.

1. On petition by a trustee or other interested person, if the court determines that the value of the trust property is insufficient to justify the cost of administration involved, the court may appoint a new trustee or may modify or terminate the charitable trust.

2. Upon termination of a trust under this section, the court shall distribute the trust property in a manner consistent with the settlor's charitable purposes.

Sec. 88. NEW SECTION. 633.5104 INTERESTED PERSONS — PROCEEDINGS.

The settlor, the trustee, the attorney general, and any charitable entity or other person with a special interest in the trust shall be interested persons in a proceeding involving a charitable trust.

Part 6 PROCEEDINGS CONCERNING TRUSTS Subpart 1 JURISDICTION AND VENUE

Sec. 89. NEW SECTION. 633.6101 SUBJECT MATTER JURISDICTION.

1. The court has exclusive jurisdiction of proceedings concerning the internal affairs of a trust.

2. The court has concurrent jurisdiction of actions and proceedings to determine the existence of a trust, actions and proceedings by or against creditors or debtors of trusts, and other actions and proceedings involving trustees and third persons.

Sec. 90. NEW SECTION. 633.6102 PRINCIPAL PLACE OF ADMINISTRATION OF TRUST.

1. Unless otherwise designated in the terms of the trust, the principal place of administration of a trust is the usual place where the day-to-day activity of the trust is carried on by the trustee or the trustee's representative who is primarily responsible for the administration of the trust.

2. If the principal place of administration of the trust cannot be determined under subsection 1, it must be determined as follows:

a. If the trust has one trustee, the principal place of administration of the trust is the trustee's residence or usual place of business.

b. If the trust has more than one trustee, the principal place of administration of the trust is the residence or usual place of business of any of the cotrustees as agreed upon by them or, if not, the residence or usual place of business of any of the cotrustees.

Sec. 91. NEW SECTION. 633.6103 JURISDICTION OVER TRUSTEES AND BENEFICIARIES.

1. By accepting the trusteeship of a trust having its principal place of administration in this state, the trustee submits personally to the jurisdiction of the court.

2. To the extent of their interests in the trust, all beneficiaries of a trust having its principal place of administration in this state are subject to the jurisdiction of the court.

Sec. 92. NEW SECTION. 633.6104 COUNTY OF VENUE.

1. A proceeding may be commenced in the county in which the trust's principal place of administration is or is to be located and if the trust is created by will, also in the county in which the decedent's estate is administered.

2. If a trust not created by will has no trustee, a proceeding for appointing a trustee shall be commenced in the county in which a beneficiary resides or the trust property, or some portion of the trust property, is located.

3. Except as otherwise provided in subsections 1 and 2, a proceeding shall be commenced in accordance with the rules applicable to civil actions generally.

Sec. 93. NEW SECTION. 633.6105 TRANSFER OF JURISDICTION.

1. The court may transfer the place of administration of a trust to or from this state or transfer some or all of the trust property to a trustee in or outside this state if it finds any of the following:

a. The transfer of the trust property to a trustee in this or another jurisdiction, or the transfer of the place of administration of the trust to this or another jurisdiction, will promote the best interests of the trust and those interested in it, taking into account the economical and convenient administration of the trust and the views of the adult beneficiaries.

b. Any new trustee to whom the trust property is to be transferred is qualified, willing, and able to administer the trust or trust property under the terms of the trust.

c. If the trust or any portion of the trust property is to be transferred to another jurisdiction and if approval of the transfer by the other court is required under the law of the other jurisdiction, the proper court in the other jurisdiction has approved the transfer.

2. If a transfer is ordered, the court may direct the manner of transfer and impose terms and conditions as may be just, including a requirement for the substitution of a successor trustee in any pending litigation in this state. A delivery of property in accordance with the order of the court is a full discharge of the trustee with respect to all property embraced in the order.

3. If the court grants a petition to transfer a trust or trust property to this state, the court shall require the trustee to give bond, if necessary under the law of the other jurisdiction or of this state, and may require bond as provided in section 633.4102.

Subpart 2
JUDICIAL PROCEEDINGS CONCERNING TRUSTS

Sec. 94. NEW SECTION. 633.6201 JUDICIAL INTERVENTION INTERMITTENT.

The administration of trusts shall proceed expeditiously and free of judicial intervention, except to the extent the jurisdiction of the court is invoked by interested parties or otherwise exercised as provided by law.

Sec. 95. NEW SECTION. 633.6202 PETITIONS — PURPOSES OF PROCEEDINGS.

1. Except as otherwise provided in section 633.3103, a trustee or beneficiary of a trust may petition the court concerning the internal affairs of the trust or to determine the existence of the trust.

2. Proceedings concerning the internal affairs of a trust include proceedings to do any of the following:

- a. Construe and determine the terms of a trust.
- b. Determine the existence of any immunity, power, privilege, duty, or right.
- c. Determine the validity of a trust provision.
- d. Ascertain beneficiaries and determine to whom property shall pass or be delivered upon final or partial termination of the trust.
- e. Settle accounts and pass upon the acts of the trustee, including the exercise of discretionary powers.
- f. Instruct the trustee.
- g. Compel the trustee to report information about the trust or account to the beneficiary.
- h. Grant powers to or modify powers of the trustee.
- i. Fix or allow payment of the trustee's compensation or review the reasonableness of the compensation.
- j. Appoint or remove a trustee.
- k. Accept the resignation of a trustee.
- l. Compel redress of a breach of trust by any available remedy.
- m. Approve or direct the modification or termination of the trust.
- n. Approve or direct the combination or division of trusts.
- o. Authorize or direct transfer or* a trust or trust property to or from another jurisdiction.
- p. Determine liability of a trust for debts or the expenses of administration of the estate of a deceased settlor.
- q. Determine any other issue that will aid in the administration of the trust.

Subpart 3
SETTLEMENT AGREEMENTS AND REPRESENTATION

Sec. 96. NEW SECTION. 633.6301 DEFINITION AND APPLICABILITY.

1. For purposes of this subpart, "fiduciary matter" includes any item listed in section 633.6202, subsection 2.

2. Persons interested in a fiduciary matter may approve a judicial settlement and represent and bind other persons interested in the fiduciary matter.

3. Except to the extent the terms of the trust indicate that the procedures specified are not to apply, a person interested in a fiduciary matter may approve a nonjudicial settlement containing such terms and conditions as a court could properly approve and represent and bind other persons interested in the fiduciary matter.

Sec. 97. NEW SECTION. 633.6302 REPRESENTATION BY HOLDERS OF POWERS.

1. The holders or all coholders of a power of revocation or presently exercisable general power of appointment, including one in the form of a power of amendment, may represent and bind the persons whose interests, as objects, takers in default, or otherwise, are subject to the power.

* The word "of" probably intended

2. To the extent there is no conflict of interest between the holders and the persons represented with respect to the fiduciary matter, persons whose interests are subject to a general testamentary power of appointment may be represented and bound by the holder or holders of the power.

Sec. 98. NEW SECTION. 633.6303 REPRESENTATION BY FIDUCIARIES AND PARENTS.

To the extent there is no conflict of interest between the representer and those represented with respect to the fiduciary matter, the following are permitted:

1. A conservator may represent and bind the person whose estate the conservator controls.
2. A trustee may represent and bind the beneficiaries of the trust.
3. A personal representative may represent and bind the persons interested in the decedent's estate.
4. If no conservator has been appointed, a parent may represent and bind a minor child.

Sec. 99. NEW SECTION. 633.6304 REPRESENTATION BY HOLDERS OF SIMILAR INTERESTS.

Unless otherwise represented, a minor or an incompetent, unborn, or unascertained person may be represented by and bound by another person having a substantially identical interest with respect to the fiduciary matter but only to the extent that the person's interest is adequately represented.

Sec. 100. NEW SECTION. 633.6305 NOTICE OF JUDICIAL SETTLEMENT.

1. Notice of a judicial settlement shall be given to every interested person or to one who can bind an interested person as described in sections 633.6302 and 633.6303.
2. Notice may be given to a person or to another who may bind the person.
3. Notice is given to unborn or unascertained persons who are not represented under sections 633.6302 and 633.6303, by giving notice to all known persons whose interests in the proceedings are substantially identical to those of the unborn or unascertained persons.

Sec. 101. NEW SECTION. 633.6306 APPOINTMENT OF GUARDIAN AD LITEM.

1. At any point in a judicial proceeding, the court may appoint a guardian ad litem to represent and approve a settlement on behalf of the interest of a minor, an incapacitated, unborn, or unascertained person, or a person whose identity or address is unknown, if the court determines that representation of the interest otherwise would be inadequate.
2. If not precluded by conflict of interest, a guardian ad litem may be appointed to represent several persons or interests.
3. The court shall set out its reasons for appointing a guardian ad litem as a part of the record of the proceeding.
4. In approving a judicially supervised settlement, a guardian ad litem may consider general family benefit.

Sec. 102. NEW SECTION. 633.6307 APPOINTMENT OF SPECIAL REPRESENTATIVE.

1. In connection with a nonjudicial settlement, the court may appoint a special representative to represent the interests of and approve a settlement on behalf of designated persons.
2. If not precluded by a conflict of interest, a special representative may be appointed to represent several persons or interests.
3. In approving a settlement, a special representative may consider general family benefit. As a condition for approval, a special representative may require that those represented receive a benefit.

Sec. 103. Section 262.14, subsection 3, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Any portion of the funds may be invested by the board. In the investment of the funds, the board shall exercise the judgment and care, under the circumstances then prevailing, which

persons of prudence, discretion and intelligence exercise in their own affairs as provided in ~~section 633.123, subsection 1~~ chapter 633, division XX, part 4, subpart 3.

Sec. 104. Section 412.4, Code 1999, is amended to read as follows:

412.4 PAYMENTS AND INVESTMENTS.

The council, board of waterworks trustees, or other board or commission, whichever is authorized by law to manage and operate any such waterworks, or other municipally owned and operated public utility, shall have the right and power to contract with any legal reserve insurance company, authorized to conduct its business in the state, or any bank located in Iowa having trust powers for the investment of funds contributed to an annuity or pension system, for the payment of the pensions or annuities provided in such pension or annuity retirement system, and may pay the premiums or make the contribution of such contract out of the fund provided in section 412.2. Funds contributed to a bank pursuant to such a contract shall be invested in the manner prescribed in section ~~633.123 or~~ 633.123A ~~or chapter 633, division XX, part 4, subpart 3,~~ and may be commingled with and invested as a part of a common or master fund managed for the benefit of more than one public utility.

Sec. 105. Section 633.123A, subsection 1, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Notwithstanding any other provision of law, a bank or trust company acting as a fiduciary, in addition to other investments authorized by law for the investment of funds by a fiduciary or by the instrument governing the fiduciary and in the exercise of its investment discretion or at the direction of another person authorized to direct investment of funds held by the fiduciary, may invest and reinvest such funds in the securities of an open-end or closed-end management investment company or investment trust registered under the federal Investment Company Act of 1940, 15 U.S.C. § 80a-1 et seq. Investment and reinvestment under this section is allowed as long as the portfolio of such investment company or investment trust consists substantially of investments not otherwise prohibited by section* ~~633.123 division XX, part 4, subpart 3 of this chapter,~~ or by the governing instrument.

Sec. 106. Section 633.348, Code 1999, is amended to read as follows:

633.348 RIGHT TO RETAIN EXISTING PROPERTY.

Notwithstanding the provisions of ~~section 633.123 division XX, part 4, subpart 3, of this chapter,~~ any personal representative may continue to hold any investment or property originally received by the personal representative and also any increase thereof.

Sec. 107. Section 633.646, subsection 5, Code 1999, is amended to read as follows:

5. Notwithstanding the provisions of ~~section 633.123 division XX, part 4, subpart 3, of this chapter,~~ to continue to hold any investment or other property originally received by the conservator, and also any increase thereof, pending the timely filing of the first annual report.

Sec. 108. Section 633.123, Code 1999, is repealed.

Sec. 109. EFFECTIVE DATE. This Act takes effect July 1, 2000.

Approved May 14, 1999

* The word "section" probably intended

CHAPTER 126

IOWA FREEDOM TRAIL STUDY

H.F. 689

AN ACT related to a proposal by the department of cultural affairs concerning the establishment of an Iowa freedom trail program.

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

Section 1. IOWA FREEDOM TRAIL STUDY. The department of cultural affairs shall prepare a proposal with cost estimates to explore the establishment of an Iowa freedom trail program designed to preserve and commemorate the underground railroad and educate the public on issues related to the underground railroad and antislavery campaign in Iowa. The department shall explore the possibility of securing the cooperation and assistance of the national park service in developing and implementing the program. The program would assist in locating, identifying, and preserving sites, routes, and other resources located in the state which served a function in the underground railroad and antislavery campaign in the state. The program would identify and recognize any citizens of the state who were instrumental in the underground railroad and antislavery campaign. The department shall submit a report on the proposal, and make recommendations, to the general assembly by January 1, 2000.

Approved May 14, 1999

CHAPTER 127

CHILD SUPPORT ENFORCEMENT — MISCELLANEOUS PROVISIONS

H.F. 773

AN ACT relating to child support enforcement, including child support recovery in instances of guardianships, income withholding, and payments to financial institutions for record matches.

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

Section 1. Section 234.39, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 5. If the department makes a subsidized guardianship payment for a child, the payment shall be considered a foster care payment for purposes of child support recovery. All provisions of this and other sections, and of rules and orders adopted or entered pursuant to those sections, including for the establishment of a paternity or support order, for the amount of a support obligation, for the modification or adjustment of a support obligation, for the assignment of support, and for enforcement shall apply as if the child were receiving foster care services, or were in foster care placement, or as if foster care funds were being expended for the child. This subsection shall apply regardless of the date of placement in foster care or subsidized guardianship or the date of entry of an order, and foster care and subsidized guardianship shall be considered the same for purposes of child support recovery.

Sec. 2. Section 252D.23, Code 1999, 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. In lieu of any signature on the order which may otherwise be required by law or rule, the order shall have affixed the name and address of the appropriate child support office. For the purposes of demonstrating compliance by the payor of income, the copy of the withholding order or the 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 a payor of income for noncompliance. However, any information contained in the income withholding order or the 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. 3. Section 252I.4, subsection 3, Code 1999, is amended to read as follows:

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 lower of either one hundred fifty dollars for each quarterly data match or the actual costs incurred by the financial institution for each quarterly data match. However, the unit may also adopt rules pursuant to chapter 17A to specify a fee amount for each quarterly data match based upon the estimated state share of funds collected under this chapter, which, when adopted, shall be applied in lieu of the one hundred fifty dollar fee under this subsection. In addition, the unit may pay a reasonable fee to a financial institution for automation programming development performed in order to conduct the data match required in subsection 2, not to exceed the lower of either five hundred dollars or the actual costs incurred by the financial institution. The unit may use the state share of funds collected under this chapter to pay the fees to financial institutions under this subsection. For state fiscal years beginning July 1, 1999, and July 1, 2000, the unit may use up to one hundred percent of the state share of such funds. For state fiscal years beginning on or after July 1, 2001, the unit may use up to fifty percent of the state share of such funds. Notwithstanding any other provision of law to the contrary, a financial institution shall have until a date provided in the agreement in subsection 2 to submit its claim for a fee under this subsection. If the unit does not have sufficient funds available under this subsection for payment of fees under this subsection, the cost may be carried forward to a future year. The unit may also use funds from an amount assessed a child support agency of another state, as defined in section 252H.2, to conduct a data match requested by that child support agency as provided in 42 U.S.C. § 666(a)(14) to pay fees to financial institutions under this subsection.

Approved May 14, 1999

CHAPTER 128**DRIVER'S LICENSE ISSUANCE REQUIREMENTS**

S.F. 398

AN ACT relating to the requirements for issuance of intermediate driver's licenses and full driver's licenses and providing an effective date.

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

Section 1. Section 321.180B, subsection 2, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The department may issue an intermediate driver's license to a person sixteen or seventeen years of age who possesses an instruction permit issued under subsection 1 or a comparable instruction permit issued by another state for a minimum of six months immediately preceding application, and who presents an affidavit signed by a parent or guardian on a form to be provided by the department that the permittee has accumulated a total of twenty hours of street or highway driving of which two hours were conducted after sunset and before sunrise and the street or highway driving was with the permittee's parent, guardian, instructor, a person certified by the department, or a person at least twenty-five years of age who had written permission from a parent or guardian to accompany the permittee, and whose driving privileges have not been suspended, revoked, or barred under this chapter or chapter 321J during, and who has been accident and conviction free continuously for, the six-month period immediately preceding the application for an intermediate license. An applicant for an intermediate license must meet the requirements of section 321.186, including satisfactory completion of driver education as required in section 321.178, and payment of the required license fee before an intermediate license will be issued. A person issued an intermediate license must limit the number of passengers in the motor vehicle when the intermediate licensee is operating the motor vehicle to the number of passenger safety belts.

Sec. 2. Section 321.180B, subsection 4, Code 1999, is amended to read as follows:

4. FULL DRIVER'S LICENSE. A full driver's license may be issued to a person seventeen years of age who possesses an intermediate license issued under subsection 2 or a comparable intermediate license issued by another state for a minimum of twelve months immediately preceding application, and who presents an affidavit signed by a parent or guardian on a form to be provided by the department that the intermediate licensee has accumulated a total of ten hours of street or highway driving of which two hours were conducted after sunset and before sunrise and the street or highway driving was with the licensee's parent, guardian, instructor, a person certified by the department, or a person at least twenty-five years of age who had written permission from a parent or guardian to accompany the licensee, whose driving privileges have not been suspended, revoked, or barred under this chapter or chapter 321J during, and who has been accident and conviction free continuously for, the twelve-month period immediately preceding the application for a full driver's license, and who has paid the required fee.

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

Approved May 17, 1999

CHAPTER 129**HEALTH CARE FACILITY CARE REVIEW COMMITTEES — NAME CHANGE***H.F. 379*

AN ACT changing the name of care review committee to resident advocate committee.

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

Section 1. Section 135C.11, subsection 2, Code 1999, is amended to read as follows:

2. The procedure governing hearings authorized by this section shall be in accordance with the rules promulgated by the department. A full and complete record shall be kept of all proceedings, and all testimony shall be reported but need not be transcribed unless judicial review is sought pursuant to section 135C.13. Copies of the transcript may be obtained by an interested party upon payment of the cost of preparing the copies. Witnesses may be subpoenaed by either party and shall be allowed fees at a rate prescribed by the department's rules. The director may, after advising the ~~care review~~ resident advocate committee established pursuant to section 135C.25, either proceed in accordance with section 135C.30, or remove all residents and suspend the license or licenses of any health care facility, prior to a hearing, when the director finds that the health or safety of residents of the health care facility requires such action on an emergency basis. The fact that no ~~care review~~ resident advocate committee has been appointed for a particular facility shall not bar the director from exercising the emergency powers granted by this subsection with respect to that facility.

Sec. 2. Section 135C.13, Code 1999, is amended to read as follows:

135C.13 JUDICIAL REVIEW.

Judicial review of any action of the director may be sought in accordance with the terms of the Iowa administrative procedure Act. Notwithstanding the terms of said Act, petitions for judicial review may be filed in the district court of the county where the facility or proposed facility is located, and pending final disposition of the matter the status quo of the applicant or licensee shall be preserved except when the director, with the advice and consent of the ~~care review~~ resident advocate committee established pursuant to section 135C.25, determines that the health, safety or welfare of the residents of the facility is in immediate danger, in which case the director may order the immediate removal of such residents. The fact that no ~~care review~~ resident advocate committee has been appointed for a particular facility shall not bar the director from exercising the emergency powers granted by this subsection with respect to that facility.

Sec. 3. Section 135C.14, subsection 8, paragraph d, Code 1999, is amended to read as follows:

d. The notification of ~~care review~~ resident advocate committees by the department of all complaints relating to health care facilities and the involvement of the ~~care review~~ resident advocate committees in resolution of the complaints.

Sec. 4. Section 135C.20A, subsection 2, Code 1999, is amended to read as follows:

2. The report card form shall be developed by the department in cooperation with representatives of the department of elder affairs, the state long-term care resident's advocate, representatives of ~~care review~~ resident advocate committees, representatives of protection and advocacy entities, consumers, and other interested persons.

Sec. 5. Section 135C.25, Code 1999, is amended to read as follows:

135C.25 ~~CARE REVIEW~~ RESIDENT ADVOCATE COMMITTEE APPOINTMENTS — DUTIES — DISCLOSURE — LIABILITY.

1. Each health care facility shall have a ~~care review~~ resident advocate committee whose members shall be appointed by the director of the department of elder affairs or the director's designee. A person shall not be appointed a member of a ~~care review~~ resident advocate

committee for a health care facility unless the person is a resident of the service area where the facility is located. The ~~care review~~ resident advocate committee for any facility caring primarily for persons with mental illness, mental retardation, or a developmental disability shall only be appointed after consultation with the administrator of the division of mental health and developmental disabilities of the department of human services on the proposed appointments. Recommendations to the director or the director's designee for membership on ~~care review~~ resident advocate committees are encouraged from any agency, organization, or individual. The administrator of the facility shall not be appointed to the ~~care review~~ resident advocate committee and shall not be present at committee meetings except upon request of the committee.

2. Each ~~care review~~ resident advocate committee shall periodically review the needs of each individual resident of the facility and shall perform the functions pursuant to sections 135C.38 and 231.44.

3. A health care facility shall disclose the names, addresses, and phone numbers of a resident's family members, if requested, to a ~~care review~~ resident advocate committee member, unless permission for this disclosure is refused in writing by the family member. The facility shall provide a form on which a family member may indicate a refusal to grant this permission.

4. Neither the state nor any ~~care review~~ resident advocate committee member is liable for an action by a ~~care review~~ resident advocate committee member in the performance of duty, if the action is undertaken and carried out in good faith.

Sec. 6. Section 135C.37, Code 1999, is amended to read as follows:

135C.37 COMPLAINTS ALLEGING VIOLATIONS — CONFIDENTIALITY.

A person may request an inspection of a health care facility by filing with the department, ~~care review~~ resident advocate committee of the facility, or the long-term care resident's advocate as defined in section 231.4, subsection 16, a complaint of an alleged violation of applicable requirements of this chapter or the rules adopted pursuant to this chapter. A person alleging abuse or neglect of a resident with a developmental disability or with mental illness may also file a complaint with the protection and advocacy agency designated pursuant to section 135B.9 or section 135C.2. A copy of a complaint filed with the ~~care review~~ resident advocate committee or the long-term care resident's advocate shall be forwarded to the department. The complaint shall state in a reasonably specific manner the basis of the complaint, and a statement of the nature of the complaint shall be delivered to the facility involved at the time of the inspection. The name of the person who files a complaint with the department, ~~care review~~ resident advocate committee, or the long-term care resident's advocate shall be kept confidential and shall not be subject to discovery, subpoena, or other means of legal compulsion for its release to a person other than department employees involved in the investigation of the complaint.

Sec. 7. Section 135C.38, subsection 1, paragraphs a and c, Code 1999, are amended to read as follows:

a. Upon receipt of a complaint made in accordance with section 135C.37, the department or ~~care review~~ resident advocate committee shall make a preliminary review of the complaint. Unless the department or committee concludes that the complaint is intended to harass a facility or a licensee or is without reasonable basis, it shall within twenty working days of receipt of the complaint make or cause to be made an on-site inspection of the health care facility which is the subject of the complaint.

c. The department may refer to the ~~care review~~ resident advocate committee of a facility any complaint received by the department regarding that facility, for initial evaluation and appropriate action by the committee.

Sec. 8. Section 135C.38, subsection 4, Code 1999, is amended to read as follows:

4. If upon an inspection of a facility by its ~~care review~~ resident advocate committee, pursuant to this section, the committee advises the department of any circumstance believed to

constitute a violation of this chapter or of any rule adopted pursuant to it, the committee shall similarly advise the facility at the same time. If the facility's licensee or administrator disagrees with the conclusion of the committee regarding the supposed violation, an informal conference may be requested and if requested shall be arranged by the department as provided in section 135C.42 before a citation is issued. If the department thereafter issues a citation pursuant to the committee's finding, the facility shall not be entitled to a second informal conference on the same violation and the citation shall be considered affirmed. The facility cited may proceed under section 135C.43 if it so desires.

Sec. 9. Section 225C.4, subsection 1, paragraph n, Code 1999, is amended to read as follows:

n. Provide consultation and technical assistance to patients' advocates appointed pursuant to section 229.19, in cooperation with the judicial branch and the ~~care review~~ resident advocate committees appointed for health care facilities pursuant to section 135C.25.

Sec. 10. Section 227.2, subsection 2, Code 1999, is amended to read as follows:

2. A copy of the written report prescribed by subsection 1 shall be furnished to the county board of supervisors, to the county mental health and mental retardation coordinating board or to its advisory board if the county board of supervisors constitutes ex officio the coordinating board, to the administrator of the county care facility inspected and to its ~~care review~~ resident advocate committee, and to the department of elder affairs.

Sec. 11. Section 227.4, Code 1999, is amended to read as follows:

227.4 STANDARDS FOR CARE OF PERSONS WITH MENTAL ILLNESS OR MENTAL RETARDATION IN COUNTY CARE FACILITIES.

The administrator, in cooperation with the department of inspections and appeals, shall recommend, and the mental health and developmental disabilities commission created in section 225C.5 shall adopt standards for the care of and services to persons with mental illness or mental retardation residing in county care facilities. The standards shall be enforced by the department of inspections and appeals as a part of the licensure inspection conducted pursuant to chapter 135C. The objective of the standards is to ensure that persons with mental illness or mental retardation who are residents of county care facilities are not only adequately fed, clothed, and housed, but are also offered reasonable opportunities for productive work and recreational activities suited to their physical and mental abilities and offering both a constructive outlet for their energies and, if possible, therapeutic benefit. When recommending standards under this section, the administrator shall designate an advisory committee representing administrators of county care facilities, county mental health and developmental disabilities regional planning councils, and county care facility ~~care review~~ resident advocate committees to assist in the establishment of standards.

Sec. 12. Section 231.33, subsection 21, Code 1999, is amended to read as follows:

21. Submit a report to the department of elder affairs every six months, of the name of each health care facility in its area for which the ~~care review~~ resident advocate committee has failed to submit the report required by rules adopted pursuant to section 231.44.

Sec. 13. Section 231.42, subsection 6, Code 1999, is amended to read as follows:

6. Administer the ~~care review~~ resident advocate committee program.

Sec. 14. Section 231.44, Code 1999, is amended to read as follows:

231.44 ~~CARE REVIEW~~ RESIDENT ADVOCATE COMMITTEE — DUTIES — DISCLOSURE — LIABILITY.

1. The ~~care review~~ resident advocate committee program is administered by the long-term care resident's advocate program.

2. The responsibilities of the ~~care review~~ resident advocate committee are in accordance with the rules adopted by the commission pursuant to chapter 17A. When adopting the rules, the commission shall consider the needs of residents of each category of licensed

health care facility as defined in section 135C.1, subsection 6, and the services each facility may render. The commission shall coordinate the development of rules with the mental health and developmental disabilities commission created in section 225C.5 to the extent the rules would apply to a facility primarily serving persons with mental illness, mental retardation, or a developmental disability. The commission shall coordinate the development of appropriate rules with other state agencies.

3. A health care facility shall disclose the names, addresses, and phone numbers of a resident's family members, if requested, to a ~~care review~~ resident advocate committee member, unless permission for this disclosure is refused in writing by a family member.

4. Neither the state nor any ~~care review~~ resident advocate committee member is liable for an action undertaken by a ~~care review~~ resident advocate committee member in the performance of duty, if the action is undertaken and carried out in good faith.

Sec. 15. Section 231A.2, subsections 2, 3, 4, and 8, Code 1999, are amended to read as follows:

2. If, following a visitation, the ~~care review~~ resident advocate committee finds that the needs of all of the residents of an elder family home are not being adequately met, the ~~care review~~ resident advocate committee shall notify the appropriate area agency on aging. The area agency on aging shall cause to be performed a complete assessment of any of the residents whose needs are not being met. If, following the full assessment, the ~~care review~~ resident advocate committee determines that any of the residents require additional services to meet the needs of the resident, the ~~care review~~ resident advocate committee shall inform the responsible party that unless the resident relocates to a facility which is able to provide necessary services, the elder family home will no longer be designated as an elder family home and will no longer be in compliance with zoning requirements. The department shall notify the city council or the county board of supervisors if an elder family home is found to no longer be in compliance.

3. If the responsible party does not comply with the recommendations of the ~~care review~~ resident advocate committee pursuant to subsection 2, the elder family home shall lose its designation for the purposes of zoning.

4. If the ~~care review~~ resident advocate committee has probable cause to believe that any elder family home is in fact acting as a health care facility as defined under chapter 135C, upon producing identification that an individual is an inspector, an inspector of the department of inspections and appeals may enter the elder family home to determine if the home is in fact operating as an unlicensed health care facility. If the inspector is denied entrance, the inspector may, with the assistance of the county attorney in the county in which the elder family home is located, apply to the district court for an order requiring the responsible party to permit entry and inspection.

8. The commission shall adopt by rule procedures for appointing members of a ~~care review~~ resident advocate committee for each elder family home. To the maximum extent possible, the ~~care review~~ resident advocate committee appointed for an elder family home shall include a person involved in a local retired senior volunteer program. The rules shall incorporate the provisions, if applicable, for ~~care review~~ resident advocate committees pursuant to sections 135C.25, 135C.38, and 231.44.

Sec. 16. Section 231B.2, subsection 2, paragraphs g and h, Code 1999, are amended to read as follows:

g. The commission of elder affairs shall adopt by rule procedures for appointing members of ~~care review~~ resident advocate committees for elder group homes.

h. Notwithstanding any other requirements relating to performance of visitations or meetings of a ~~care review~~ resident advocate committee, a ~~care review~~ resident advocate committee appointed for an elder group home shall perform no more than four visitations, annually, to fulfill the duties of the ~~care review~~ resident advocate committee in relation to the elder group home.

Sec. 17. Section 235B.3, subsection 2, paragraph f, Code 1999, is amended to read as follows:

f. A person who performs inspections of elder group homes for the department of elder affairs and a ~~care-review~~ resident advocate committee member assigned to an elder group home pursuant to chapter 231B.

Sec. 18. Section 669.14, subsection 12, Code 1999, is amended to read as follows:

12. Any claim based upon the actions of a ~~care-review~~ resident advocate committee member in the performance of duty if the action is undertaken and carried out in good faith.

Approved May 17, 1999

CHAPTER 130

EMPLOYMENT AGENCY LICENSURE AND OPERATION

H.F. 521

AN ACT relating to the licensure and operation of employment agencies and providing a penalty.

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

Section 1. NEW SECTION. 94A.1 DEFINITIONS.

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

1. "Applicant" means a person applying for a private employment agency license.
2. "Commissioner" means the labor commissioner, appointed pursuant to section 91.2, or the labor commissioner's designee.
3. "Employee" means a person who seeks employment or who obtains employment through an employment agency.
4. "Employer" means a person who seeks one or more employees or who obtains one or more employees.
5. "Employment agency" means a person who brings together those desiring to employ and those desiring employment and who receives a fee, privilege, or other consideration directly or indirectly from an employee for the service. "Employment agency" does not include furnishing or procuring theatrical, stage, or platform attractions or amusement enterprises.

Sec. 2. NEW SECTION. 94A.2 LICENSING.

1. An employment agency shall obtain a license from the commissioner prior to transacting any business. Licenses expire on June 30 of each year.
2. A license application shall be in the form prescribed by the commissioner and shall be accompanied by all of the following:
 - a. A surety company bond in the sum of thirty thousand dollars, to be approved by the commissioner and conditioned to pay any damages that may accrue to any person due to a wrongful act or violation of law on the part of the applicant in the conduct of business.
 - b. The schedule of fees to be charged by the employment agency.
 - c. All contract forms to be signed by an employee.
 - d. An application fee of seventy-five dollars.
3. The commissioner shall grant or deny a license within thirty days from the filing date of a completed application.

4. The commissioner may revoke, suspend, or annul a license in accordance with chapter 17A upon good cause.

Sec. 3. NEW SECTION. 94A.3 GENERAL REQUIREMENTS.

Each employment agency shall do all of the following:

1. Keep an employee record, which shall include the name of each employee signing a contract or agreement, the name and address of the employer, if employment is found, and the fee charged, paid, or refunded. Each record shall be maintained for at least two years.

2. Prior to referral to an employer, provide an employee with a copy of the contract or agreement, which specifies the fee or consideration to be paid by the employee.

Sec. 4. NEW SECTION. 94A.4 PROHIBITIONS.

1. A person shall not require an employee to pay a fee as a condition of application with an employer or an employment agency.

2. An employee shall not be required to pay a fee to an employer as a condition of hire.

3. An employer shall not require an employee to reimburse the employer for a fee the employer paid to an employment agency or other person or entity when the employee was hired.

4. An employment agency shall not do any of the following:

a. Send an employee or an application of an employee to an employer who has not applied to the employment agency for help or labor.

b. Through false notice, advertisement, or other means, fraudulently promise or deceive a person seeking help or employment with regard to the service to be rendered by the employment agency.

c. Divide a fee received from an employee with an employer or any member of an employer's staff. The division of fees between one or more employment agencies that provided services is not prohibited.

d. Charge an employee any fee greater than the fee schedule on file with the commissioner without prior consent of the commissioner.

e. Charge a fee greater than fifteen percent of the employee's annual gross earnings.

f. Require an employee to pay a fee in advance of earnings. If an employee wishes to pay a fee in advance of earnings, the contract between the employee and employment agency shall state that any advance payment by the employee is voluntary. If an employee works less than one year at the referred employment, the employment agency shall refund any amount in excess of fifteen percent of the employee's gross earnings from the referred employment.

Sec. 5. NEW SECTION. 94A.5 POWERS AND DUTIES OF THE COMMISSIONER.

1. At any time, the commissioner may examine the records, books, and any papers relating to the conduct and operation of an employment agency.

2. The commissioner shall adopt rules pursuant to chapter 17A to administer this chapter.

Sec. 6. NEW SECTION. 94A.6 VIOLATIONS.

1. A person who violates a provision of this chapter or who refuses the commissioner access to records, books, and papers pursuant to an examination under section 94A.5 shall be guilty of a simple misdemeanor.

2. If a person violates a provision of this chapter or refuses the commissioner access to records, books, and papers pursuant to an examination under section 94A.5, the commissioner shall assess a civil penalty against the person in an amount not greater than two thousand dollars.

Sec. 7. Section 84A.5, subsection 3, Code 1999, is amended to read as follows:

3. The division of labor services is responsible for the administration of the laws of this state relating to occupational health and safety, the inspection of amusement rides, the

removal and encapsulation of asbestos, the inspection of boilers, wage payment collection, registration of construction contractors, the minimum wage, non-English speaking employees, child labor, employment agency licensing, boxing and wrestling, inspection of elevators, and hazardous chemical risks under chapters 88, 88A, 88B, 89, 89A, 89B, 90A, 91, 91A, 91C, 91D, 91E, 92, ~~94~~, and ~~95~~ 94A. The executive head of the division is the labor commissioner, appointed pursuant to section 91.2.

Sec. 8. Section 91.4, subsection 5, Code 1999, is amended to read as follows:

5. The director of the department of workforce development, in consultation with the labor commissioner, shall, at the time provided by law, make an annual report to the governor setting forth in appropriate form the business and expense of the division of labor services for the preceding year, the number of disputes or violations processed by the division and the disposition of the disputes or violations, and other matters pertaining to the division which are of public interest, together with recommendations for change or amendment of the laws in this chapter and chapters 88, 88A, 88B, 89, 89A, 89B, 90A, 91A, 91C, 91D, 91E, 92, ~~94~~, and ~~95~~ 94A, and the recommendations, if any, shall be transmitted by the governor to the first general assembly in session after the report is filed.

Sec. 9. Chapters 94 and 95, Code 1999, are repealed.

Approved May 17, 1999

CHAPTER 131

PROPERTY EXEMPT FROM EXECUTION

H.F. 660

AN ACT relating to certain property of a debtor which is exempt from execution, and providing an effective date and for the Act's applicability.

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

Section 1. Section 627.6, subsection 8, paragraph a, Code 1999, is amended to read as follows:

a. A social security benefit, unemployment compensation, or ~~a local~~ any public assistance benefit.

Sec. 2. Section 627.6, subsection 8, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. Contributions and assets, including the accumulated earnings and market increases in value, in any of the plans or contracts as follows:

(1) Transfers from a retirement plan qualified under the Employee Retirement Income Security Act of 1974 (ERISA), as codified at 29 U.S.C. § 1001 et seq., to another ERISA-qualified plan or to another pension or retirement plan authorized under federal law, as described in subparagraph (3).

(2) Retirement plans established pursuant to qualified domestic relations orders, as defined in 26 U.S.C. § 414. However, nothing in this section shall be construed as making any retirement plan exempt from the claims of the beneficiary of a qualified domestic relations order or from claims for child support or alimony.

(3) For simplified employee pension plans, self-employed pension plans, Keogh plans (also known as H.R. 10 plans), individual retirement accounts, Roth individual retirement

accounts, savings incentive matched plans for employees, salary reduction simplified employee pension plans (also known as SARSEPs), and similar plans for retirement investments authorized in the future under federal law, the exemption for contributions shall not exceed, for each tax year of contributions, the actual amount of the contribution or two thousand dollars, whichever is less. The exemption for accumulated earnings and market increases in value of plans under this subparagraph shall be limited to an amount determined by multiplying all the accumulated earnings and market increases in value by a fraction, the numerator of which is the total amount of exempt contributions as determined by this subparagraph, and the denominator of which is the total of exempt and nonexempt contributions to the plan.

For purposes of this paragraph "f", "market increases in value" shall include, but shall not be limited to, dividends, stock splits, interest, and appreciation. "Contributions" means contributions by the debtor and by the debtor's employer.

Sec. 3. **EFFECTIVE DATE AND APPLICABILITY.** This Act, being deemed of immediate importance, takes effect upon enactment, and shall apply to all claims of exemption under this section* made on or after the day of enactment.

Approved May 17, 1999

CHAPTER 132

QUALITY CARE AWARD FOR HEALTH CARE FACILITIES

H.F. 708

AN ACT establishing a governor's award for quality care in health care facilities.

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

Section 1. **NEW SECTION.** 135C.20B GOVERNOR'S AWARD — QUALITY CARE.

1. A governor's award for quality care is established, to be awarded annually by the governor to a health care facility in the state which demonstrates provision of the highest quality care to residents.

2. The department shall adopt rules establishing the criteria to determine quality care. In developing the criteria, the department shall consult with the members of Iowa partners for resident care and shall also consider all of the following:

a. The report cards completed pursuant to section 135C.20A.

b. Any unique services provided by a facility to its residents to improve the quality of care in the facility.

c. Any information submitted by care review committee members or residents with regard to the quality of care of the facility.

d. Whether the facility accepts residents for whom costs of care are paid under chapter 249A.

Approved May 17, 1999

* The word "Act" probably intended

CHAPTER 133

COUNTY AGRICULTURAL EXTENSION COUNCILS — DUTIES AND MEETINGS

S.F. 41

AN ACT relating to the duties and meetings of the county agricultural extension councils.

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

Section 1. Section 176A.7, subsection 2, Code 1999, is amended to read as follows:

2. Each extension council shall meet ~~during the months of January and July~~ at least two times during a calendar year and at other times during the year as the council determines. The date, time, and place of each meeting shall be fixed by the council.

Sec. 2. Section 176A.8, subsections 1 and 8, Code 1999, are amended to read as follows:

1. To elect from their own number annually ~~in January~~ a chairperson, vice chairperson, secretary and a treasurer who shall serve and be the officers of the extension council for a term ~~expiring December 31~~ each of one year, and perform the functions and duties as herein in this chapter provided.

8. To prepare annually ~~on or before January 31~~ March 15 a budget for the fiscal year beginning July 1 and ending the following June 30, in accordance with the provisions of chapter 24 and certify the same to the board of supervisors of the county of their extension district as required by law.

Sec. 3. Section 176A.8, subsections 2 and 4, Code 1999, are amended by striking the subsections.

Sec. 4. Section 176A.10, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The extension council of each extension district shall, at a ~~regular or special~~ meeting held ~~in January in each year~~ before March 15, estimate the amount of money required to be raised by taxation for financing the county agricultural extension education program authorized in this chapter. The annual tax levy and the amount of money to be raised from the levy for the county agricultural extension education fund shall not exceed the following:

Approved May 18, 1999

CHAPTER 134

VIATICAL SETTLEMENT CONTRACTS — SALE AS INVESTMENTS

S.F. 410

AN ACT providing for the regulation of viatical settlement contracts when sold as investments.

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

Section 1. Section 502.102, subsection 13, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. With respect to a viatical settlement contract, “issuer” means a person involved in creating, transferring, or selling to an investor any interest in such a contract, including but not limited to fractional or pooled interests, but does not include an agent or a broker-dealer.

Sec. 2. Section 502.102, subsection 19, Code 1999, is amended to read as follows:

19. "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; viatical settlement contract, or any fractional or pooled interest in such 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. 3. Section 502.102, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 20A. "Viatical settlement contract" means an agreement for the purchase, sale, assignment, transfer, devise, or bequest of any portion of the death benefit or ownership of a life insurance policy or contract, for consideration which is less than the expected death benefit of the life insurance policy or contract.

Sec. 4. Section 502.202, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 19. A viatical settlement contract, or fractional or pooled interest in such contract, provided any of the following conditions are satisfied:

- a. The assignment, transfer, sale, devise, or bequest of a death benefit of a life insurance policy or contract, is made by the viator to an insurance company as provided under Title 13, subtitle 1.
- b. The assignment, transfer, sale, devise, or bequest of a life insurance policy or contract, for any value less than the expected death benefit, is made by the viator to a family member or other person who enters into no more than one such agreement in a calendar year.
- c. A life insurance policy or contract is assigned to a bank, savings bank, savings and loan association, credit union, or other licensed lending institution as collateral for a loan.
- d. Accelerated benefits are exercised as provided in the life insurance policy or contract and consistent with applicable law.

Approved May 18, 1999

CHAPTER 135
INDIGENT DEFENSE
S.F. 451

AN ACT relating to the payment of the legal defense costs of indigent persons, expanding the duties of the state public defender, and providing for the appointment and removal of certain state public defender personnel.

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

Section 1. Section 8.59, Code 1999, 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, and 663.44, and 822.5.

Sec. 2. NEW SECTION. 13B.2A INDIGENT DEFENSE ADVISORY COMMISSION.

An indigent defense advisory commission is established within the department to advise and make recommendations to the legislature and the state public defender regarding the hourly rates paid to court-appointed counsel and per case fee limitations. These recommendations shall be consistent with the constitutional requirement to provide effective assistance of counsel to those indigent persons for whom the state is required to provide counsel.

The advisory commission shall consist of five members. The governor shall appoint three members, including one member from nominations by the Iowa state bar association and one member from nominations by the supreme court. Two members, one from each chamber of the general assembly, shall be appointed, with no more than one appointed from the same political party. Each member shall serve a three-year term, with initial terms to be staggered. No more than three members shall be licensed to practice law in Iowa. The state public defender shall serve as an ex officio member of the commission and shall serve as the nonvoting chair of the commission.

The members of the commission are entitled to receive reimbursement for actual expenses incurred as provided for in section 7E.6, subsection 2, while engaged in the performance of the duties of the commission.

The advisory commission shall file a written report every three years with the governor and the general assembly by January 1 of a year in which a report is due regarding the recommendations and activities of the commission. The first such report shall be due on January 1, 2003.

Sec. 3. Section 13B.4, subsections 1 through 3, Code 1999, are amended to read as follows:

1. The state public defender shall coordinate the provision of legal representation of all indigents under arrest or charged with a crime, seeking postconviction relief, against whom a contempt action is pending, in proceedings under chapter 229A, on appeal in criminal cases, and on appeal in proceedings to obtain postconviction relief when ordered to do so by the district court in which the judgment or order was issued, and may provide for the representation of indigents in proceedings instituted pursuant to chapter 908. The state public defender shall not engage in the private practice of law.

2. The state public defender shall file with the clerk of the district court in each county served by a public defender a designation of which local public defender office shall receive

notice of appointment of cases. Except as otherwise provided, in each county in which the state public defender files such designation, the state public defender or its designee shall be appointed by the court to represent all eligible indigents, ~~whether the case is criminal or juvenile in nature~~ in all of the cases and proceedings specified under subsection 1. The appointment shall not be made if the state public defender notifies the court that the local public defender will not provide legal representation in cases ~~involving offenses~~ as identified in the designation by the state public defender.

3. The state public defender may contract with persons admitted to practice law in this state for the provision of legal services to indigent ~~or partially indigent~~ persons.

Sec. 4. Section 13B.4, subsection 4, Code 1999, is amended by striking the subsection and inserting in lieu thereof the following:

4. a. The state public defender shall establish fee limitations for particular categories of cases. The fee limitations shall be reviewed at least every three years. In establishing and reviewing the fee limitations, the state public defender shall consider public input during the establishment and review process, and any available information regarding ordinary and customary charges for like services; the number of cases in which legal services to indigents are anticipated; the seriousness of the charge; an appropriate allocation of resources among the types of cases; experience with existing hourly rates, claims, and fee limitations; and any other factors determined to be relevant.

b. The state public defender shall establish a procedure for the submission of all claims for payment of indigent defense costs, including the submission of interim claims in appropriate cases.

c. The state public defender may review any claim for payment of indigent defense costs and may take any of the following actions:

(1) If the charges are appropriate and reasonable, approve the claim for payment.

(2) Deny the claim, if the claim is not timely filed.

(3) Request additional information or return the claim to the attorney, if the claim is incomplete.

(4) If any portion of the claim is excessive, notify the attorney that the claim is excessive and will be reduced to an amount which is not excessive, and reduce and approve the balance of the claim.

Notwithstanding chapter 17A, the attorney may seek review of any action or intended action taken pursuant to paragraph "d"* by filing a motion with the court with jurisdiction over the original appointment for review. The motion must be filed within twenty days of any action taken by the state public defender. The attorney shall have the burden to establish by a preponderance of the evidence that the amount of compensation and expenses is reasonable and necessary to competently represent the client. The filing of a motion shall not delay the payment of the amount specified by the state public defender pursuant to this subsection.

Sec. 5. Section 13B.4, Code 1999, is amended by adding the following new subsection: NEW SUBSECTION. 4A. If any portion of the claim is not payable under the attorney's appointment, the state public defender shall deny those portions of the claim that are not payable and approve the remainder of the claim.

Notwithstanding chapter 17A, an attorney whose claim for compensation is denied may seek review of the action of the state public defender by filing a motion with the court with jurisdiction over the original appointment. The motion must be filed within thirty days of the action of the state public defender. The type of review and relief the court may provide shall be limited to the review and relief specified in chapter 17A. The filing of a motion shall not delay the payment of the amount approved by the state public defender.

Sec. 6. Section 13B.4, subsection 7, Code 1999, is amended to read as follows:

7. The state public defender shall adopt rules, as necessary, pursuant to chapter 17A to administer this chapter and ~~section 815.9~~ chapter 815.

* According to enrolled Act

Sec. 7. Section 13B.8, subsection 2, Code 1999, is amended to read as follows:

2. The state public defender may appoint a local public defender and may remove the local public defender, ~~assistant local public defenders, clerks, investigators, secretaries, or other employees~~ for cause. ~~The Each~~ local public defender, ~~and any assistant local public defender,~~ must be an attorney admitted to the practice of law before the Iowa supreme court.

Sec. 8. Section 13B.9, subsection 1, paragraph b, Code 1999, is amended to read as follows:

b. Represent an indigent party, without fee and upon an order of the court, in child in need of assistance, family in need of assistance, delinquency, and termination of parental rights proceedings pursuant to chapter 232 in a county served by a public defender. The local public defender shall counsel and represent an indigent party in all proceedings pursuant to chapter 232 in a county served by a public defender and prosecute before or after judgment any appeals or other remedies which the local public defender considers to be in the interest of justice unless other counsel is appointed to the case. ~~The state public defender shall be reimbursed by the counties for services rendered by employees of the local public defenders' offices under this subsection, pursuant to section 232.141.~~

Sec. 9. Section 13B.9, subsection 1, paragraph c, Code 1999, is amended by striking the paragraph.

Sec. 10. Section 13B.9, subsection 3, Code 1999, is amended by striking the subsection.

Sec. 11. Section 13B.10, subsections 2 through 4, Code 1999, are amended by striking the subsections.

Sec. 12. Section 28E.19, Code 1999, is amended to read as follows:

28E.19 JOINT COUNTY INDIGENT DEFENSE FUND.

Two or more counties may execute an agreement under this chapter to create a joint county indigent defense fund to be used to compensate attorneys appointed to represent indigents ~~under section 815.10 when funds budgeted for that purpose are exhausted~~. In addition to other requirements of an agreement under this chapter, the agreement shall provide for the amount to be paid by each county based on its population to establish and maintain an appropriate balance in the joint fund, and for a method of repayment if a county withdraws more funds than it has contributed.

Sec. 13. Section 124.407, unnumbered paragraphs 2 and 7, Code 1999, are amended by striking the unnumbered paragraphs.

Sec. 14. Section 125.78, subsections 1 and 2, Code 1999, are amended to read as follows:

1. Determine whether the respondent has an attorney who is able and willing to represent the respondent in the commitment proceeding, and if not, whether the respondent is financially able to employ an attorney and capable of meaningfully assisting in selecting an attorney. In accordance with those determinations, the court shall allow the respondent to select an attorney or shall assign an attorney to the respondent. If the respondent is financially unable to pay an attorney, ~~the attorney shall be compensated in substantially the same manner as provided by section 815.7, except that if the county has a public defender, the court may assign the public defender or an attorney on the public defender's staff as the respondent's attorney~~ the county shall compensate the attorney at an hourly rate to be established by the county board of supervisors in substantially the same manner as provided in section 815.7.

2. If the application includes a request for a court-appointed attorney for the applicant and the court is satisfied that a court-appointed attorney is necessary to assist the applicant in a meaningful presentation of the evidence, and that the applicant is financially unable to employ an attorney, the court shall appoint an attorney to represent the applicant.—~~The~~

~~attorney shall be compensated in substantially the same manner as provided by section 815.7 and the county shall compensate the attorney at an hourly rate to be established by the county board of supervisors in substantially the same manner as provided in section 815.7.~~

Sec. 15. Section 222.13A, subsection 4, Code 1999, is amended to read as follows:

4. As soon as practicable after the filing of a petition for approval of the voluntary admission, the court shall determine whether the minor has an attorney to represent the minor in the proceeding. If the minor does not have an attorney, the court shall assign to the minor an attorney. If the minor is unable to pay for an attorney, the attorney shall be compensated ~~in substantially the same manner as provided in section 815.7~~ by the county at an hourly rate to be established by the county board of supervisors in substantially the same manner as provided in section 815.7.

Sec. 16. Section 222.22, Code 1999, is amended to read as follows:

222.22 TIME OF APPEARANCE.

The time of appearance shall not be less than five days after completed service unless the court orders otherwise. Appearance on behalf of the person who is alleged to have mental retardation may be made by any citizen of the county or by any relative. The district court shall assign counsel for the person who is alleged to have mental retardation. Counsel shall prior to proceedings personally consult with the person who is alleged to have mental retardation unless the judge appointing counsel certifies that in the judge's opinion, consultation shall serve no useful purpose. The certification shall be made a part of the record. An attorney assigned by the court shall ~~receive compensation as the district court shall fix to be paid in the first instance by the county~~ be compensated by the county at an hourly rate to be established by the county board of supervisors in substantially the same manner as provided in section 815.7.

Sec. 17. Section 229.2, subsection 1, paragraph c, Code 1999, is amended to read as follows:

c. As soon as is practicable after the filing of a petition for juvenile court approval of the admission of the minor, the juvenile court shall determine whether the minor has an attorney to represent the minor in the hospitalization proceeding, and if not, the court shall assign to the minor an attorney. If the minor is financially unable to pay for an attorney, the attorney shall be compensated ~~in substantially the manner provided by section 815.7~~ by the county at an hourly rate to be established by the county board of supervisors in substantially the same manner as provided in section 815.7.

Sec. 18. Section 229.8, subsection 1, Code 1999, is amended to read as follows:

1. Determine whether the respondent has an attorney who is able and willing to represent the respondent in the hospitalization proceeding, and if not, whether the respondent is financially able to employ an attorney and capable of meaningfully assisting in selecting one. In accordance with those determinations, the court shall if necessary allow the respondent to select, or shall assign to the respondent, an attorney. If the respondent is financially unable to pay an attorney, the attorney shall be compensated ~~in substantially the manner provided by section 815.7, except that if the county has a public defender the court may designate the public defender or an attorney on the public defender's staff to act as the respondent's attorney~~ by the county at an hourly rate to be established by the county board of supervisors in substantially the same manner as provided in section 815.7.

Sec. 19. Section 229.19, unnumbered paragraph 3, Code 1999, is amended to read as follows:

The court or, if the advocate is appointed by the county board of supervisors, the board shall prescribe reasonable compensation for the services of the advocate. The compensation shall be based upon the reports filed by the advocate with the court. The advocate's compensation shall be paid by the county in which the court is located, either on order of the

court or, if the advocate is appointed by the county board of supervisors, on the direction of the board. If the advocate is appointed by the court, the advocate is an employee of the state for purposes of chapter 669. If the advocate is appointed by the county board of supervisors, the advocate is an employee of the county for purposes of chapter 670. If the patient or the person who is legally liable for the patient's support is not indigent, the board shall recover the costs of compensating the advocate from that person. If that person has an income level as determined pursuant to section 815.9 greater than one hundred percent but not more than one hundred fifty percent of the poverty guidelines, at least one hundred dollars of the advocate's compensation shall be recovered ~~in accordance with rules adopted by the state public defender in the manner prescribed by the county board of supervisors.~~ If that person has an income level as determined pursuant to section 815.9 greater than one hundred fifty percent of the poverty guidelines, at least two hundred dollars of the advocate's compensation shall be recovered ~~in accordance with rules adopted by the state public defender in substantially the same manner prescribed by the county board of supervisors as provided in section 815.7.~~

Sec. 20. Section 232.141, subsection 2, Code 1999, is amended to read as follows:

2. ~~Upon certification of the court, all~~ All of the following expenses are a charge upon the county in which the proceedings are held, to the extent provided in subsection 3:

a. The fees and mileage of witnesses and the expenses of officers serving notices and subpoenas which are incurred in connection with the appointment of an attorney by the court to serve as counsel to any party or to serve as a guardian ad litem for any child.

b. Reasonable compensation for an attorney appointed by the court to serve as counsel to any party or as guardian ad litem for any child. However, the amount of compensation paid shall be paid in accordance with section 815.7.

Sec. 21. Section 232.141, subsection 3, paragraph c, Code 1999, 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~~ paid 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~~ However, before any costs are paid, a claim must be submitted to and approved by the state public defender who shall prescribe rules and forms to implement this subsection.

Sec. 22. Section 237.20, subsection 4, paragraph e, Code 1999, is amended to read as follows:

e. The guardian ad litem of the foster child. ~~The~~ An attorney appointed as guardian ad litem shall be eligible for compensation ~~through~~ under section 232.141, subsection 1, ~~paragraph "b" 2.~~

Sec. 23. Section 814.11, Code 1999, is amended to read as follows:

814.11 INDIGENT'S RIGHT TO COUNSEL.

An indigent defendant is entitled to appointed counsel on the appeal of all indictable offenses. ~~Such~~ The appointment is ~~subject to rules of the supreme court shall be made to the state appellate defender unless the state appellate defender is unable to handle the case due to a conflict of interest or because of a temporary overload of cases. If the state appellate defender is unable to handle the case, the court shall appoint an attorney who has a contract with the state public defender to handle such an appeal. If the court determines that no contract attorney is available to handle the appeal, the court may appoint a noncontract attorney who has agreed to handle the case, but the order of appointment shall include a specific finding that no contract attorney was available. The appointment of noncontract attorneys shall be on a rotational or equalization basis, considering the experience of the attorney and the difficulty of the case.~~

Sec. 24. Section 815.4, Code 1999, is amended to read as follows:

815.4 SPECIAL WITNESSES FOR INDIGENTS.

Witnesses secured for indigent ~~or partially indigent~~ defendants under R.Cr.P. 19 must file a claim for compensation supported by an affidavit specifying the time expended, services rendered, and expenses incurred on behalf of the defendant.

Sec. 25. Section 815.5, Code 1999, is amended to read as follows:

815.5 EXPERT WITNESSES FOR STATE AND DEFENSE.

Notwithstanding the provisions of section 622.72, reasonable compensation as determined by the court shall be awarded expert witnesses, expert witnesses for an indigent ~~or partially indigent~~ person referred to in section 815.4, or called by the state in criminal cases.

Sec. 26. Section 815.7, Code 1999, 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, seeking postconviction relief, against whom a contempt action is pending, appealing a criminal conviction, appealing a denial of postconviction relief, or subject to a proceeding under chapter 229A, or to serve as counsel for any person or guardian ad litem ~~to a person for any child in juvenile court, in this state~~ shall be entitled to a reasonable compensation and expenses 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. For appointments made on or after July 1, 1999, the reasonable compensation shall be calculated on the basis of sixty dollars per hour for class "A" felonies, fifty-five dollars per hour for class "B" felonies, and fifty dollars per hour for all other offenses. The expenses shall include any sums as are necessary for investigations in the interest of justice, and the cost of obtaining the transcript of the trial record and briefs if an appeal is filed. ~~Such~~ The 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. If the attorney follows the case into another county or into the appellate court, the attorney shall be entitled to compensation as provided in this section.~~ Only one attorney fee shall be so awarded in any one case except that in class "A" felony cases, two may be authorized.

Sec. 27. Section 815.9, Code 1999, is amended to read as follows:

815.9 INDIGENCY DETERMINED — PENALTY.

1. For purposes of this chapter, ~~section 68.8, section 222.22 chapter 13B, chapter 229A, chapter 232, chapter 665, chapter 814, chapter 822,~~ and the rules of criminal procedure, ~~the following apply a person is indigent if the person is entitled to an attorney appointed by the court as follows:~~

a. A person is ~~indigent~~ entitled to an attorney appointed by the court to represent the person if the person has an income level at or below one hundred ~~fifty~~ twenty-five percent of the United States poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services, unless the court determines that the person is able to pay for the cost of an attorney to represent the person on the pending charges. In making the determination of a person's ability to pay for the cost of an attorney, the court shall consider not only the person's income, but also the availability of any assets subject to execution, including but not limited to cash, stocks,

bonds, and any other property which may be applied to the satisfaction of judgments and the seriousness of the charge.

~~b. A person is not indigent if the person has an income level greater than one hundred fifty percent of the United States poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services.~~

~~e b. A person with an income level greater than one hundred fifty ~~twenty-five~~ percent, but less than at or below two hundred percent, of the most recently revised poverty income guidelines published by the United States department of health and human services ~~may be deemed partially indigent by~~ shall not be entitled to an attorney appointed by the court, unless the court pursuant to makes a written finding that, given the person's circumstances, not appointing counsel on the pending charges would cause the person substantial hardship. However, the court shall require a person appointed counsel to contribute to the cost of representation in accordance with rules adopted by the state public defender. In determining whether substantial hardship would result, the court shall consider not only the person's income, but also the availability of any assets subject to execution, including but not limited to cash, stocks, bonds, and any other property which may be applied to the satisfaction of judgments and the seriousness of the charge.~~

~~d c. A person with an income level greater than two hundred percent of the most recently revised poverty income guidelines published by the United States department of health and human services shall not be deemed indigent or partially indigent entitled to an attorney appointed by the court, unless the person is charged with a felony and the court makes a written finding that, given the person's circumstances, not appointing counsel would cause the person substantial hardship. However, the court shall require a person appointed counsel to contribute to the cost of representation in accordance with rules adopted by the state public defender. In determining whether substantial hardship would result, the court shall consider not only the person's income, but also the availability of any assets subject to execution, including but not limited to cash, stocks, bonds, and any other property which may be applied to the satisfaction of judgments and the seriousness of the charge.~~

2. A determination of the indigent status of ~~whether~~ a person is entitled to an appointed attorney shall be made on the basis of an affidavit of financial status submitted at the time of the person's initial appearance before a court or at such later time as a request for court appointment of counsel is made. If a person is granted legal assistance as an indigent or partial indigent, the financial statement shall be filed and permanently retained in the person's court file. The state public defender shall adopt rules prescribing the form and content of the affidavit of financial statement and the criteria by which a determination of indigency shall be based status. The affidavit of financial statement status shall be signed under penalty of perjury and shall contain sufficient information to allow the determination to be made of whether the person meets the guidelines set out in subsection 1 and shall be accompanied by the person's most recent pay slip, if employed is entitled to an appointed attorney under this section. If the person is granted an appointed attorney, the affidavit of financial status shall be filed and permanently retained in the person's court file.

3. ~~A person who knowingly submits a false financial statement for the purpose of obtaining legal assistance by appointed counsel commits a fraudulent practice. If a person is granted an appointed attorney, the person shall be required to reimburse the state for the total cost of legal assistance provided to the person. As used in this subsection, "legal assistance" includes legal counsel "Legal assistance" as used in this section shall include not only an appointed attorney, but also transcripts, witness fees and, expenses, and any other goods or services required by law to be provided to an indigent person entitled to an appointed attorney.~~

4. If the case is a criminal case, all costs and fees incurred for legal assistance shall become due and payable to the clerk of the district court by the person receiving the legal assistance not later than the date of sentencing, or if the person is acquitted or the charges are dismissed, within thirty days of the acquittal or dismissal.

5. If the case is other than a criminal case, all costs and fees incurred for legal assistance shall become due and payable to the clerk of the district court by the person receiving the legal assistance not later than ten days from the date of any court ruling or trial held in the case, or if the case is dismissed, within ten days of the dismissal.

6. An appointed attorney shall submit a report pertaining to the costs and fees for legal assistance to the court at the times specified in subsections 4 and 5. If the appointed attorney is a public defender, the report shall specify the total hours of service plus other expenses. If the appointed attorney is a private attorney, the total amount of legal assistance shall be the total amount of the fees claimed by the appointed attorney together with other expenses.

7. If all costs and fees incurred for legal assistance are not paid at the times specified in subsections 4 and 5, the court shall order payment of the costs and fees in reasonable installments.

8. If a person is granted an appointed attorney or is receiving legal assistance in accordance with this section and the person is employed, the person shall execute an assignment of wages. An order for assignment of income, in a reasonable amount to be determined by the court, shall also be entered by the court. The state public defender shall prescribe forms for use in wage assignments and court orders entered under this section.

9. If any costs and fees are not paid at the times specified under subsections 4 and 5, a judgment shall be entered against the person for any unpaid amounts.

Sec. 28. Section 815.10, Code 1999, is amended to read as follows:

815.10 APPOINTMENT OF COUNSEL BY COURT.

1. The court, for cause and upon its own motion or upon application by an indigent person or a public defender, shall appoint the state public defender, the state public defender's designee pursuant to section 13B.4, or an attorney pursuant to section 13B.9 to represent an indigent person at any stage of the criminal, postconviction, contempt, commitment under chapter 229A, or juvenile proceedings or on appeal of any criminal, postconviction, contempt, commitment under chapter 229A, or juvenile action in which the indigent person is entitled to legal assistance at public expense. However, in juvenile cases, the court may directly appoint an existing nonprofit corporation established for and engaged in the provision of legal services for juveniles. An appointment shall not be made unless the person is determined to be indigent under section 815.9. Only one attorney shall be appointed in all cases, except that in class "A" felony cases the court may appoint two attorneys.

2. An attorney other than a public defender ~~or a contract attorney~~ who is appointed by the court under this section shall apply to the ~~district court~~ state public defender for compensation and for reimbursement of costs incurred. The amount of compensation due shall be determined in accordance with any indigent defense contract or pursuant to section 815.7.

3. ~~A contract attorney appointed by the court pursuant to this section and section 13B.4 shall apply to the state public defender for compensation and for reimbursement of costs incurred in accordance with the contract. The amount of compensation due shall be determined in accordance with the contract. The state public defender shall adopt rules which specify the information which shall be included with all claims for compensation submitted by court-appointed attorneys under this section. The rules shall require that a court-appointed attorney shall obtain court approval of a claim prior to exceeding the fee limitations established pursuant to section 13B.4. However, a court-appointed attorney may request court approval after exceeding a fee limitation if good cause is shown. The order approving a claim that exceeds the fee limitation shall be included in the information submitted under this section. If the information required under this section and the rules of the state public defender is not submitted, the claim may be denied until the information is provided. If the information required under this section and the rules of the state public defender is submitted with the claim, the state public defender may approve reasonable and proper compensation to the court-appointed attorney in the manner provided in the rules.~~

Sec. 29. Section 815.11, Code 1999, is amended to read as follows:

815.11 APPROPRIATIONS FOR INDIGENT DEFENSE.

Costs incurred under chapter 229A, 665, or 822, or section 232.141, subsection 3, paragraph “c”, or sections 814.9, 814.10, 814.11, 815.4, 815.5, 815.6, 815.7, and 815.10, or the rules of criminal procedure on behalf of an indigent shall be paid from funds appropriated by the general assembly to the department of inspections and appeals for those purposes.

Sec. 30. EMERGENCY RULES. The office of the state public defender of the department of inspections and appeals may adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph “b”, to implement the provisions of this Act. The rules shall become effective immediately upon filing, unless 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. 31. Sections 815.9A and 815.10A, Code 1999, are repealed.

Approved May 18, 1999

CHAPTER 136

CAMPAIGN FINANCE

S.F. 470

AN ACT relating to campaign finance disclosure, including the study of campaign finance disclosure and related laws, by regulating express advocacy of candidates and ballot issues, establishing a commission to study campaign finance disclosure and related laws, providing and applying penalties, providing an effective date and for severability.

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

Section 1. Section 56.2, Code 1999, is amended by adding the following new subsections:
NEW SUBSECTION. 5A. “Clearly identified” means that a communication contains an unambiguous reference to a particular candidate or ballot issue, including but not limited to one or more of the following:

- a. Use of the name of the candidate or ballot issue.
- b. Use of a photograph or drawing of the candidate, or the use of a particular symbol associated with a specific ballot issue.
- c. Use of a candidate’s initials, nickname, office, or status as a candidate, or use of acronym, popular name, or characterization of a ballot issue.

NEW SUBSECTION. 12A. “Express advocacy” or to “expressly advocate” means communication that can be characterized according to at least one of the following descriptions:

- a. The communication is political speech made in the form of a contribution.
- b. In advocating the election or defeat of one or more clearly identified candidates or the passage or defeat of one or more clearly identified ballot issues, the communication includes explicit words that unambiguously indicate that the communication is recommending or supporting a particular outcome in the election with regard to any clearly identified candidate or ballot issue.

c. When taken as a whole and with limited reference to external events such as the proximity to the election, the communication could only be interpreted by a reasonable person as supporting or recommending the election, passage, or defeat of one or more clearly identified candidates or ballot issues because both of the following conditions are met:

(1) The communication, as it relates to the election or defeat of the candidate or ballot issue, is unmistakable, unambiguous, and suggestive of only one meaning.

(2) Reasonable minds could not differ as to whether the communication encourages action to nominate, elect, approve, or defeat one or more clearly identified candidates or a ballot issue or whether the communication encourages some other kind of action.

Sec. 2. Section 56.2, subsections 16 and 17, Code 1999, are amended to read as follows:

16. "Political committee" means a either of the following:

a. A committee, but not a candidate's committee, which that accepts contributions in excess of five hundred dollars in the aggregate, makes expenditures in excess of five hundred dollars in the aggregate, or incurs indebtedness in excess of five hundred dollars in the aggregate in any one calendar year for the purpose of supporting or opposing to expressly advocate the nomination, election, or defeat of a candidate for public office, or for the purpose of supporting or opposing to expressly advocate the passage or defeat of a ballot issue; "political committee" also means an.

b. An association, lodge, society, cooperative, union, fraternity, sorority, educational institution, civic organization, labor organization, religious organization, or professional organization which that accepts contributions in excess of five hundred dollars in the aggregate, makes expenditures in excess of five hundred dollars in the aggregate, or incurs indebtedness in excess of five hundred dollars in the aggregate in any one calendar year for the purpose of supporting or opposing to expressly advocate the nomination, election, or defeat of a candidate for public office, or for the purpose of supporting or opposing to expressly advocate the passage or defeat of a ballot issue. "Political committee" also includes a committee which accepts contributions in excess of five hundred dollars in the aggregate, makes expenditures in excess of five hundred dollars in the aggregate, or incurs indebtedness in excess of five hundred dollars in the aggregate in a calendar year to cause the publication or broadcasting of material in which the public policy positions or voting record of an identifiable candidate is discussed and in which a reasonable person could find commentary favorable or unfavorable to those public policy positions or voting record.

17. "Political purpose" or "political purposes" means the support or opposition express advocacy of a candidate or ballot issue.

Sec. 3. Section 56.4, unnumbered paragraphs 2 and 3, Code 1999, are amended to read as follows:

Political committees supporting or opposing expressly advocating the nomination, election, or defeat of candidates for both federal office and any elected office created by law or the Constitution of the state of Iowa shall file statements and reports with the board in addition to any federal reports required to be filed with the board. However, a political committee which is registered and filing full disclosure reports of all financial activities with the federal election commission may file verified statements as provided in section 56.5.

Political committees supporting or opposing expressly advocating the nomination, election, or defeat of candidates or the passage or defeat of ballot issues for statewide elections and for county, municipal or school elections may file all activity on one report with the board and shall send a copy to the commissioner responsible under section 47.2 for conducting the election.

Sec. 4. Section 56.5, subsection 2, paragraph f, Code 1999, is amended to read as follows:

f. A signed statement by the treasurer of the committee and the candidate, in the case of a candidate's committee, which shall verify that they are aware of the requirement to file

disclosure reports if the committee, the committee officers, the candidate, or both the committee officers and the candidate receive contributions in excess of five hundred dollars in the aggregate, make expenditures in excess of five hundred dollars in the aggregate, or incur indebtedness in excess of five hundred dollars in the aggregate in a calendar year ~~for the purpose of supporting or opposing to expressly advocate the nomination, election, or defeat of any candidate for public office.~~ In the case of political committees, statements shall be made by the treasurer of the committee and the chairperson.

Sec. 5. Section 56.5A, Code 1999, is amended to read as follows:

56.5A CANDIDATE'S COMMITTEE.

1. Each candidate for state, county, city, or school office shall organize one, and only one, candidate's committee for a specific office sought when the candidate receives contributions in excess of five hundred dollars in the aggregate, makes expenditures in excess of five hundred dollars in the aggregate, or incurs indebtedness in excess of five hundred dollars in the aggregate in a calendar year.

2. A political committee shall not be established to ~~support or oppose~~ expressly advocate the nomination, election, or defeat of only one candidate for office, except that a political committee may be established to ~~support or oppose~~ expressly advocate the passage or defeat of approval of a single judge standing for retention.

Sec. 6. Section 56.6, subsection 1, paragraph d, Code 1999, is amended to read as follows:

d. Committees for municipal and school elective offices and local ballot issues shall file their first reports five days prior to any election in which the name of the candidate or the local ballot issue which they ~~support or oppose~~ expressly advocate appears on the printed ballot and shall file their next report on the first day of the month following the final election in a calendar year in which the candidate's name or the ballot issue appears on the ballot. A committee ~~supporting or opposing expressly advocating the nomination, election, or defeat of~~ a candidate for a municipal or school elective office or the passage or defeat of a local ballot issue shall also file disclosure reports on the nineteenth day of January and October of each year in which the candidate or ballot issue does not appear on the ballot and on the nineteenth day of January, May, and July of each year in which the candidate or ballot issue appears on the ballot, until the committee dissolves. These reports shall be current to five days prior to the filing deadline and are considered timely filed if mailed bearing a United States postal service postmark on or before the due date.

Sec. 7. Section 56.12A, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The state and the governing body of a county, city, or other political subdivision of the state shall not expend or permit the expenditure of public moneys for political purposes, including ~~supporting or opposing~~ expressly advocating the passage or defeat of a ballot issue.

Sec. 8. Section 56.13, subsections 1, 2, and 3, Code 1999, are amended to read as follows:

1. Action involving a contribution or expenditure which must be reported under this chapter and which is taken by any person, candidate's committee or political committee on behalf of a candidate, if known and approved by the candidate, shall be deemed action by the candidate and reported by the candidate's committee. It shall be presumed that a candidate approves the action if the candidate had knowledge of it and failed to file a statement of disavowal with the commissioner or board and take corrective action within seventy-two hours of the action. A person, candidate's committee or political committee taking such action independently of that candidate's committee shall notify that candidate's committee in writing within twenty-four hours of taking the action. The notification shall provide that candidate's committee with the cost of the promotion at fair market value. A copy of the notification shall be sent to the board.

Any person who makes expenditures or incurs indebtedness, other than incidental expenses incurred in performing volunteer work, ~~in support or opposition to expressly advocate the nomination, election, or defeat~~ of a candidate for public office shall notify the appropriate committee and provide necessary information for disclosure reports.

2. If a person, other than a political committee, makes one or more expenditures in excess of five hundred dollars in the aggregate, or incurs indebtedness in excess of five hundred dollars in the aggregate, in any one calendar year ~~for purposes of supporting or opposing to expressly advocate the passage or defeat of~~ a ballot issue, the person shall file a statement of activity within ten days of taking the action exceeding the threshold. The statement shall contain information identifying the person filing the statement, identifying the ballot issue, and indicating the position urged by the person with regard to the ballot issue. The person shall file reports indicating the dates on which the expenditures or incurrence of indebtedness took place; a description of the nature of the action taken which resulted in the expenditures or debt; and the cost of the promotion at fair market value. For a local ballot issue, the reports shall be filed five days prior to any election in which the ballot issue appears and on the first day of the month following the election, as well as on the nineteenth day of January, May, and July of each year in which the ballot issue appears on the ballot and on the nineteenth day of January and October of each year in which the ballot issue does not appear on the ballot. For a statewide ballot issue, reports shall be filed on the nineteenth day of January, May, and July of each year. The reports shall be current to five days prior to the filing deadline, and are considered timely filed if mailed bearing a United States postal service postmark on or before the due date. Filing obligations shall cease when the person files a statement of discontinuation indicating that the person's financial activity ~~in support of or in opposition to expressly advocate the passage or defeat of~~ the ballot issue has ceased. Statements and reports shall be filed with the commissioner responsible under section 47.2 for conducting the election at which the issue is voted upon, except that reports on a statewide ballot issue shall be filed with the board.

3. A person taking action involving the making of an expenditure or incurrence of indebtedness ~~in support or opposition to expressly advocate the passage or defeat of~~ a ballot issue independently of a political committee shall, within seventy-two hours of taking the action, notify in writing any political committee which advocates the same position with regard to the ballot issue as the person taking the action. The notification shall provide the political committee with the cost of the promotion at fair market value. A copy of the notification shall be sent to the board. It shall be presumed that a benefited committee approves the action if the committee fails to file a statement of disavowal with the commissioner or board and takes corrective action within ten days of the action. Action approved by a committee shall be reported as a contribution by the committee.

Sec. 9. Section 56.14, subsection 1, paragraph a, Code 1999, is amended to read as follows:

1. a. A person who causes the publication or distribution of published material designed to ~~promote or defeat expressly advocate~~ the nomination, ~~or election, or defeat~~ of a candidate for public office or the passage ~~or defeat~~ of a constitutional amendment or public measure shall include conspicuously on the published material the identity and address of the person responsible for the material. If the person responsible is an organization, the name of one officer of the organization shall appear on the material. However, if the organization is a committee which has filed a statement of organization under this chapter, only the name of the committee is required to be included on the published material. Published material designed to ~~promote or defeat expressly advocate~~ the nomination, ~~or election, or defeat~~ of a candidate for public office or the passage ~~or defeat~~ of a constitutional amendment or public measure which contains language or depictions which a reasonable person would understand as asserting that an entity which is incorporated or is a registered committee had authored the material shall, if the entity is not incorporated or a registered committee,

include conspicuously on the published material a statement that the apparent organization or committee is not incorporated or a registered committee in addition to the attribution statement required by this section. For purposes of this section, "registered committee" means a committee which has an active statement of organization filed under section 56.5.

Sec. 10. Section 56.15, subsections 1, 2, and 4, Code 1999, are amended to read as follows:

1. Except as provided in subsections 3 and 4, it is unlawful for an insurance company, savings and loan association, bank, credit union, or corporation organized pursuant to the laws of this state, the United States, or any other state, territory, or foreign country, whether for profit or not, or an officer, agent, or representative acting for such insurance company, savings and loan association, bank, credit union, or corporation, to contribute any money, property, labor, or thing of value, directly or indirectly, to a committee, or ~~for the purpose of influencing to expressly advocate that~~ the vote of an elector be used to nominate, elect, or defeat a candidate for public office, except that such resources may be so expended in connection with a utility franchise election held pursuant to section 364.2, subsection 4, or a ballot issue. All such expenditures are subject to the disclosure requirements of this chapter.

2. Except as provided in subsection 3, it is unlawful for a member of a committee, or its employee or representative, except a ballot issue committee, or for a candidate for office or the representative of the candidate, to solicit, request, or knowingly receive from an insurance company, savings and loan association, bank, credit union, or corporation organized pursuant to the laws of this state, the United States, or any other state, territory, or foreign country, whether for profit or not, or its officer, agent, or representative, any money, property, or thing of value belonging to the insurance company, savings and loan association, bank, or corporation for campaign expenses, or ~~for the purpose of influencing to expressly advocate that~~ the vote of an elector be used to nominate, elect, or defeat a candidate for public office. This section does not restrain or abridge the freedom of the press or prohibit the consideration and discussion in the press of candidacies, nominations, public officers, or public questions.

4. The restrictions imposed by this section relative to making, soliciting or receiving contributions shall not apply to a nonprofit corporation or organization which uses those contributions to encourage registration of voters and participation in the political process, or to publicize public issues, or both, but does not use any part of those contributions to ~~endorse or oppose expressly advocate the nomination, election, or defeat of~~ any candidate for public office. A nonprofit corporation or organization may use contributions solicited or received to ~~support or oppose expressly advocate the passage or defeat of~~ ballot issues but the expenditures shall be disclosed by the nonprofit corporation or organization in the manner provided for a permanent organization temporarily engaged in a political activity under section 56.6.

This section does not prohibit a family farm corporation, as defined in section 9H.1, from placing a yard sign on agricultural land, and does not prohibit the placement of yard signs, with the prior written permission of the individual property owner, on property rented or leased by a corporation from private individuals, subject to the requirements of section 56.14. This section also does not prohibit the placement of a yard sign on residential property that is owned by a corporation, but rented or leased to a private individual, if the prior permission of the renter or lessee is obtained.

Sec. 11. Section 56.15, Code 1999, is amended by adding the following new subsection: **NEW SUBSECTION.** 4A. For purposes of this section, "committee" shall include statutory political committees organized under chapter 43, and nonparty political organizations organized under chapter 44.

Sec. 12. Section 56.22, subsection 2, Code 1999, is amended to read as follows:

2. Funds distributed to statutory political committees pursuant to this chapter shall not be used to ~~support or oppose~~ expressly advocate the nomination, election, or defeat of any

candidate. Nothing in this subsection shall be construed to prohibit a statutory political committee from using such funds to pay expenses incurred in arranging and holding a nominating convention.

Sec. 13. CAMPAIGN FINANCE COMMISSION. A campaign finance commission is established to study campaign finance disclosure and related laws and to recommend reforms in these laws, according to the following:

1. APPOINTMENT. The commission shall be composed of six members, bipartisan and gender-balanced in accordance with sections 69.16 and 69.16A, and appointed as follows:

a. Two members shall be the state chairs of each of the political parties, as defined in section 43.2, or their designees.

b. Four members shall be jointly appointed by the majority and minority leaders of the senate and house. These members shall be appointed from nonpartisan organizations which have researched, studied, and advocated the issue of political campaign finance reform for fifteen years or more, or who are specially qualified to serve on the commission because of training or experience.

c. The commission shall elect a chair and vice chair at its first meetings.

2. TERMS. The members of the commission shall serve for the life of the commission.

3. VACANCIES. A vacancy in the commission shall be filled in the manner in which the original appointment was made.

Sec. 14. POWERS AND DUTIES OF THE COMMISSION.

1. HEARINGS. The commission may hold hearings which shall be open and announced in advance to the public, take testimony, and receive evidence as the commission considers appropriate. Activities of the commission shall be held in accordance with chapter 21.

The commission shall hold at least one hearing in each congressional district within the state specifically to obtain public input on the issue of campaign finance reform.

2. QUORUM. Four members of the commission shall constitute a quorum, but a lesser number may hold hearings.

3. REPORT. Not later than December 15, 1999, the commission shall submit to the general assembly a report of the activities of the commission, together with a draft of legislation recommended by the commission to reform the campaign finance disclosure and related laws for consideration by the general assembly in the year 2000 according to the provisions of this Act.

4. MATTERS TO BE CONSIDERED. In holding hearings and preparing the report required under subsection 3, the commission shall consider all issues related to the reform of campaign finance disclosure and related laws. The commission may secure directly from any department or agency such information as the commission considers necessary, and the department or agency shall promptly furnish such information to the commission.

5. STAFFING. Assistance shall be provided to the commission by the central nonpartisan legislative staff bureaus. The commission may utilize the services of the legislative service bureau in formulating a draft of legislation. The attorney general's office and the ethics and campaign disclosure board shall serve as consultants, and advise the commission as necessary.

Sec. 15. ASSIGNMENT OF LEGISLATION. The legislation drafted by the commission shall be filed with each chamber on the first day of the legislative session beginning in the year 2000, and immediately assigned to the committee on state government in each chamber.

Sec. 16. TERMINATION. The commission shall cease to exist one month after the submission of its report.

Sec. 17. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 18. SEVERABILITY. If any section of this Act, or any portion of any section of this Act, is found unconstitutional or otherwise unenforceable by a court, the remaining sections and portions of sections shall be given effect to the fullest extent possible.

Approved May 18, 1999

CHAPTER 137

CITY AND CITY UTILITY PUBLIC IMPROVEMENT CONTRACTS — EARLY COMPLETION INCENTIVES

H.F. 115

AN ACT relating to the award of a contract for a public improvement by a city or the governing body of a city utility.

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

Section 1. Section 384.99, Code 1999, is amended to read as follows:
384.99 AWARD OF CONTRACT.

The contract for the public improvement must be awarded to the lowest responsible bidder, provided, however, that contracts relating to public utilities or extensions or improvements thereof, as described in division V of this chapter, may be awarded by the governing body as it deems to be in the best interests of the city. This section shall not be construed to prohibit a city in the award of a contract for a public improvement or a governing body of a city utility from providing in the award of a contract for a public improvement, an enhancement of payments upon early completion of the public improvement if the availability of the enhancement payments is included in the notice to bidders, the enhancement payments are competitively neutral to potential bidders, the enhancement payments are considered as a separate item in the public hearing on the award of contract, and the total value of the enhancement payments does not exceed ten percent of the value of the contract.

Approved May 18, 1999

CHAPTER 138

ADOPTION PROCEDURES

H.F. 172

AN ACT relating to adoption procedural requirements including those related to investigations, reports, and counseling.

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

Section 1. Section 600.8, subsection 1, paragraph c, Code 1999, is amended by striking the paragraph and inserting in lieu thereof the following:

c. A background information investigation and a report of the investigation shall be made by the agency, the person making an independent placement, or an investigator.

The background information investigation and report shall not disclose the identity of the biological parents of the minor person to be adopted. The report shall be completed and filed with the court prior to the holding of the adoption hearing prescribed in section 600.12. The report shall be in substantial conformance with the prescribed medical and social history forms designed by the department pursuant to section 600A.4, subsection 2, paragraph "f". A copy of the background information investigation report shall be furnished to the adoption petitioners within thirty days after the filing of the adoption petition. Any person, including a juvenile court, who has gained relevant background information concerning a minor person subject to an adoption petition shall, upon request, fully cooperate with the conducting of a background information investigation by disclosing any relevant background information, whether contained in sealed records or not.

Sec. 2. Section 600.8, subsections 4, 5, and 6, Code 1999, are amended to read as follows:

4. A postplacement investigation ~~and a background information investigation~~ and the ~~reports of these investigations~~ report of the investigation shall be completed and the reports filed with the court prior to the holding of the adoption hearing prescribed in section 600.12. Upon the filing of an adoption petition pursuant to section 600.5, the court shall immediately appoint the department, an agency, or an investigator to conduct and complete the postplacement ~~and background information investigations and reports~~ report. ~~In addition to filing the background information report with the court prior to the holding of the adoption hearing, the department, agency, or investigator appointed to conduct the background information investigation shall complete the background information investigation and report and furnish a copy to the adoption petitioner within thirty days after the filing of the adoption petition.~~ Any person, including a juvenile court, who has gained relevant background information concerning a minor person subject to an adoption petition shall, upon request, fully co-operate with the conducting of the background information postplacement investigation and report by disclosing any relevant background information requested, whether contained in sealed records or not.

5. Any person conducting an investigation under ~~subsections~~ subsection 1, paragraph "c", subsection 3, and or subsection 4 may, in the investigation or subsequent report, include, utilize, or rely upon any reports, studies, or examinations to the extent they are relevant.

6. Any person conducting an investigation under ~~subsections~~ subsection 1, paragraph "c", subsection 3, and or subsection 4 may charge a fee which does not exceed the reasonable cost of the services rendered and which is based on a sliding scale schedule relating to the investigated person's ability to pay.

Sec. 3. Section 600.9, subsection 2, paragraph e, Code 1999, is amended to read as follows:

e. Costs of the counseling provided to the biological parents prior to the birth of the child; ~~in accordance with section 600A.4, subsection 2, to the biological parents~~ prior to the release of custody, and any counseling provided to the biological parents for not more than sixty days after the birth of the child.

Sec. 4. Section 600.15, subsection 1, paragraph c, Code 1999, is amended by striking the paragraph and inserting in lieu thereof the following:

c. Documentation demonstrating that a child has been legally released or approved for adoption by the child's country of origin shall be accepted as evidence that termination of parental rights has been completed in that country and shall be recognized in this state.

Sec. 5. Section 600.16, subsection 1, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Any information compiled under section 600.8, subsection 1, paragraph "c", ~~subparagraphs (1) and (2)~~, relating to medical and developmental histories shall be made available at any time by the clerk of court, the department, or any agency which made the placement to:

Sec. 6. Section 600A.4, subsection 2, paragraph d, Code 1999, is amended to read as follows:

d. ~~Shall be preceded by the offering of~~ contain written acknowledgment of the biological parents that after the birth of the child, three hours of counseling ~~has been offered~~ to the biological parents ~~by the agency, the person making an independent placement, an investigator as defined in section 600.2, or other qualified counselor~~ regarding the decision to release custody and the alternatives available to the biological parents ~~in disposition of the child~~. The release of custody shall also contain written acknowledgment of the ~~offering of counseling to the biological parent and~~ of acceptance or refusal of the counseling. If accepted, the counseling shall be provided after the birth of the child and prior to the signing of a release of custody or the filing of a petition for termination of parental rights as applicable. Counseling shall be provided only by a person who is qualified under rules adopted by the department of human services which shall include a requirement that the person complete a minimum number of hours of training in the area of adoption-related counseling approved by the department ~~or, in the alternative, that the person has a minimum level of experience, as determined by rule of the department, in the provision of adoption-related counseling~~. ~~The~~ If counseling is accepted, the counselor shall provide an affidavit, which shall be attached to the release of custody, when practicable, certifying that the counselor has provided the biological parent with the requested counseling ~~or that the biological parent has refused counseling prior to the signing of the release of custody~~ and documentation that the person is qualified to provide the requested counseling as prescribed by this paragraph. The requirements of this paragraph do not apply to a release of custody which is executed for the purposes of a stepparent adoption.

Approved May 18, 1999

CHAPTER 139

PROPERTY TAX RENT REIMBURSEMENT — CLAIMANT INFORMATION

H.F. 417

AN ACT relating to release of certain information on claimants of the property tax rent reimbursement to the department of inspections and appeals.

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

Section 1. Section 425.28, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department of revenue and finance may release information pertaining to a person's eligibility or claim for or receipt of rent reimbursement to an employee of the department of inspections and appeals in the employee's official conduct of an audit or investigation.

Approved May 18, 1999

CHAPTER 140
PRIVATE BURIAL SITES
H.F. 472

AN ACT relating to burial sites on private property.

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

Section 1. Section 558.69, Code 1999, is amended to read as follows:

558.69 REPORTING OF PRIVATE BURIAL SITES, WELLS, DISPOSAL SITES, UNDERGROUND STORAGE TANKS, AND HAZARDOUS WASTE — LIABILITY.

With each declaration of value submitted to the county recorder under chapter 428A, there shall also be submitted a statement regarding whether any known private burial site is situated on the property, and if a known private burial site is situated on the property, the statement shall state the approximate location of the site. The statement shall also state that no known wells are situated on the property, or if known wells are situated on the property, the statement must state the approximate location of each known well and its status with respect to section 159.29 or 455B.190. The statement shall also state that no known disposal site for solid waste, as defined in section 455B.301, which has been deemed to be potentially hazardous by the department of natural resources, exists on the property, or if such a known disposal site does exist, the location of the site on the property. The statement shall additionally state that no known underground storage tank, as defined in section 455B.471, subsection 11, exists on the property, or if a known underground storage tank does exist, the type and size of the tank, and any known substance in the tank. The statement shall also state that no known hazardous waste as defined in section 455B.411, subsection 3, or listed by the department pursuant to section 455B.412, subsection 2, or section 455B.464, exists on the property, or if known hazardous waste does exist, that the waste is being managed in accordance with rules adopted by the department of natural resources. The statement shall be signed by at least one of the sellers or their agents. The county recorder shall refuse to record any deed, instrument, or writing for which a declaration of value is required under chapter 428A unless the statement required by this section has been submitted to the county recorder. A buyer of property shall be provided with a copy of the statement submitted, and, following the fulfillment of this provision, if the statement submitted reveals no private burial site, well, disposal site, underground storage tank, or hazardous waste on the property, the county recorder may destroy the statement. The land application of sludges or soils resulting from the remediation of underground storage tank releases accomplished in compliance with department of natural resources rules without a permit is not required to be reported as the disposal of solid waste or hazardous waste.

If a declaration of value is not required, the above information shall be submitted on a separate form. The director of the department of natural resources shall prescribe the form of the statement and the separate form to be supplied by each county recorder in the state. The county recorder shall transmit the statements to the department of natural resources at times directed by the director of the department.

The owner of the property is responsible for the accuracy of the information submitted on the form. The owner's agent shall not be liable for the accuracy of information provided by the owner of the property. The provisions of this paragraph do not limit liability which may be imposed under a contract or under any other law.

Sec. 2. NEW SECTION. 566.35 BURIAL SITES LOCATED ON PRIVATE PROPERTY.

1. If a person notifies a governmental subdivision or agency of the existence within the jurisdiction of the governmental subdivision or agency of a burial site of the person's ancestor on property owned by another person, the owner of the property shall permit the person reasonable ingress and egress for the purposes of visiting the burial site, and the governmental subdivision or agency shall notify the owner of this obligation.

2. Pursuant to section 558.69, the declaration of value submitted to the county recorder under chapter 428A shall also include the existence of any known private burial site situated on the property.

Approved May 18, 1999

CHAPTER 141

PUBLIC HEALTH — MISCELLANEOUS PROGRAMS AND ISSUES

H.F. 497

AN ACT relating to certain programs and public health issues including those under the purview of the Iowa department of public health.

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

Section 1. Section 125.39, subsection 1, Code 1999, is amended by striking the subsection.

Sec. 2. Section 135.11, subsection 9, Code 1999, is amended to read as follows:

9. Exercise sole jurisdiction over the disposal and transportation of the dead bodies of human beings and prescribe the methods to be used in preparing such bodies for disposal and transportation. However, the department may approve a request for an exception to the application of specific embalming and disposition rules adopted pursuant to this subsection, if such rules would otherwise conflict with tenets and practices of a recognized religious denomination to which the deceased individual adhered or of which denomination the deceased individual was a member. The department shall inform the board of mortuary science examiners of any such approved exception which may affect services provided by a funeral director licensed pursuant to chapter 156.

Sec. 3. Section 135.22, Code 1999, is amended to read as follows:

135.22 CENTRAL REGISTRY FOR BRAIN OR SPINAL CORD INJURIES.

1. As used in this section, “brain:

a. ~~“Brain injury” means clinically evident brain damage or spinal cord injury resulting from trauma or anoxia, which temporarily or permanently impairs a person’s physical or cognitive functions~~ the occurrence of injury to the head not primarily related to a degenerative disease or aging process that is documented in a medical record with one or more of the following conditions attributed to the head injury:

(1) An observed or self-reported decreased level of consciousness.

(2) Amnesia.

(3) A skull fracture.

(4) An objective neurological or neuropsychological abnormality.

(5) A diagnosed intracranial lesion.

b. ~~“Spinal cord injury” means the occurrence of an acute traumatic lesion of neural elements in the spinal cord including the spinal cord and cauda equina, resulting in temporary or permanent sensory deficit, motor deficit, or bladder or bowel dysfunction.~~

2. The director shall establish and maintain a central registry of persons with brain ~~or spinal cord~~ injuries in order to facilitate prevention strategies and the provision of appropriate rehabilitative services to the persons by the department and other state agencies. Hospitals shall report patients who are admitted with a brain ~~or spinal cord~~ injury and their

diagnoses to the director no later than forty-five days after the close of a quarter in which the patient was discharged. The report shall contain the name, age, and residence of the person, the date, type, and cause of the brain or spinal cord injury, and additional information as the director requires, except that where available, hospitals shall report the ~~Glaseow~~ Glasgow coma scale. The director shall consult with health care providers concerning the availability of additional relevant information. The department shall maintain the confidentiality of all information which would identify any person named in a report. However, the identifying information may be released for bona fide research purposes if the confidentiality of the identifying information is maintained by the researchers, or the identifying information may be released by the person with the brain or spinal cord injury or by the person's guardian or, if the person is a minor, by the person's parent or guardian.

Sec. 4. Section 135.22A, Code 1999, is amended to read as follows:

135.22A ADVISORY COUNCIL ON ~~HEAD~~ BRAIN INJURIES.

1. For purposes of this section, unless the context otherwise requires:

~~a. "Council" means the advisory council on head injuries.~~

~~b. a. "Head Brain injury" means "brain injury" an injury to the brain as defined in section 225C.23 135.22.~~

b. "Council" means the advisory council on brain injuries.

2. The advisory council on ~~head brain~~ brain injuries is established. The following persons or their designees shall serve as ex officio, nonvoting members of the council:

a. The director of public health.

b. The director of human services and any division administrators of the department of human services so assigned by the director.

c. The director of the department of education.

d. The chief of the special education bureau of the department of education.

e. The administrator of the division of vocational rehabilitation services of the department of education.

f. The director of the department for the blind.

g. The commissioner of insurance.

3. The council shall be composed of a minimum of nine members appointed by the governor in addition to the ex officio members, and the governor may appoint additional members. Insofar as practicable, the council shall include persons with ~~head brain~~ brain injuries, family members of persons with ~~head brain~~ brain injuries, representatives of industry, labor, business, and agriculture, representatives of federal, state, and local government, and representatives of religious, charitable, fraternal, civic, educational, medical, legal, veteran, welfare, and other professional groups and organizations. Members shall be appointed representing every geographic and employment area of the state and shall include members of both sexes.

4. Members of the council appointed by the governor shall be appointed for terms of two years. Vacancies on the council shall be filled for the remainder of the term of the original appointment. Members whose terms expire may be reappointed.

5. The voting members of the council shall appoint a chairperson and a vice chairperson and other officers as the council deems necessary. The officers shall serve until their successors are appointed and qualified. Members of the council shall receive actual expenses for their services. Members may also be eligible to receive compensation as provided in section 7E.6. The council shall adopt rules pursuant to chapter 17A.

6. The council shall do all of the following:

a. Promote meetings and programs for the discussion of methods to reduce the debilitating effects of ~~head brain~~ brain injuries, and disseminate information in cooperation with any other department, agency, or entity on the prevention, evaluation, care, treatment, and rehabilitation of persons affected by ~~head brain~~ brain injuries.

b. Study and review current prevention, evaluation, care, treatment, and rehabilitation technologies and recommend appropriate preparation, training, retraining, and distribution

of personnel and resources in the provision of services to persons with ~~head~~ brain injuries through private and public residential facilities, day programs, and other specialized services.

c. Participate in developing and disseminating criteria and standards which may be required for future funding or licensing of facilities, day programs, and other specialized services for persons with ~~head~~ brain injuries in this state.

d. Make recommendations to the governor for developing and administering a state plan to provide services for persons with ~~head~~ brain injuries.

e. Meet at least quarterly.

7. The council is assigned to the department for administrative purposes. The director shall be responsible for budgeting, program coordination, and related management functions.

8. The council may receive gifts, grants, or donations made for any of the purposes of its programs and disburse and administer them in accordance with their terms and under the direction of the director.

Sec. 5. Section 135.101, Code 1999, is amended to read as follows:

135.101 CHILDHOOD LEAD ABATEMENT POISONING PREVENTION PROGRAM.

There is established a childhood lead abatement poisoning prevention program within the Iowa department of public health. The department shall implement and review programs necessary to eliminate potentially dangerous toxic lead levels in children in Iowa in a year for which funds are appropriated to the department for this purpose.

Sec. 6. Section 135.102, subsections 2 and 5, Code 1999, are amended to read as follows:

2. Maintenance of laboratory facilities for the childhood lead abatement poisoning prevention program.

5. Prioritization of proposed childhood lead abatement poisoning prevention programs, based on the geographic areas known with children identified with elevated blood lead level resulting from surveys completed by the department.

Sec. 7. Section 135.103, Code 1999, is amended to read as follows:

135.103 GRANT PROGRAM.

The department shall implement a childhood lead abatement poisoning prevention grant program which provides matching funds to local boards of health or cities for the program after standards and requirements for the local program are developed. The state shall provide funds to approved programs on the basis of three dollars for each one dollar designated by the local board of health or city for the program for the first two years of a program, and funds on the basis of one dollar for each one dollar designated by the local board of health or city for the program for the third and subsequent years of the program if such funding is determined necessary by the department for such subsequent years.

Sec. 8. Section 135.104, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The program by a local board of health or city receiving matching funding for an approved childhood lead abatement poisoning prevention grant program shall include:

Sec. 9. Section 135.104, subsection 7, Code 1999, is amended to read as follows:

7. ~~Abatement surveillance~~ Surveillance to ensure correction of the identified hazardous settings.

Sec. 10. Section 135.105, subsection 1, Code 1999, is amended to read as follows:

1. Coordinate the childhood lead abatement poisoning prevention program with the department of natural resources, the University of Iowa poison control program, the mobile and regional child health speciality clinics, and any agency or program known for a direct interest in lead levels in the environment.

Sec. 11. Section 135C.2, subsection 5, paragraph b, Code 1999, is amended to read as follows:

b. A facility must be located in an area zoned for single or multiple-family housing or in an unincorporated area and must be constructed in compliance with applicable local requirements and the rules adopted for the special classification by the state fire marshal in accordance with the concept of the least restrictive environment for the facility residents. ~~The rules adopted by the state fire marshal for the special classification shall be no more restrictive than the rules adopted by the state fire marshal for demonstration waiver project facilities pursuant to 1986 Iowa Acts, chapter 1246, section 206, subsection 2.~~ Local requirements shall not be more restrictive than the rules adopted for the special classification by the state fire marshal and the state building code requirements for single or multiple-family housing.

Sec. 12. Section 136C.3, subsection 2, unnumbered paragraph 2, Code 1999, is amended to read as follows:

The department shall establish a technical advisory committee made up of ~~two radiologic technologists, two~~ four technologists, one of whom shall be a limited radiography instructor, one of whom shall represent nuclear medicine technologists, one of whom shall represent radiation therapists, and one of whom shall represent diagnostic radiographers; five physicians, including one radiologist, one chiropractor, one physician representing either radiation therapy or nuclear medicine, one podiatrist, and one private practitioner;; and a representative of the department. The advisory committee shall assist the department in developing and establishing criteria for ~~continuing education and examinations the administration of this subsection.~~

Sec. 13. Section 137.19, Code 1999, is amended to read as follows:

137.19 EMERGENCY REQUEST FOR FUNDS.

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

Sec. 14. Section 144.1, Code 1999, is amended by adding the following new subsection: NEW SUBSECTION. 1A. "Court of competent jurisdiction" when used to refer to inspection of an original certificate of birth based upon an adoption means the court where the adoption was ordered.

Sec. 15. Section 144.1, subsection 13, Code 1999, is amended to read as follows:

13. "Vital statistics" means records of births, deaths, fetal deaths, adoptions, marriages, ~~divorces~~ dissolutions, annulments, and data related thereto.

Sec. 16. Section 144.13, subsection 1, paragraph d, Code 1999, is amended to read as follows:

d. The state registrar may ~~transmit to the appropriate local boards of health~~ share information from birth certificates for the sole purpose of identifying those children in need of immunizations.

Sec. 17. Section 144.13A, Code 1999, is amended to read as follows:

144.13A FEES — USE OF FUNDS.

The ~~county registrar or~~ state registrar shall charge the parent a ten dollar fee for the registration of a certificate of birth and a separate fee established under section 144.46 for a certified copy of the certificate ~~except as otherwise provided in section 331.605, subsection 6.~~ The certified copy shall be mailed to the parent by the state registrar. If the person responsible for the filing of the certificate of birth under section 144.13 is not the parent, the person

is entitled to collect the fee from the parent. The fee shall be remitted to the ~~appropriate state~~ registrar. If the expenses of the birth are reimbursed under the medical assistance program established by chapter 249A, or paid for under the statewide indigent patient care program established by chapter 255, or paid for under the obstetrical and newborn indigent patient care program established by chapter 255A, or if the parent is indigent and unable to pay the expenses of the birth and no other means of payment is available to the parent, the registration fee and certified copy fee are waived. If the person responsible for the filing of the certificate is not the parent, the person is discharged from the duty to collect and remit the fee under this section if the person has made a good faith effort to collect the fee from the parent. The fees collected by the ~~county registrar and state registrar~~ shall be remitted to the treasurer of state for deposit in the general fund of the state. It is the intent of the general assembly that the funds generated from the registration fees be appropriated and used for primary and secondary child abuse prevention programs. It is the intent of the general assembly that the funds generated from the fees as established under section 144.46 for the mailing of the certified copy of the birth certificate be appropriated and used to support the distribution of the automatic birth certificate and the implementation of the electronic birth certificate system.

Sec. 18. Section 144.24, Code 1999, is amended to read as follows:

144.24 SUBSTITUTING NEW FOR ORIGINAL BIRTH CERTIFICATES — INSPECTION.

If a new certificate of birth is established, the actual place and date of birth shall be shown on the certificate. The certificate shall be substituted for the original certificate of birth. Thereafter, the original certificate and the evidence of adoption, paternity, legitimation, or sex change shall not be subject to inspection except under order of a court of competent jurisdiction, including but not limited to an order issued pursuant to section ~~600.16~~ 600.16A, or as provided by administrative rule for statistical or administrative purposes only. However, the state registrar shall, upon the application of an adult adopted person, a biological parent, an adoptive parent, or the legal representative of ~~either the adult adopted person, the biological parent,~~ or the adoptive parent, inspect the original certificate and the evidence of adoption and reveal to the applicant the date of the adoption and the name and address of the court which issued the adoption decree.

Sec. 19. NEW SECTION. 144.43A MUTUAL CONSENT VOLUNTARY ADOPTION REGISTRY.

1. In addition to other procedures by which birth certificates may be inspected under this chapter, the state registrar shall establish a mutual consent voluntary adoption registry through which adult adopted children, adult siblings, and the biological parents of adult adoptees may register to obtain identifying birth information.

2. If all of the following conditions are met, the state registrar shall reveal the identity of the biological parent to the adult adopted child or the identity of the adult adopted child to the biological parent, shall notify the parties involved that the requests have been matched, and shall disclose the identifying information to those parties:

a. A biological parent has filed a request and provided consent to the revelation of the biological parent's identity to the adult adopted child, upon request of the adult adopted child.

b. An adult adopted child has filed a request and provided consent to the revelation of the identity of the adult adopted child to a biological parent, upon request of the biological parent.

c. The state registrar has been provided sufficient information to make the requested match.

3. Notwithstanding the provisions of this section, if the adult adopted person has a sibling who is a minor and who has also been adopted, the state registrar shall not grant the request of either the adult adopted person or the biological parent to reveal the identities of the parties.

4. If all of the following conditions are met, the state registrar shall reveal the identity of the adult adopted child to an adult sibling and shall notify the parties involved that the requests have been matched, and disclose the identifying information to those parties:

a. An adult adopted child has filed a request and provided consent to the revelation of the adult adopted child's identity to an adult sibling.

b. The adult sibling has filed a request and provided consent to the revelation of the identity of the adult sibling to the adult adopted child.

c. The state registrar has been provided with sufficient information to make the requested match.

5. A person who has filed a request or provided consent under this section may withdraw the consent at any time prior to the release of any information by filing a written withdrawal of consent statement with the state registrar. The adult adoptee, adult sibling, and biological parent shall notify the state registrar of any change in the information contained in a filed request or consent.

6. The state registrar shall establish a fee by rule based on the average administrative costs for providing services under this section.

Sec. 20. Section 147.103A, subsection 3, Code 1999, is amended to read as follows:

3. The board may appoint investigators, who shall not be members of the examining board, and whose compensation shall be determined pursuant to chapter 19A. Investigators appointed by the board have the powers and status of peace officers when enforcing this chapter and chapters ~~147A~~, 148, 150, 150A, and 272C.

Sec. 21. Section 147A.1, subsection 1, Code 1999, is amended by striking the subsection.

Sec. 22. Section 147A.4, subsection 2, Code 1999, is amended to read as follows:

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

Sec. 23. Section 147A.7, subsection 2, Code 1999, is amended by striking the subsection.

Sec. 24. Section 147A.8, unnumbered paragraph 2, Code 1999, is amended by striking the unnumbered paragraph.

Sec. 25. Section 147A.9, subsection 4, Code 1999, is amended by striking the subsection.

Sec. 26. **NEW SECTION.** 147A.13A ENFORCEMENT.

Investigators authorized by the department have the powers and status of peace officers when enforcing this chapter.

Sec. 27. Section 151.1, subsection 3, Code 1999, is amended to read as follows:

3. Persons utilizing differential diagnosis and procedures related thereto, withdrawing or ordering withdrawal of the patient's blood for diagnostic purposes, performing or utilizing routine laboratory tests, performing physical examinations, rendering nutritional advice, utilizing chiropractic physiotherapy procedures, all of which are subject to and authorized by section 151.8. ~~However, a person engaged in the practice of chiropractic shall not profit from the sale of nutritional products coinciding with the nutritional advice rendered.~~

Sec. 28. Section 157.11, unnumbered paragraph 2, Code 1999, is amended to read as follows:

The application shall be accompanied by the ~~annual~~ biennial license fee determined pursuant to section 147.80. The license is valid for ~~one year~~ two years and may be renewed.

Sec. 29. Section 158.9, unnumbered paragraph 2, Code 1999, is amended to read as follows:

The application shall be accompanied by the ~~annual~~ biennial license fee determined pursuant to section 147.80. The license is valid for ~~one year~~ two years and may be renewed.

Sec. 30. Section 225C.23, Code 1999, is amended to read as follows:

225C.23 BRAIN INJURY RECOGNIZED AS DISABILITY.

1. The department of human services, the Iowa department of public health, the department of education and its divisions of special education and vocational rehabilitation services, the department of human rights and its division for persons with disabilities, the department for the blind, and all other state agencies which serve persons with brain injuries, shall recognize brain injury as a distinct disability and shall identify those persons with brain injuries among the persons served by the state agency.

2. For the purposes of this section and section 135.22A, "brain injury" means ~~clinically evident brain damage or spinal cord injury resulting directly or indirectly from trauma, infection, anoxia, or vascular lesions not primarily related to degenerative or aging processes, which temporarily or permanently impairs a person's physical or cognitive functions; the occurrence of injury to the head not primarily related to a degenerative disease or aging process that is documented in a medical record with one or more of the following conditions attributed to the head injury:~~

- a. An observed or self-reported decreased level of consciousness.
- b. Amnesia.
- c. A skull fracture.
- d. An objective neurological or neuropsychological abnormality.
- e. A diagnosed intracranial lesion.

Sec. 31. Section 235A.15, subsection 2, paragraph d, Code 1999, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (6) Each board of examiners specified under chapter 147 and the Iowa department of public health for the purpose of licensure, certification or registration, disciplinary investigation, or the renewal of licensure, certification or registration, or disciplinary proceedings of health care professionals.

Sec. 32. Section 235B.6, subsection 2, paragraph b, Code 1999, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (7) Each board of examiners specified under chapter 147 and the Iowa department of public health for the purpose of licensure, certification or registration, disciplinary investigation, or the renewal of licensure, certification or registration, or disciplinary proceedings of health care professionals.

Sec. 33. Section 235C.2, subsections 2, 3, 4, 5, and 8, Code 1999, are amended to read as follows:

2. The director ~~of the department~~ of human services or the director's designee ~~as a nonvoting ex officio member.~~

3. The ~~department coordinator~~ director of the department of human rights or the ~~coordinator's director's~~ designee ~~as a nonvoting ex officio member.~~

4. The director of the department of education or the director's designee ~~as a nonvoting ex officio member.~~

5. The director of the department of corrections or the director's designee, ~~as a nonvoting ex officio member.~~

8. A hospital administrator or the administrator's designee selected by the board of the association of Iowa hospitals and health systems.

Sec. 34. Section 235C.2, Code 1999, is amended by adding the following new subsection: NEW SUBSECTION. 18. Two consumer representatives selected by the governor, one of whom shall be a parent and one of whom shall be a nonparent family member.

Sec. 35. Section 235C.3, subsection 2, paragraph b, Code 1999, is amended to read as follows:

b. A health professional training campaign, including recommendations concerning the curriculum offered at the college of medicine at the state university of Iowa and the university of osteopathic medicine and health services,* providing assistance in the identification of women at risk of substance abuse during pregnancy and strategies to be employed in assisting those women to maintain healthy lifestyles during pregnancy. ~~Included in this~~ This education campaign shall ~~be guidelines offer information~~ offer information to health professionals ~~offer- ing information~~ on assessment, laboratory testing, ~~medication use~~, and referrals.

Sec. 36. Section 235C.3, subsection 5, unnumbered paragraph 2, Code 1999, is amended by striking the unnumbered paragraph.

Sec. 37. Section 321.19, subsection 1, unnumbered paragraph 2, Code 1999, 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 state patrol vehicles shall bear the word "official" and the department shall keep a separate record. Registration plates issued for Iowa state 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 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, disease investiga- tors of the Iowa department of public health, 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, 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, and persons in the department of economic development who are regularly assigned duties relating to existing industry expansion or business attraction. 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. 38. Section 321.34, subsection 11A, paragraph c, Code 1999, is amended to read as follows:

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

* University of osteopathic medicine and health sciences probably intended

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 "c", 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. Notwithstanding section 8.33, moneys transferred under this subsection shall not revert to the general fund of the state.

Sec. 39. Section 331.605, subsection 5, Code 1999, is amended to read as follows:

5. A county fee of four dollars for ~~the following certificates, records, or services:~~
~~a. A a certified copy of a birth record, death record, or marriage certificate.~~

Sec. 40. Section 331.802, subsection 2, Code 1999, is amended to read as follows:

2. If a person's death affects the public interest, the county medical examiner shall conduct a preliminary investigation of the cause and manner of death, prepare a written report of the findings, promptly submit the full report to the state medical examiner on forms prescribed for that purpose, and submit a copy of the report to the county attorney. For each preliminary investigation and the preparation and submission of the required reports, the county medical examiner shall receive from the county of appointment a fee determined by the board plus the examiner's actual expenses. The fee and expenses paid by the county of appointment shall be reimbursed to the county of appointment by the county of the person's residence. However, if the person's death is caused by a defendant for whom a judgment of conviction and sentence is rendered under section 707.2, 707.3, 707.4, 707.5, or 707.6A, the county of the person's residence may recover from the defendant the fee and expenses. The fee and expenses of the county medical examiner who performs an autopsy or conducts an investigation of a person who dies after being brought into this state for emergency medical treatment by or at the direction of an out-of-state law enforcement officer or public authority shall be paid by the state. A claim for payment shall be filed with the Iowa department of public health. If moneys are not appropriated to the Iowa department of public health for the payment of autopsies under this subsection, claims for payment shall be forwarded to the state appeal board and, if authorized by the board, shall be paid out of moneys in the general fund of the state not otherwise appropriated.

Sec. 41. AFFIDAVIT PROCESS — HUSBAND NOT BIOLOGICAL FATHER.

1. The Iowa department of public health and the department of human services shall review and make recommendations to the general assembly regarding the implementation of an affidavit process, similar to the process established pursuant to section 252A.3A, to overcome paternity established by operation of law when the established father and the mother of the child are or were married at the time of conception or birth of the child, and to simultaneously establish paternity of the biological father. In reviewing this issue and developing recommendations, the departments shall seek input from representatives of custodial and noncustodial parents, vital records entities, hospitals and birth centers, the judicial branch, the office of the attorney general, the child support advisory committee created in section 252B.18, and other interested parties.

2. The departments shall submit a report of the results of the review and recommendations, including a listing of any necessary, proposed statutory amendments, to the general assembly and to the chairpersons of the senate and house human resources standing committees by December 15, 1999.

Sec. 42. Section 151.7, Code 1999, is repealed.

Approved May 18, 1999

CHAPTER 142**NATIONAL BOARD FOR PROFESSIONAL TEACHING STANDARDS
CERTIFICATION — AWARDS PILOT PROJECT***H.F. 766*

AN ACT relating to the national board certification awards, establishing a national board certification pilot project, and requiring studies by the department of education.

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

Section 1. Section 256.44, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

256.44 NATIONAL BOARD CERTIFICATION PILOT PROJECT.

1. A national board certification pilot project is established to be administered by the department of education. A teacher, as defined in section 272.1, who registers for or achieves national board for professional teaching standards certification, and who is employed by a school district in Iowa and receiving a salary as a classroom teacher, may be eligible for the following:

a. If a teacher registers for national board for professional teaching standards certification prior to June 30, 2002, a one-time initial reimbursement award in the amount of up to one-half of the registration fee paid by the teacher for registration for certification by the national board for professional teaching standards. The teacher shall apply to the department of education within one year of registration, submitting to the department any documentation the department requires. A teacher who receives an initial reimbursement award shall receive a one-time final registration award in the amount of the remaining national board registration fee paid by the teacher if the teacher notifies the department of the teacher's certification achievement and submits any documentation requested by the department.

b. (1) If, by May 1, 2000, the teacher applies to the department for an annual award and submits documentation of certification by the national board for professional teaching standards, an annual award in the amount of five thousand dollars. However, if the teacher does not achieve certification on the teacher's first attempt to pass the national board for professional teaching standards assessment, the teacher shall be paid the award amount as provided in subparagraph (2) upon achieving certification. The department shall award not more than a total of fifty thousand dollars in annual awards to an individual during the individual's term of eligibility for annual awards.

(2) If the teacher registers for national board for professional teaching standards certification between January 1, 1999, and January 1, 2002, and achieves certification within three years from the date of initial score notification, an annual award in the amount of two thousand five hundred dollars upon achieving certification by the national board of professional teaching standards.

To receive an annual award pursuant to this paragraph "b", a teacher shall apply to the department for an award within one year of eligibility. Payment for awards shall be made only upon departmental approval of an application or recertification of eligibility. A term of eligibility shall be for ten years or for the years in which the individual maintains a valid certificate, whichever time period is shorter. In order to continue receipt of payments, a recipient shall annually recertify eligibility.

2. a. If the amount appropriated annually for purposes of this section is insufficient to pay the full amount of reimbursement awards in accordance with subsection 1, paragraph "a", the department shall annually prorate the amount of the registration awards provided to each teacher who meets the requirements of this section.

b. If the amount appropriated annually for purposes of providing an annual award in accordance with subsection 1, paragraph "b", is insufficient to pay the full annual award to all teachers approved by the department for an annual award, the department shall prorate the amount of the annual award based upon the amount appropriated.

3. A teacher receiving an annual award pursuant to this section may provide additional services to the school district that employs the teacher. The additional services to be provided by the teacher may be mutually agreed upon by the school district and the teacher.

4. Awards shall be paid to teachers by the department as follows:

a. Upon receipt of reimbursement documentation as provided in subsection 1, paragraph "a".

b. Not later than June 1 to teachers whose applications and recertifications for annual awards as provided in subsection 1, paragraph "b", are submitted to the department by May 1 and subsequently approved.

5. Notwithstanding any provision to the contrary, a teacher approved by the department to receive an annual award for certification in accordance with this section in the fiscal year beginning July 1, 1998, shall receive the annual award amount specified in subsection 1, paragraph "b", subparagraph (1), to commence with the fiscal year beginning July 1, 1999.

6. From funds appropriated for purposes of this section by the general assembly to the department of education for each fiscal year in the fiscal period beginning July 1, 1999, and ending June 30, 2004, three hundred thousand dollars, or so much thereof as may be necessary, shall be used for the payment of registration awards as provided in subsection 4, paragraph "a".

7. The department shall prorate the amount of the annual awards paid in accordance with this section when the number of award recipients exceeds one thousand one hundred individuals.

Sec. 2. DEPARTMENT OF EDUCATION STUDIES. The department of education shall conduct a study of the effects of the national board certification pilot project established in section 256.44 on teaching quality, professional development, the provision of additional services to school districts in accordance with section 256.44, subsection 3, and teacher induction and retention in this state. The department shall consider whether the effects of the pilot project support continuation of the project or expansion to include other teacher awards or recognitions. The department shall submit its findings and recommendations in a report to the chairpersons and ranking members of the senate and house standing committees on education and the joint subcommittee on education appropriations by December 1, 2001.

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

Approved May 18, 1999

CHAPTER 143**SALE OF CERTAIN INSURANCE PRODUCTS BY
MOTOR VEHICLE RENTAL COMPANIES***H.F. 777*

AN ACT relating to the limited licensure of motor vehicle rental companies by authorizing motor vehicle rental companies to offer and sell certain types of insurance with the rental of vehicles, providing for licensure of counter employees, relating to the use of a qualified vendor for purposes of administering examinations, and providing for a fee for license issuance.

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

Section 1. NEW SECTION. 522A.1 PURPOSE.

The purpose of this chapter is to provide for the limited licensing of rental companies when a motor vehicle rental company sells travel or automobile-related insurance products or coverage in connection with and incidental to the rental of vehicles.

Sec. 2. NEW SECTION. 522A.2 DEFINITIONS.

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

1. "Commissioner" means the commissioner of insurance appointed pursuant to section 505.2.
2. "Counter employee" means any employee at least eighteen years of age employed by a rental company that offers the products described in this chapter.
3. "Limited licensee" means a person at least eighteen years of age or an entity authorized to sell certain insurance coverages relating to the rental of vehicles.
4. "Rental agreement" means any written agreement setting forth the terms and conditions governing the use of a vehicle provided by a rental company for rental.
5. "Rental company" means any person or entity in the business of primarily providing vehicles intended for the private transportation of passengers to the public under a rental agreement for a period not to exceed ninety days.
6. "Rental period" means the term of the rental agreement.
7. "Renter" means any person obtaining the use of a vehicle from a rental company under the terms of a rental agreement for a period not to exceed ninety days.
8. "Vehicle" means a motor vehicle under section 321.1 used for the private transportation of passengers, including passenger vans, minivans, and sport utility vehicles, or used for the transportation of cargo with a gross vehicle weight of less than twenty-six thousand and one pounds and not requiring the operator to possess a commercial driver's license, including cargo vans, pickup trucks, and trucks.

Sec. 3. NEW SECTION. 522A.3 LIMITED LICENSES.

1. Notwithstanding the provisions of chapter 522, the commissioner may issue a limited license to a rental company that has complied with the requirements of this chapter. The limited license shall authorize the limited licensee to offer or sell insurance with the rental of vehicles.

2. As a prerequisite for issuance of a limited license under this section, a written application for a limited license, which is signed by an officer of the applicant, shall be filed with the commissioner. The application shall be in a form and contain information prescribed by the commissioner. The application shall include a list of all rental locations where the rental company intends to conduct business. An updated list shall be provided to the commissioner within thirty business days from any date on which the list is amended.

3. If a provision of this section is violated by a limited licensee, the commissioner may, after notice and a hearing, revoke or suspend a limited license issued under this section, or impose any other penalties, including suspending permission for the transaction of insurance

offers or sales at specific rental locations where violations of this section have occurred, as the commissioner deems to be necessary or convenient to carry out the purposes of this section.

4. A rental company licensed pursuant to this section may offer or sell insurance issued by an insurance carrier authorized to do business in this state and only in connection with and incidental to the rental of a vehicle. A renter shall not be required to purchase coverage in order to rent a vehicle. The type of insurance offered or sold by a limited licensee, whether at the rental office or by preselection of coverage in a master, corporate, group rental, or individual agreement, may be in any of the following general categories:

a. Personal accident insurance covering the risks of travel, including, but not limited to, accident and health insurance that provides coverage, as applicable, to a renter and other rental vehicle occupants for accidental death or dismemberment and reimbursement for medical expenses resulting from an accident that occurs during the rental period.

b. Liability insurance that provides coverage, as applicable, to a renter and other authorized drivers of rental vehicles for liability arising from the operation of the rental vehicle.

c. Personal effects insurance that provides coverage, as applicable, to a renter and other vehicle occupants for the loss of, or damage to, personal effects that occurs during the rental period.

d. Roadside assistance and emergency sickness protection programs.

5. Insurance shall only be sold by a limited licensee pursuant to this section if all of the following apply:

a. The rental period of the rental agreement does not exceed ninety consecutive days.

b. At every rental location where a rental agreement is executed, brochures or other written materials are readily available to a prospective renter that include all of the following information:

(1) A clear and correct summary of the material terms of coverage offered to renters, including the identity of the insurer.

(2) A disclosure that the coverage offered by the rental company may provide a duplication of coverage already provided by a renter's personal automobile insurance policy, homeowner's insurance policy, personal liability insurance policy, or other source of coverage.

(3) A statement that the purchase by a renter of the types of coverage specified in this section is not required in order to rent a vehicle.

(4) A description of the process for filing a claim in the event a renter elects to purchase coverage and in the event of a claim.

c. Evidence of coverage in the rental agreement is provided to every renter who elects to purchase such coverage.

d. A fee, compensation, or commission is not paid to an employee by a rental company dependent based solely on the sale of insurance under any limited license issued pursuant to this section.

6. Any limited license issued under this section shall authorize a counter employee of the limited licensee to act individually on behalf, and under the supervision, of the limited licensee with respect to the offer and sale of coverage specified in this section.

7. A rental company counter employee must successfully pass an examination covering the insurance products offered for sale by the rental company in connection with and incidental to the rental of vehicles by the rental company. The examination shall be approved and administered by the insurance division or a vendor approved by the insurance division pursuant to section 522A.6. The counter employee shall file an application with the commissioner for an individual license. Any application shall be deemed approved unless the commissioner notifies the rental company of the denial or rejection of the application within thirty days of receiving the application. An application shall not include requirements greater in scope than defined in this section.

8. A limited licensee pursuant to this section shall not be required to treat moneys collected from renters purchasing insurance when renting vehicles as moneys received in a fiduciary capacity, provided that the charges for coverage are itemized and are ancillary to a rental agreement. The offer or sale of insurance not in conjunction with a rental agreement shall not be permitted.

9. A limited licensee under this section shall not advertise, represent, or otherwise hold itself out or hold any of its employees out as licensed insurers, insurance agents, or insurance brokers.

10. A limited licensee shall not engage in this state in any of the following:

a. A trade practice defined in chapter 507B as, or determined pursuant to section 507B.6 to be, an unfair method of competition or an unfair or deceptive act or practice in the business of insurance.

b. An illegal sales practice or unfair trade practice as defined in rules adopted pursuant to chapter 17A by the commissioner.

11. An individual license, authorization, and certification to offer or sell insurance products under this chapter shall expire when the counter employee's employment terminates with the rental company.

Sec. 4. NEW SECTION. 522A.4 TERM OF LIMITED LICENSE.

A limited license issued pursuant to this chapter is valid for three years and may be renewed without examination if the renewal application is received in a timely manner.

Sec. 5. NEW SECTION. 522A.5 FEES.

The fee for a counter employee license shall be fifty dollars per counter employee. In no case shall any combined fees exceed one thousand dollars in any calendar year for any one rental company or limited license or licensee or renewal license.

Sec. 6. NEW SECTION. 522A.6 VENDOR QUALIFICATIONS.

If a qualified vendor is available, the commissioner shall utilize the qualified vendor closest in proximity to where the counter employee is employed to meet the requirements in section 522A.3. A vendor shall have at least two years teaching experience relating to the topic of the products described in this chapter. For purposes of this section, the commissioner may approve a rental company that meets the requirements of this section as a qualifying vendor to administer the requirements in section 522A.3.

Sec. 7. NEW SECTION. 522A.7 RULES.

The commissioner shall adopt rules necessary for the administration of this chapter.

Approved May 18, 1999

CHAPTER 144
JUDICIAL ADMINISTRATION
S.F. 150

AN ACT concerning judicial administration.

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

Section 1. Section 125.85, subsection 4, Code 1999, is amended to read as follows:

4. Following a respondent's discharge from a facility or from treatment, the administrator of the facility shall immediately report that fact to the court which ordered the respondent's commitment or treatment. The court shall issue an order confirming the respondent's discharge from the facility or from treatment, as the case may be, and shall terminate the proceedings pursuant to which the order was issued. Copies of the order shall be sent by certified regular mail to the facility and the respondent.

Sec. 2. Section 229.16, Code 1999, is amended to read as follows:

229.16 DISCHARGE AND TERMINATION OF PROCEEDING.

When the condition of a patient who is hospitalized under section 229.14, subsection 2, or is receiving treatment under section 229.14, subsection 3, or is in full-time care and custody under section 229.14, subsection 4, is such that in the opinion of the chief medical officer the patient no longer requires treatment or care for serious mental impairment, the chief medical officer shall tentatively discharge the patient and immediately report that fact to the court which ordered the patient's hospitalization or care and custody. The court shall thereupon issue an order confirming the patient's discharge from the hospital or from care and custody, as the case may be, and shall terminate the proceedings pursuant to which the order was issued. Copies of the order shall be sent by certified regular mail to the hospital, the patient, and the applicant if the applicant has filed a written waiver signed by the patient.

Sec. 3. Section 229.21, subsection 3, paragraph a, Code 1999, is amended to read as follows:

a. Any respondent with respect to whom the magistrate or judicial hospitalization referee has found the contention that the respondent is seriously mentally impaired or a chronic substance abuser sustained by clear and convincing evidence presented at a hearing held under section 229.12 or section 125.82, may appeal from the magistrate's or referee's finding to a judge of the district court by giving the clerk notice in writing, within ten days after the magistrate's or referee's finding is made, that an appeal is taken. The appeal may be signed by the respondent or by the respondent's next friend, guardian, or attorney.

Sec. 4. Section 229.21, subsection 3, paragraph b, unnumbered paragraph 1, Code 1999, is amended to read as follows:

An order of a magistrate or judicial hospitalization referee with a finding that the respondent is seriously mentally impaired or a chronic substance abuser shall include the following notice, located conspicuously on the face of the order:

Sec. 5. Section 321A.12, subsection 1, Code 1999, is amended to read as follows:

1. Whenever any person fails within sixty days to satisfy any judgment, it shall be the duty of the clerk of the district court, or of the judge of a court which has no clerk, in which any such judgment is rendered within this state, to forward to the department immediately after the expiration of said the sixty days and upon written request of the judgment creditor, a certified copy of such judgment.

Sec. 6. Section 602.5104, Code 1999, is amended to read as follows:

602.5104 SESSIONS — LOCATION.

The court of appeals shall meet at the seat of state government and elsewhere as the court orders, and at the times specified by order of the ~~supreme court. Court sessions shall be held in the courtroom of the supreme court at the statehouse.~~

Sec. 7. Section 602.8103, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Establish and maintain a procedure to setoff against amounts held by the clerk of the district court and payable to the person any debt which is in the form of a liquidated sum due, owing and payable to the clerk. The procedure shall meet all of the following conditions:

a. Before setoff, the clerk shall provide written notice to the debtor of the clerk's claim to all or a portion of the amount held by the clerk for the debtor and the clerk's right to recover the amount of the claim through the setoff procedure, the opportunity to request in writing, that a jointly or commonly owned right to payment be divided among owners, and the opportunity to give written notice to the clerk of the district court of the person's intent to contest the amount of the claim. The debtor must file a notice of intent to contest the claim within fifteen days after the mailing of the notice of claim by the clerk or, if the notice of claim was provided by the clerk at the time the debtor appeared in the clerk's office to claim payment, within fifteen days of that date.

b. Upon the request of the debtor or the owner of a jointly or commonly owned right to payment, the clerk of the district court shall divide the payment. Unless otherwise stated in a judgment or court order, any jointly or commonly owned right to payment is presumed to be owned in equal portions by joint or common owners.

c. Upon timely filing of a notice of intent to contest the setoff, the matter shall be set for hearing before a judge or magistrate. The clerk shall notify the debtor in writing of the time and date of the hearing.

d. If the claim is not contested or upon final determination of a contested claim authorizing a setoff, the clerk shall setoff the debt against any amount the clerk is holding for payment to the debtor and pay any balance of the amount to the debtor. The amount setoff shall be applied by the clerk of the district court according to the order of priority set out in section 602.8107, subsection 2.

Sec. 8. Section 622A.3, Code 1999, is amended to read as follows:

622A.3 COSTS — WHEN TAXED.

1. An interpreter shall be appointed without expense to the person requiring assistance in the following cases:

1 a. If the person requiring assistance is a witness in the civil legal proceeding.

2 b. If the person requiring assistance is indigent and financially unable to secure an interpreter.

2. In civil cases, every court shall tax the cost of an interpreter the same as other court costs. In criminal cases, where the defendant is indigent, the interpreter shall be considered as a defendant's witness under R.Cr.P. 14 for the purpose of receiving fees, except that subpoenas shall not be required. If the proceeding is before an administrative agency, that agency shall provide such interpreter but may require that a party to the proceeding pay the expense thereof.

3. Moneys recovered as court costs for interpreters paid through the revolving fund established in section 602.1302, subsection 3, shall be deposited in that fund.

Sec. 9. Section 622A.4, Code 1999, is amended to read as follows:

622A.4 FEE SET BY COURT — PAYMENT.

Every interpreter appointed by a court or administrative agency shall receive a fee to be set by the court or administrative agency. If the interpreter is appointed by the court in a civil

case for a person who is indigent and unable to secure an interpreter, the fee for the interpreter shall be paid from the revolving fund established in section 602.1302, subsection 3.

Sec. 10. Section 624.37, Code 1999, is amended to read as follows:

624.37 SATISFACTION OF JUDGMENT — PENALTY.

When the amount due upon judgment is paid off, or satisfied in full, the party entitled to the proceeds thereof, or those acting for that party, must acknowledge satisfaction ~~thereof upon the record of such judgment, or of the judgment~~ by the execution of an instrument referring to it, duly acknowledged and filed in the office of the clerk in every county wherein the judgment is a lien. A failure to do so within thirty days after having been requested in writing shall subject the delinquent party to a penalty of one hundred dollars plus reasonable attorney fees incurred by the party aggrieved, to be recovered in an action for the satisfaction or acknowledgment by the party aggrieved.

Sec. 11. Section 631.12, Code 1999, is amended to read as follows:

631.12 ENTRY OF JUDGMENT — SETTING ASIDE DEFAULT JUDGMENT.

~~The judgment shall be entered in a space on the original notice first filed, and the clerk shall immediately enter the judgment in the small claims docket and district court lien book, without recording. Such relief shall be granted as is appropriate. Upon entering judgment, the court may provide for installment payments to be made directly by the party obligated to the party entitled thereto; and in such event execution shall not issue as long as such payments are made but execution shall issue for the full unpaid balance of the judgment upon the filing of an affidavit of default. When entered on the small claims docket and district court lien book, a small claims judgment shall constitute a lien to the same extent as regular judgments entered on the district court judgment docket and lien book; but if a small claims judgment requires installment payments, it shall not be enforceable until an affidavit of default is filed.~~

A defendant may move to set aside a default judgment in the manner provided for doing so in district court by rule of civil procedure 236.

Sec. 12. Section 633.48, Code 1999, is amended to read as follows:

633.48 CERTIFIED COPIES AFFECTING FOREIGN REAL ESTATE.

A certified copy of any proceedings, order, judgment, or deed, affecting real estate in any county other than that in which administration or conservatorship is originally granted, shall be furnished to the clerk of the court of the county where such real estate is situated; ~~and shall by.~~ Upon receipt of the certified copy, the clerk of court be entered in the Probate Record shall assign a probate case number to the certified copy and file the copy using the name of the probate proceeding in the county sending the copy. The file created by the county receiving a certified copy as provided in this section shall not be considered an active file for administrative purposes.

Sec. 13. Section 633.51, Code 1999, is amended to read as follows:

633.51 CERTIFIED COPY RECORDED.

The clerk of the court to which the proceedings are transferred shall ~~record at length file, in the probate record within a new file~~ of the clerk's county, the certified copy of the record entries referred to in section ~~633.49~~ 633.50.

Sec. 14. Section 811.9, Code 1999, is amended to read as follows:

811.9 FORFEITURE OF APPEARANCE BOND.

Sections 811.6 through 811.8 shall not apply in a case where a simple misdemeanor is charged upon a uniform citation and complaint and where the defendant has submitted an unsecured appearance bond or has submitted bail in the form of cash, check, credit card as provided in section 805.14, or guaranteed arrest bond certificate as defined in section 321.1. When a defendant fails to appear as required in such cases, the court, or the clerk of the

district court, shall enter a judgment of forfeiture of the bond or bail. The judgment shall be final upon entry and shall not be set aside.

Sec. 15. Section 633.29, Code 1999, is repealed.

Approved May 19, 1999

CHAPTER 145

JOINT COUNTY, CITY, FIRE DISTRICT, AND SCHOOL DISTRICT BUILDINGS — AGREEMENTS — BOND ISSUANCE

S.F. 393

AN ACT providing for the joint construction or acquisition, furnishing, operation, and maintenance of public buildings by counties, cities, fire districts, and school districts and providing for joint issuance of school district or fire district bonds.

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

Section 1. NEW SECTION. 28E.41 JOINT COUNTY, CITY, FIRE DISTRICT, SCHOOL DISTRICT BUILDINGS.

1. A county, city, fire district, or school district, which has areas within its boundaries which overlap areas within the boundaries of another county, city, fire district, or school district, or whose boundaries are contiguous with another county, city, fire district, or school district, may execute an agreement pursuant to this section for the joint construction or acquisition, furnishing, operation, and maintenance of a public building or buildings for their common use. Noncontiguous cities located within the same county, or cities located in contiguous counties, may also execute an agreement for the joint construction or acquisition, furnishing, operation, and maintenance of a joint public building or buildings for their common use. Such an agreement regarding a joint public building may allow for, but is not limited to, any of the following:

- a. Acquisition of a construction site and construction of a public building for common use.
- b. Purchase of an existing building for joint public use, or conversion of a building previously owned and maintained by a county, city, fire district, or school district for joint public use.
- c. Equipping or furnishing a new or existing building for joint public use.
- d. Operation, maintenance, or improvement of a joint public building.
- e. Any other aspect of joint public building construction, acquisition, furnishing, operation, or maintenance mutually agreed upon by the county, city, fire district, or school district and not otherwise prohibited by law.

2. An agreement pursuant to subsection 1 shall be approved by resolution of the governing bodies of each of the participating counties, cities, fire districts, or school districts and shall specify the purposes for which the joint public building shall be used, the estimated cost thereof, the estimated amount of the cost to be allocated to each of the participating counties, cities, fire districts, or school districts, the proportion and method of allocating the expenses of the operation and maintenance of the building or improvement, and the disposition to be made of any revenues to be derived therefrom, in addition to the provisions of sections 28E.5 and 28E.6, and any other applicable provision of this chapter.

3. a. A county, city, fire district, or school district may expend funds or issue general obligation bonds for the payment of its share of the cost of constructing, acquiring, furnishing, operating, or maintaining a joint public building pursuant to subsection 1. Section 28E.16 shall apply regarding a single election to be authorized by the board of supervisors, city council, governing body of a fire district, and board of directors of a school district, in the event that a single bond issue throughout the overlapping or contiguous areas, or non-contiguous cities located in the same county or cities located in contiguous counties, is contemplated. If separate bond issues are authorized by the governing body of a county, city, fire district, or school district for its respective share of the cost of the joint public building, the applicable bonding provisions of chapters 74, 75, 296, 298, 331, 357B, 359, and 384 shall apply. With regard to any issuance of bonds pursuant to this section, a proposition to authorize an issuance of bonds by a county, city, fire district, or school district shall be deemed carried or adopted if the vote in favor of the proposition is equal to at least sixty percent of the vote cast for and against the proposition in each participating county, city, fire district, or school district.

b. Bonds shall not be issued by a county, city, fire district, or school district until provision has been made by each of the other participating counties, cities, fire districts, or school districts to the agreement for the payment of their shares of the cost of the joint public building. In the event that the cost of the construction or acquisition, furnishing, operation, and maintenance of the joint public building exceeds that which was originally estimated and agreed to, the governing body of a county, city, fire district, or school district shall have the authority, jointly or individually, as appropriate, to expend additional moneys or issue additional bonds to pay their respective portions of the increased costs.

c. The governing body of a county, city, fire district, or school district is authorized to enter into an agreement under this section to construct, acquire, furnish, operate, or maintain the public building which is the subject of the agreement for its own purposes to the same extent and in the same manner as if the public building were wholly owned by and devoted to the uses of the county, city, fire district, or school district.

d. The authority granted to a county, city, fire district, or school district pursuant to this section shall be in addition to, and not in derogation of, any other powers conferred by law upon a county, city, fire district, or school district to make agreements, appropriate and expend moneys, and to issue bonds for the same or similar purposes.

4. For purposes of this section, "fire district" means any governmental entity which provides fire protection services.

Sec. 2. NEW SECTION. 28E.42 JOINT ISSUANCE OF SCHOOL DISTRICT OR FIRE DISTRICT BONDS.

It is the intent of the general assembly to encourage school districts or fire districts to jointly issue general obligation bonds to fund separate projects proposed in each district and, by pooling their debt obligations, to realize a savings for taxpayers in each of the participating districts.

1. Two or more school districts may enter an agreement pursuant to this chapter for the purpose of financing projects for which debt obligations may be or have been incurred pursuant to chapter 296 or 298. For purposes of this section, "school district" means a public school district described in chapter 274.

2. Two or more fire districts may enter an agreement pursuant to this chapter for the purpose of financing projects for which debt obligations may be or have been incurred pursuant to chapter 74, 75, 331, 357B, 359, or 384. For purposes of this section, "fire district" means any governmental entity which provides fire protection services.

Approved May 19, 1999

CHAPTER 146
ELECTRONIC COMMERCE SECURITY
H.F. 624

AN ACT relating to electronic commerce security, and providing penalties.

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

DIVISION I
SUBCHAPTER I
GENERAL

Section 1. NEW SECTION. 554C.101 SHORT TITLE.

This chapter shall be known and may be cited as the "Iowa Electronic Commerce Security Act".

Sec. 2. NEW SECTION. 554C.102 PURPOSES AND CONSTRUCTION.

This chapter shall be construed consistently with what is commercially reasonable under the circumstances and to effectuate all of the following purposes:

1. Facilitate electronic communications by means of reliable electronic records.
2. Facilitate and promote electronic commerce, by eliminating barriers resulting from uncertainties over writing and signature requirements, and promoting the development of the legal and business infrastructure necessary to implement secure electronic commerce.
3. Facilitate electronic filing of documents with state and local government agencies and promote efficient delivery of government services by means of reliable electronic records.
4. Minimize the incidence of forged electronic records, intentional and unintentional alteration of records, and fraud in electronic commerce.
5. Establish uniformity of rules, regulations, and standards regarding the authentication and integrity of electronic records.
6. Promote public confidence in the integrity, reliability, and legality of electronic records and electronic commerce.

Sec. 3. NEW SECTION. 554C.103 VARIATION BY AGREEMENT — USE OF ELECTRONIC MEANS OPTIONAL.

1. As between parties involved in generating, sending, receiving, storing, or otherwise processing electronic records, the provisions of this chapter may be varied by agreement of the parties. However, an agreement shall not vary requirements provided in section 554C.203, subsection 2; section 554C.204, subsection 4; section 554C.305, subsection 2; sections 554C.422, 554C.423, 554C.424, and 554C.442; and section 554C.444, subsection 2.

2. This chapter shall not be construed to require a person to create, store, transmit, accept, or otherwise use or communicate information, records, or signatures by electronic means or in electronic form. A government agency shall not require electronic filing of an electronic record or an electronic signature as the only means of filing such record or signature, except as otherwise provided by a rule of law.

SUBCHAPTER II
ELECTRONIC RECORDS AND SIGNATURES GENERALLY

Sec. 4. NEW SECTION. 554C.201 DEFINITIONS.

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

1. "Commissioner" means the commissioner of insurance appointed pursuant to section 505.2.
2. "Consumer" means an individual engaged in a transaction for personal, family, or household purposes.

3. "Consumer transaction" means a transaction by an individual for personal, household, or family use.

4. "Electronic" includes electrical, digital, magnetic, optical, electromagnetic, or any other form of technology that entails capabilities similar to these technologies.

5. "Electronic record" means a record generated, communicated, received, or stored by electronic means for use in an information system or for transmission from one information system to another.

6. "Electronic signature" means a signature in electronic form attached to or logically associated with an electronic record.

7. "Government agency" means the executive, legislative, or judicial branch, or an agency, department, board, commission, authority, institution, or instrumentality of this state or of any county, city, or other political subdivision of this state.

8. "Information" includes but is not limited to data, text, images, sound, codes, computer programs, software, and databases.

9. "Party" means a person involved in an electronic transaction governed by the provisions of this chapter.

10. "Record" means information that is inscribed, stored, or otherwise fixed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

11. "Rule of law" means any statute, rule of or order by a government agency, regulation, ordinance, common law rule, or court decision enacted, adopted, established, or rendered by the general assembly, government agency, court, political subdivision of, or other authority of, this state or the federal government.

12. "Security procedure" means a methodology or procedure for the purpose of doing any of the following:

a. Verifying that an electronic record is the record of a specific person.

b. Detecting an error or alteration in the communication, content, or storage of an electronic record since a specific point in time. A security procedure may require the use of algorithms or codes, identifying words or numbers, encryption, answer back, acknowledgment procedures, or similar security devices.

13. "Signed" or "signature" includes any symbol executed or adopted, or any security procedure employed or adopted, including by use of electronic means, by or on behalf of a person with a present intention to authenticate a record.

Definitions used in any part of this chapter shall apply in all other parts of this chapter.

Sec. 5. NEW SECTION. 554C.202 LEGAL RECOGNITION.

Information shall not be denied legal effect, validity, or enforceability solely on the grounds that it is in the form of an electronic record or an electronic signature.

A transaction subject to this chapter is also subject to other applicable substantive rules of law. Other substantive rules of law, whenever reasonable, shall be construed to be consistent with this chapter. If such construction is unreasonable, such other substantive rule of law governs.

Sec. 6. NEW SECTION. 554C.203 ELECTRONIC RECORDS.

1. Where a rule of law requires information to be written or in writing or provides for certain consequences if it is not, an electronic record satisfies that rule of law requirement.

2. The provisions of this section shall not apply to any of the following:

a. When its application involves a construction of a rule of law that is clearly inconsistent with the manifest intent of the body imposing the requirement or repugnant to the context of the same rule of law. However, the mere requirement that information be in writing, written, or printed shall not by itself be sufficient to establish an intent which is inconsistent with the requirement of this section.

b. A rule of law governing the creation or execution of a will or trust, living will, a general, durable, or healthcare power of attorney, or a voluntary, involuntary, or standby guardianship or conservatorship.

c. A record that serves as a unique and transferable physical expression of rights and obligations including, without limitation, negotiable instruments and other instruments of title wherein possession of the instrument is deemed to confer title in a consumer transaction.

d. A record that grants a legal or equitable interest in real property, including a deed, mortgage, deed of trust, pledge, security interest, or other lien or encumbrance.

e. A disclosure required in a consumer transaction, including but not limited to, disclosures required in chapter 13C, sections 321.69 and 321.71, chapters 516D, 523B, 523E, 523G, 533D, 537, 537B, 538A, 552, 552A, 555A, 557A, 557B, 558A, and 562A, section 714.16, and chapter 714B, or an administrative rule adopted pursuant to such sections and chapters.

Sec. 7. NEW SECTION. 554C.204 ELECTRONIC SIGNATURES.

1. Where a rule of law requires a signature, or provides for certain consequences if a document is not signed, an electronic signature satisfies that requirement.

2. An electronic signature may be proved in any manner, including by showing that a procedure exists by which a person must of necessity have executed a symbol or security procedure for the purpose of verifying that an electronic record is the record of that person in order to proceed further with a transaction.

3. Absent an agreement to the contrary, the recipient of a signed electronic record is entitled to establish reasonable requirements to ensure that the symbol or security procedure adopted as an electronic signature by the person signing is authentic.

4. The provisions of this section shall not apply to any of the following:

a. When its application would involve a construction of a rule of law that is clearly inconsistent with the manifest intent of the body imposing the requirement or repugnant to the context of the same rule of law. However, the mere requirement that information be in writing, written, or printed shall not by itself be sufficient to establish an intent which is inconsistent with the requirement of this section.

b. To any rule of law governing the creation or execution of a will or trust, living will, a general, durable, or healthcare power of attorney, or a voluntary, involuntary, or standby guardianship or conservatorship.

c. To any record that serves as a unique and transferable physical expression of rights and obligations including, but is not limited, to negotiable instruments and other instruments of title wherein possession of the instrument is deemed to confer title in a consumer transaction.

d. To any record that grants a legal or equitable interest in real property, including a deed, mortgage, deed of trust, pledge, security interest, or other lien or encumbrance.

Sec. 8. NEW SECTION. 554C.205 REQUIREMENT FOR ORIGINAL INFORMATION.

1. Where a rule of law requires information to be presented or retained in its original form, or provides consequences for information not being presented or retained in its original form, that rule of law is satisfied by an electronic record if there exists reliable assurance as to the integrity of the information from the time when it was first generated in its final form, as an electronic record or otherwise.

2. The criteria for assessing the integrity of information shall be whether the information has remained complete and unaltered, apart from the addition of any endorsement and any change that arises in the normal course of communication, storage, and display. The standard of reliability required shall be assessed in the light of all relevant circumstances, including but not limited to the purpose for which the information was generated.

3. The provisions of this section do not apply to any record that serves as a unique and transferable physical expression of rights and obligations including, but not limited to, negotiable instruments and other instruments of title wherein possession of the instrument is deemed to confer title.

Sec. 9. NEW SECTION. 554C.206 ADMISSIBILITY INTO EVIDENCE.

1. In any legal proceeding, nothing in the application of the rules of evidence shall apply so as to deny the admissibility of an electronic record or electronic signature into evidence based on any of the following:

- a. On the sole ground that it is an electronic record or electronic signature.
- b. On the grounds that it is not in its original form or is not an original.

2. Information in the form of an electronic record shall be given due evidential weight by the trier of fact. In assessing the evidential weight of an electronic record or electronic signature where its authenticity is in issue, the trier of fact may consider all relevant information or circumstances, including but not limited to the manner in which it was generated, stored, or communicated, the reliability of the manner in which its integrity was maintained, the manner in which its originator was identified, and the manner in which the electronic record was signed.

Sec. 10. NEW SECTION. 554C.207 RETENTION OF ELECTRONIC RECORDS.

1. a. Where a rule of law requires that certain documents, records, or information be retained, that requirement is met by retaining electronic records of the information, provided that all of the following conditions are satisfied:

(1) The electronic record and the information contained in the electronic record must be accessible so as to be usable for subsequent reference at all times when such information must be retained.

(2) The information must be retained in the format in which it was originally generated, sent, or received; or in a format that can be demonstrated to represent accurately the information originally generated, sent, or received.

(3) Data is retained which enables the identification of the origin and destination of the information, the authenticity and integrity of the information, and the date and time when it was generated, sent, or received.

b. An obligation to retain documents, records, or information in accordance with this subsection does not extend to any data the sole purpose of which is to enable the record to be sent or received.

2. Nothing in this section shall preclude any federal or government agency from specifying additional requirements for the retention of records that are subject to the jurisdiction of such agency.

SUBCHAPTER III SECURE ELECTRONIC RECORDS AND SIGNATURES

Sec. 11. NEW SECTION. 554C.301 SECURE ELECTRONIC RECORD.

1. Subject to the provisions of section 554C.303, if, by the application of a qualified security procedure, it can be verified that an electronic record has not been altered since a specified point in time, such electronic record shall be considered to be a secure electronic record from such specified point in time to the time of verification.

2. For purposes of this subchapter, a qualified security procedure is a security procedure to detect changes in content that is any of the following:

- a. Authorized by, and implemented in accordance with the requirements of, this chapter.
- b. Previously agreed to by the parties, and implemented in accordance with the terms of such agreement.
- c. Certified by the commissioner as providing reliable evidence that an electronic record has not been altered, and implemented in a manner specified by the certification.

Sec. 12. NEW SECTION. 554C.302 SECURE ELECTRONIC SIGNATURE.

1. Subject to the provisions of section 554C.303, if, by the application of a qualified security procedure, it can be authenticated that an electronic signature is the signature of a specific person, the electronic signature shall be considered to be a secure electronic signature at the time of verification.

2. A qualified security procedure for purposes of this section is a security procedure for identifying a party that is any of the following:

a. Authorized by, and implemented in accordance with the requirements of, this chapter.

b. Previously agreed to by the parties to an agreement, and implemented in accordance with the terms of the agreement.

c. Certified by the commissioner as being capable of creating an electronic signature that meets all of the following conditions:

(1) Is unique to the signer within the context in which it is used.

(2) Can be used to promptly, objectively, and automatically identify the person signing the electronic record.

(3) Was reliably created by such identified person.

(4) Is linked to the electronic record to which it relates in a manner which ensures that if the record or signature is changed the electronic signature is invalidated, provided that the security procedure is implemented in a manner required by the certification.

Sec. 13. NEW SECTION. 554C.303 COMMERCIALY REASONABLE — RELIANCE.

1. An electronic record or electronic signature that qualifies for secure status pursuant to section 554C.301, 554C.302, 554C.411, or 554C.412 shall not be considered secure unless the proponent establishes all of the following:

a. Use of the applicable security procedure was commercially reasonable.

b. The security procedure was implemented in a trustworthy manner or, where applicable, in a manner specified by this chapter or the commissioner, to the extent such information is within the knowledge of the proponent.

c. Reliance on the security procedure was reasonable and in good faith in light of all the circumstances known to the proponent at the time of the reliance, having due regard for all of the following:

(1) Information that the proponent knew or had notice of at the time of reliance, including all facts, statements, and limitations contained in any statement by any third party involved in the authentication process.

(2) The value or importance of the electronic record signed with the secure electronic signature, if known.

(3) Any course of dealing between the proponent and the purported sender and the available indicia of reliability or unreliability apart from the secure electronic signature.

(4) Any usage of trade, particularly trade conducted by trustworthy systems or other computer-based means.

(5) Whether the authentication was performed with the assistance of an independent third party.

(6) Any other evidence relating to facts of which the proponent was aware that would suggest that reliance was or was not reasonable.

2. The commercial reasonableness of a security procedure is to be determined by the trier of fact in light of the purposes of the procedure and the commercial circumstances at the time the procedure was used, including but not limited to the nature of the transaction, sophistication of the parties, volume of similar transactions engaged in by either or both of the parties, availability of alternatives offered to but rejected by either of the parties, cost of alternative procedures, and procedures in general use for similar types of transactions.

Sec. 14. NEW SECTION. 554C.304 PRESUMPTIONS.

1. In resolving a civil dispute involving a secure electronic record, it shall be rebuttably presumed that the electronic record has not been altered since the specific point in time to which the secure status relates.

2. In resolving a civil dispute involving a secure electronic signature, all of the following shall be rebuttably presumed:

a. The secure electronic signature is the signature of the person to whom it correlates.

b. The secure electronic signature was affixed by that person with the intention of signing the electronic record.

3. The effect of the presumptions provided in this section is to place on the party challenging the integrity of a secure electronic record or challenging the genuineness of a secure electronic signature both the burden of going forward with evidence to rebut the presumption and the burden of persuading the trier of fact that the falsity of the presumed fact is more probable than the truth of its existence.

4. In the absence of a secure electronic record or a secure electronic signature, nothing in this chapter shall change existing rules regarding legal or evidentiary rules regarding the burden of proving the authenticity and integrity of an electronic record or an electronic signature.

Sec. 15. NEW SECTION. 554C.305 ATTRIBUTION OF SIGNATURE TO A PARTY.

1. Except as provided by another applicable rule of law, and subject to the provisions of section 554C.304, a secure electronic signature is attributable to the person to whom it correlates, whether or not authorized, if all of the following apply to the electronic signature:

a. The signature resulted from acts of a person who obtained the access numbers, codes, computer programs, or other information necessary to create the signature from a source under the control of the alleged signer, creating the appearance that it came from the person to whom it correlates.

b. The access occurred under circumstances constituting a failure to exercise reasonable care by the person to whom it correlates.

c. The recipient reasonably relied to the recipient's detriment on the apparent source of the electronic record, taking into account the factors provided in section 554C.303.

2. The provisions of this section shall not apply to consumer transactions, including but not limited to credit card and automatic teller machines, except to the extent allowed by applicable consumer law.

Sec. 16. NEW SECTION. 554C.306 CERTIFICATION BY THE COMMISSIONER.

1. This chapter shall not limit the technology which may qualify as a security procedure under section 554C.301 or 554C.302 if the technology meets all of the criteria in subsections 2 and 3.

2. A security procedure may be certified by the commissioner as meeting the requirements of section 554C.301 or 554C.302, following an appropriate investigation or review, if all of the following apply:

a. The technology utilized by the security procedure is completely open and fully disclosed to the public in order to facilitate a comprehensive evaluation of its suitability for its intended purpose.

b. The certification is in accordance with the rules adopted by the commissioner pursuant to chapter 17A.

c. The certification specifies at least all of the following:

(1) A full and complete identification of the security procedure.

(2) A specification of one or more acceptable trustworthy methods by which the security procedure may be implemented consistent with the certification.

(3) A term for the certification which shall not exceed five years.

3. At the end of the term for each certified security procedure, or earlier as determined by the commissioner, the security procedure may be reevaluated in light of then-current technology and recertified or decertified as appropriate.

4. A person, upon submitting a written request that includes a complete explanation of a proposed technology which meets the requirements of this section together with a proposed draft of administrative rules applicable to such technology, may request the commissioner to review the proposed technology and practices. The commissioner shall review the proposal and may adopt rules in accordance with section 554C.413 with respect to the proposed technology and practices. The commissioner may adopt rules establishing procedures and requirements for the filing of proposals to review proposed technology and practices.

SUBCHAPTER IV
DIGITAL SIGNATURES
PART I
DEFINITIONS

Sec. 17. NEW SECTION. 554C.401 DEFINITIONS.

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

1. "Asymmetric cryptosystem" means a computer-based system capable of generating and using a key pair, consisting of a private key for creating a digital signature, and a public key to verify the digital signature.
2. "Certificate" means a record that at a minimum provides all of the following:
 - a. Identifies the certification authority issuing the certificate.
 - b. Names or otherwise identifies its subscriber.
 - c. Contains a public key that corresponds to a private key under the control of the subscriber.
 - d. Identifies its operational period.
 - e. Is digitally signed by the certification authority issuing the certification.
3. "Certification authority" means a person who authorizes and causes the issuance of a certificate.
4. "Certification practice statement" means a statement published by a certification authority or person operating a repository that specifies the policies or practices that the certification authority employs in issuing, suspending, and revoking certificates, and providing access to a certificate.
5. "Correspond" means to belong to the same key pair.
6. "Digital signature" means a type of an electronic signature consisting of a transformation of an electronic record using a message digest function that is encrypted with an asymmetric cryptosystem using the signer's private key in a manner providing that any person having the initial untransformed electronic record, the encrypted transformation, and the signer's public key may accurately determine all of the following:
 - a. Whether the transformation was created using the private key that corresponds to the signer's public key.
 - b. Whether the initial electronic record has been altered since the transformation was made. A digital signature is a security procedure.
7. "Key pair" means, in an asymmetric cryptosystem, two mathematically related keys, having the properties that provide all of the following:
 - a. One key can encrypt a message which only the other key can decrypt.
 - b. Even knowing one key, it is computationally infeasible to discover the other key.
8. "Message digest function" means an algorithm that maps or translates the sequence of bits comprising an electronic record into another, generally smaller, set of bits, referred to as the message digest, without requiring the use of any secret information such as a key, in a manner which provides all of the following:
 - a. A record yields the same message digest every time the algorithm is executed using such record as input.
 - b. It is computationally infeasible that any two electronic records can be found or deliberately generated that would produce the same message digest using the algorithm unless the two records are identical.
9. "Operational period of a certificate" means a period beginning and ending as follows:
 - a. The period begins on the date and at the time the certificate is issued by a certification authority or on a later date and at a time certain if stated in the certificate.
 - b. The period ends on the date and at the time the certificate expires as noted in the certificate or on an earlier date if the certificate is revoked or suspended in accordance with this chapter.
10. "Private key" means the key of a key pair used to create a digital signature.

11. "Public key" means the key of a key pair used to verify a digital signature.
12. "Repository" means a system for storing and retrieving certificates or other information relevant to certificates.
13. "Revoke a certificate" means to permanently end the operational period of a certificate from a specified time forward.
14. "Subscriber" means a person to whom all of the following applies:
 - a. The person is the subject named or otherwise identified in a certificate issued to the person.
 - b. The person controls a private key that corresponds to the public key listed in that certificate.
 - c. The digitally signed messages verified by reference to the certificate are to be attributed to the person.
15. "Suspend a certificate" means to temporarily suspend the operational period of a certificate for a specified time period or from a specified time forward.
16. "Trustworthy system" means a system of computer hardware, software, and procedures that satisfies all of the following:
 - a. Is reasonably secure from intrusion and misuse.
 - b. Provides a reasonable level of availability, reliability, and correct operation.
 - c. Is reasonably suited to performing the system's intended functions.
 - d. Adheres to generally accepted security procedures.
 - e. Meets or exceeds the requirements of rules adopted by the commissioner.
17. "Valid certificate" means a certificate that meets the following conditions:
 - a. The certificate has been issued by a certification authority.
 - b. The subscriber listed in the certificate has accepted the certificate in accordance with this chapter.
18. "Verify a digital signature" means to use the public key listed in a certificate, together with an appropriate message digest function and public key algorithm, to evaluate a digitally signed electronic record in order to determine all of the following:
 - a. That the digital signature was created using the private key corresponding to the public key listed in the certificate.
 - b. The electronic record has not been altered since its digital signature was created.

PART 2

EFFECT OF A DIGITAL SIGNATURE

Sec. 18. NEW SECTION. 554C.411 SECURE ELECTRONIC RECORD.

Subject to the provisions of section 554C.303, an electronic record or any portion thereof that is signed with a digital signature shall be considered to be a secure electronic record if the digital signature was created during the operational period of a valid certificate and is verified by reference to the public key listed in such certificate.

Sec. 19. NEW SECTION. 554C.412 SECURE ELECTRONIC SIGNATURE.

Subject to the provisions of section 554C.303, when all or any portion of an electronic record is signed with a digital signature, the digital signature shall be considered a secure electronic signature with respect to all or that portion of the record, if all of the following apply:

1. The digital signature was created during the operational period of a valid certificate, was used within any limits specified or incorporated by reference in the certificate, and can be verified by reference to the public key listed in the certificate.
2. The certificate shall be considered trustworthy, if one of the following is determined by the trier of fact:
 - a. The certificate was issued by a certification authority in accordance with standards, procedures, and other requirements specified by rule of the commissioner.

- b. A trier of fact independently finds one of the following:
- (1) That the certificate was issued in a trustworthy manner by a certification authority that properly authenticated the subscriber and the subscriber's public key.
 - (2) The material information set forth in the certificate is true.
3. The process and systems utilized to create and verify a digital signature are considered trustworthy because one of the following applies:
- a. They comply with standards, procedures, and other requirements specified by the commissioner.
 - b. A trier of fact independently finds that they are trustworthy.

Sec. 20. NEW SECTION. 554C.413 COMMISSIONER AUTHORITY TO ADOPT RULES.

1. The commissioner may adopt rules applicable to the public or private sector which define when a certificate and a digital signature is considered sufficiently trustworthy in order to ensure that a digital signature verified by reference to the certificate will qualify as a secure electronic signature. The rules may include but are not limited to any of the following:

a. Establishing or adopting standards applicable to certification authorities or certificates. Compliance with the standards may be measured by obtaining a voluntary certification from the commissioner or becoming accredited by one or more independent accrediting entities recognized by the commissioner.

b. Establishing or adopting standards applicable to the digital signature creation or verification process.

2. In adopting rules as provided in this section, the commissioner shall consult with the office of the attorney general and representatives of the division of information technology services of the department of general services. The commissioner shall adopt rules that will provide maximum flexibility in the implementation of digital signature technology and the business models necessary to support it, establish a clear basis for the recognition of certificates issued by foreign certification authorities, and, to the extent reasonably possible, maximize the opportunities for uniformity with the laws of other jurisdictions, both within the United States and internationally.

PART 3
DUTIES GENERALLY

Sec. 21. NEW SECTION. 554C.421 RELIANCE ON CERTIFICATES.

A person relying on a digital signature may also rely on a valid certificate containing the public key by which the digital signature can be verified.

Sec. 22. NEW SECTION. 554C.422 RESTRICTIONS ON PUBLICATION OF CERTIFICATE.

A person shall not publish a certificate, or otherwise make it available to anyone known by that person to be in a position to rely on the certificate or on a digital signature that is verifiable with reference to the public key listed in the certificate, if that person knows that any of the following apply:

1. The certification authority listed in the certificate has not issued the certificate.
2. The subscriber listed in the certificate has not accepted the certificate.
3. The certificate has been revoked or suspended, unless the publication is for the purpose of verifying a digital signature created prior to such suspension or revocation.

Sec. 23. NEW SECTION. 554C.423 FRAUDULENT PURPOSE.

A person shall not knowingly create, publish, alter, or otherwise use a certificate for a fraudulent or other unlawful purpose. A person convicted of violating this section is guilty of a serious misdemeanor. A person convicted of a second or subsequent violation is guilty of a class "D" felony.

Sec. 24. NEW SECTION. 554C.424 FALSE OR UNAUTHORIZED REQUEST.

A person shall not knowingly misrepresent the person's identity or authorization in requesting or accepting a certificate or in requesting suspension or revocation of a certificate. A person convicted of violating this section is guilty of a serious misdemeanor. A person convicted of a second or subsequent violation is guilty of a class "D" felony.

Sec. 25. NEW SECTION. 554C.425 CIVIL REMEDY.

A person who suffers a loss by reason of a violation of section 554C.423 or 554C.424, in a civil action against the violator, may obtain appropriate legal and equitable relief. In a civil action under this section, the court may award the prevailing party its reasonable attorney fees and other litigation expenses. However, if the plaintiff is a consumer, the court may award reasonable attorney fees and other litigation expenses only to a prevailing plaintiff.

PART 4

DUTIES OF CERTIFICATION AUTHORITIES AND REPOSITORIES

Sec. 26. NEW SECTION. 554C.431 TRUSTWORTHY SYSTEM.

A certification authority and a person maintaining a repository shall utilize a trustworthy system in performing their services.

Sec. 27. NEW SECTION. 554C.432 DISCLOSURE.

1. For each certificate it issues, a certification authority must publish to relying parties all of the following:

- a. Its certification practice statement, if the authority has one.
- b. Its certification authority certificate that identifies the certification authority as a self-certifying subscriber and that contains the public key corresponding to the private key used by that certification authority to digitally sign the certificate.
- c. Notice of a revocation or suspension of its certification authority certificate, and any other fact material relating to either the reliability of a certificate that it has issued or its ability to perform its services.

2. In the event of an occurrence that materially and adversely affects a certification authority's trustworthy system or its certification authority certificate, the certification authority must do all of the following:

- a. Use reasonable efforts to notify persons who are known to be or foreseeably will be affected by that occurrence.
- b. Act in accordance with procedures governing this type of occurrence specified in its certification practice statement.

3. If a certification authority certifies itself as a certification authority, it shall disclose to all relying parties that it is self-certified. The certification authority shall publish a copy of its own certification authority certificate that is verifiable by reference to a public key listed in a certificate issued by the certification authority.

Sec. 28. NEW SECTION. 554C.433 ISSUANCE OF A CERTIFICATE.

A certification authority may issue a certificate to a prospective subscriber for the purpose of verifying digital signatures only after the certification authority does all of the following:

1. Receives a request for the issuance from the prospective subscriber.
2. Does either of the following:
 - a. Complies with all of the practices and procedures set forth in its applicable certification practice statement, including procedures regarding identification of the perspective* subscriber.
 - b. In the absence of a certification practice statement, confirms one of the following:
 - (1) The prospective subscriber is the person to be listed in the certificate to be issued.
 - (2) The information in the certificate to be issued is accurate.

* The word "prospective" probably intended

(3) The prospective subscriber rightfully holds a private key capable of creating a digital signature, and the public key to be listed in the certificate can be used to verify a digital signature affixed by such private key.

Sec. 29. NEW SECTION. 554C.434 REPRESENTATIONS UPON ISSUANCE OF CERTIFICATE.

By issuing a certificate, a certification authority represents to any person who reasonably relies on the certificate or a digital signature verifiable by the public key listed in the certificate, that the certification authority has issued the certificate in accordance with any applicable certification practice statement stated or incorporated by reference in the certificate, or of which the relying person has notice, and the requirements and representations imposed by the law under which it was issued. In the absence of a certification practice statement or law, the certification authority represents that as of the time the certificate is issued it has confirmed all of the following:

1. The certification authority has complied with all applicable requirements of this chapter in issuing the certificate, and if the certification authority has published the certificate or otherwise made it available to a relying person, that the subscriber identified in the certificate has accepted it.
2. The subscriber identified in the certificate, rightfully holds the private key corresponding to the public key listed in the certificate.
3. The subscriber's public key and private key constitute a functioning key pair.
4. All information in the certificate is accurate as of the date it was issued, unless the certification authority has stated in the certificate or incorporated by reference in the certificate a statement that the accuracy of specified information is not confirmed.
5. To the knowledge of the certification authority, there are no known material facts omitted from the certificate which would, if known, adversely affect the reliability of the representations required to be provided by the certification authority under this section.

Sec. 30. NEW SECTION. 554C.435 SUSPENSION OF A CERTIFICATE.

The certification authority that issues a certificate, and any person maintaining a repository where the certificate is published, shall suspend the certificate pursuant to any of the following:

1. The receipt of an order issued by a court of competent jurisdiction.
2. In accordance with the policies and procedures governing suspension specified in its certification practice statement. In the absence of policies and procedures governing suspension, the certificate shall be suspended as soon as possible after receiving a request by a person whom the certification authority or person maintaining a repository reasonably believes to be any of the following:
 - a. The subscriber listed in the certificate.
 - b. A person duly authorized to act for that subscriber.
 - c. A person acting on behalf of that subscriber, who is unavailable.

Sec. 31. NEW SECTION. 554C.436 REVOCATION OF A CERTIFICATE.

The certification authority that issues a certificate, and any person maintaining a repository where the certificate is published, shall revoke the certificate pursuant to any of the following:

1. Upon receipt of an order issued by a court of competent jurisdiction.
2. In accordance with the policies and procedures governing revocation specified in its certification practice statement. In the absence of policies and procedures governing revocation, the certificate shall be revoked as soon as possible after one of the following occurs:
 - a. Receipt of a request for revocation by the subscriber named in the certificate, if the certification authority or repository confirms that the person requesting the revocation is the subscriber or is an agent of the subscriber with authority to request the revocation.
 - b. Receipt of a certified copy of an individual subscriber's death certificate, or upon confirmation by other reliable evidence that the subscriber is dead.

c. Presentation of documents effecting a dissolution of a corporate subscriber or other legal entity, or upon confirmation by other evidence that the subscriber or other legal entity has been dissolved or has ceased to exist.

d. Confirmation by the certification authority that one of the following applies:

- (1) A material fact represented in the certificate is false.
 - (2) A material prerequisite to issuance of the certificate was not satisfied.
 - (3) The certification authority's private key or trustworthy system was compromised in a manner materially affecting the certificate's reliability.
 - (4) The subscriber's private key or trustworthy system was compromised.
- Upon effecting a revocation, the certification authority shall promptly notify the subscriber listed in the revoked certificate of the revocation.

Sec. 32. NEW SECTION. 554C.437 NOTICE OF SUSPENSION OR REVOCATION.

Upon suspending or revoking a certificate, a person maintaining a repository where the certificate is published shall do all of the following:

1. Promptly publish notice of the suspension or revocation if the certificate was published.
2. Disclose the fact of suspension or revocation on inquiry by a relying party.

PART 5 DUTIES OF SUBSCRIBERS

Sec. 33. NEW SECTION. 554C.441 GENERATING THE KEY PAIR.

If the subscriber generates the key pair whose public key is to be listed in a certificate issued by a certification authority and accepted by the subscriber, the subscriber must generate that key pair and maintain and store the private key using a trustworthy system.

Sec. 34. NEW SECTION. 554C.442 OBTAINING A CERTIFICATE.

All material representations made by the subscriber to a certification authority for purposes of obtaining a certificate must be accurate and complete.

Sec. 35. NEW SECTION. 554C.443 ACCEPTANCE OF A CERTIFICATE.

1. A person accepts a certificate that names a person as a subscriber by publishing it to one or more persons, depositing the certificate in a repository, or demonstrating approval of the certificate, while knowing or having notice of its contents.

2. By accepting a certificate, the subscriber listed in the certificate represents to all who reasonably rely on the information contained in the certificate that all of the following apply:

- a. The subscriber rightfully holds the private key corresponding to the public key listed in the certificate.
- b. All representations made by the subscriber to the certification authority and material to the information listed in the certificate are true.
- c. All information in the certificate that is within the knowledge of the subscriber is true.

Sec. 36. NEW SECTION. 554C.444 CONTROL OF THE PRIVATE KEY.

1. Except as otherwise provided by another applicable rule of law, by accepting a certificate issued by a certification authority the subscriber identified in the certificate assumes a duty to persons who reasonably rely on the certificate to exercise reasonable care to retain control of the private key corresponding to the public key listed in the certificate and to prevent its disclosure to a person not authorized to create the subscriber's digital signature. The requirements of this subsection shall continue during the operational period of the certificate.

2. The provisions of this section do not apply to consumer transactions.

Sec. 37. NEW SECTION. 554C.445 INITIATING SUSPENSION OR REVOCATION.

Except as otherwise provided by another applicable rule of law, if the private key corresponding to the public key listed in a certificate is compromised during the operational

period of the certificate, a subscriber who has accepted the certificate shall do one of the following:

1. Request the issuing certification authority, and all independent repositories in which the subscriber has authorized the certificate to be published, to suspend or revoke the certificate.
2. Provide reasonable notice to all relying parties that the public key listed in the certificate was compromised during the operational period of the certificate.

PART 6

GOVERNMENT AGENCY USE OF ELECTRONIC RECORDS AND SIGNATURES

Sec. 38. NEW SECTION. 554C.451 GOVERNMENT AGENCY USE OF ELECTRONIC RECORDS.

1. Each government agency shall determine if, and the extent to which, it will send and receive electronic records and electronic signatures to and from other persons. This section shall not be interpreted as varying the requirements of chapter 22.

2. In any case where a government agency decides to send or receive electronic records, or to accept document filings by electronic records, the government agency may, by rule, giving due consideration to security, specify any of the following:

a. The manner and format in which electronic records must be sent, received, and stored, including interoperability requirements.

b. If electronic records must be signed, the type of electronic signature required including, if applicable, a requirement that the sender use a digital signature or other secure electronic signature, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of or criteria that must be met by a certification authority used by the person filing the document.

c. Control processes and procedures which are appropriate to ensure adequate integrity, security, confidentiality, and auditability of electronic records.

d. Any other required attributes for electronic records that are currently specified for corresponding paper documents, or reasonably necessary under the circumstances.

3. All rules adopted by a government agency shall be consistent with the rules adopted by the commissioner.

Sec. 39. NEW SECTION. 554C.452 COMMISSIONER TO ADOPT STATE STANDARDS.

1. The commissioner, in consultation with the office of the attorney general and the division of information technology services of the department of general services, shall adopt rules setting forth standards, procedures, and policies for the use of electronic records and electronic signatures by government agencies. Where appropriate, the rules shall specify different levels of standards from which implementing government agencies can select the standard most appropriate for a particular application.

2. The commissioner shall specify appropriate procedural and technical security requirements to be implemented and followed by government agencies for all of the following:

a. The generation, use, and storage of key pairs.

b. The issuance, acceptance, use, suspension, and revocation of certificates.

c. The use of digital signatures.

3. Each government agency shall have the authority to issue, or contract for the issuance of, certificates to all of the following:

a. Its employees and agents.

b. Persons conducting business or other transactions with the government agency. The government agency may take other actions consistent with this authority, including the establishment of repositories and the suspension or revocation of issued certificates, provided that actions by the government agency are conducted in accordance with all rules, procedures, and policies specified by the commissioner. The commissioner may adopt rules, procedures, and policies under which government agencies may issue or contract for the issuance of certificates, or restrict or prohibit their issuance.

4. The commissioner may specify appropriate standards and requirements that must be satisfied by a certification authority before any of the following occur:

a. The services of a certification authority are used by a government agency for the issuance, publication, suspension, or revocation of certificates to the government agency, including its employees or agents, for official use only.

b. The certificates that the certification authority issues are accepted for purposes of verifying digitally signed electronic records sent to any government agency by any person.

Sec. 40. NEW SECTION. 554C.453 INTEROPERABILITY.

To the extent reasonable under the circumstances, rules adopted by the commissioner or a government agency relating to the use of electronic records or electronic signatures shall be drafted in a manner designed to encourage and promote consistency and interoperability with similar requirements adopted by government agencies of other states and the federal government.

SUBCHAPTER V
REPEAL

Sec. 41. NEW SECTION. 554C.501 REPEAL.

This chapter is repealed effective July 1, 2004.

DIVISION II
MISCELLANEOUS PROVISIONS

Sec. 42. Section 4.1, subsection 39, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The words "written" and "in writing" may include any mode of representing words or letters in general use, and includes an electronic record as defined in section 554C.201. A signature, when required by law, must be made by the writing or markings of the person whose signature is required. "Signature" includes an electronic or digital signature as defined in section 554C.201. If a person is unable due to a physical disability to make a written signature or mark, that person may substitute either of the following in lieu of a signature required by law:

Sec. 43. Section 22.7, Code 1999, is amended by adding the following new subsection: NEW SUBSECTION. 38. a. Records containing information that would disclose, or might lead to the disclosure of, private keys as provided in section 554C.*

b. Records which if disclosed might jeopardize the security of an issued certificate or a certificate to be issued pursuant to chapter 554C.

Sec. 44. COMMISSIONER REQUIRED TO ADOPT RULES. The commissioner of insurance shall adopt rules as required by this Act not later than July 1, 2000.

Sec. 45. CONSIDERATION OF MODEL LEGISLATION. It is the intent of the general assembly that if the national conference of commissioners on uniform state laws proposes a uniform electronic commerce act, the general assembly shall consider the proposed uniform act during the session in which the proposed uniform law is submitted to the states for consideration or during its next regular session if the proposed uniform act is submitted to the states during a period in which the general assembly is not in session.

Approved May 19, 1999

* Chapter 554C probably intended

CHAPTER 147
SCHOOL BREAKFAST PROGRAMMING
H.F. 675

AN ACT relating to school breakfast programming.

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

Section 1. Section 283A.2, subsection 2, as enacted by 1994 Iowa Acts, chapter 1193, section 24, is amended to read as follows:

2. a. All A school districts district shall operate or provide for the operation of school breakfast and lunch programs at all public schools attendance centers in each the district. However, with the approval of the department of education as provided in paragraph "b", a school district may provide access to a school breakfast program at an alternative site to students who wish to participate in a school breakfast program. The programs shall provide students with nutritionally adequate meals and shall be operated in compliance with the rules of the state board of education and pertinent federal law and regulation, for all students in each district who attend public school four or more hours each school day and wish to participate in a school breakfast or lunch program. School districts may provide school breakfast and lunch programs for other students.

b. The board of directors of a school district that wishes to provide safe, reasonable student access to a school breakfast program, rather than operate or provide for the operation of a school breakfast program at a specific attendance center within the school district shall develop an alternative site plan to operate the school breakfast program at another attendance center within the school district and shall annually certify to the department that the plan meets the following criteria:

(1) Provides safe travel routes to and from the alternative breakfast site for all eligible students.

(2) Minimizes student travel time between the student's attendance center and the alternative breakfast site.

(3) Provides for a reasonable relationship between the time breakfast is offered, the time the student is required to arrive at the attendance center and alternative site, and the daily school start time.

(4) Provides an alternative breakfast site facility adequate for the number of students participating in the breakfast program.

c. The board of directors of a school district that wishes to provide access to a school breakfast program in accordance with paragraph "b", shall notify the parent, guardian, or legal or actual custodian of a child enrolled in the school district of the school district's intention to develop and implement a plan to provide school breakfast programs only in certain attendance centers. At any time in which the school district proposes to make substantive changes to a plan certified with the department of education, the notification requirements of this paragraph shall apply.

Sec. 2. Section 283A.2, subsection 3, Code 1999, is amended to read as follows:

3. Effective July 1, 1999, all school districts shall operate or provide for the operation of school breakfast programs at all public schools school attendance centers in each district or, if the school district meets the requirements of paragraphs "b" and "c", shall provide access to a school breakfast program at an alternative site to students who wish to participate in a school breakfast program. The programs shall provide students with nutritionally adequate meals and shall be operated in compliance with the rules of the state board of education and pertinent federal law and regulation, for all students in each district who attend public school and who wish to participate in a school breakfast program.

a. A school or school district unable to meet the requirement to provide a school breakfast program may, not later than June 1, 1999, for the school year beginning July 1, 1999, file a

written request to the department of education that the department waive the requirement for that school or school district. The written request shall include the reason for which the waiver is being requested. The state board shall evaluate the application for waiver, determine the validity of the reason for which the waiver is being requested, and grant or deny the application for waiver. The state board shall establish criteria for determination of the validity of reasons for waiver of the requirement that school breakfast programs be operated at each school. However, the state board shall not waive the school breakfast program requirement for a school if thirty-five percent or more of the students in attendance at the school during the month of March 1999 were eligible for free or reduced price meals under the federal National School Lunch Act and the federal Child Nutrition Act of 1966, 42 U.S.C. § 1751 - 1785.

b. The board of directors of a school district that wishes to provide safe, reasonable student access to a school breakfast program, rather than operate or provide for the operation of a school breakfast program at a specific attendance center within the school district shall develop an alternative site plan to operate the school breakfast program at another attendance center within the school district and shall annually certify to the department that the plan meets the following criteria:

(1) Provides safe travel routes to and from the alternative breakfast site for all eligible students.

(2) Minimizes student travel time between the student's attendance center and the alternative breakfast site.

(3) Provides for a reasonable relationship between the time breakfast is offered, the time the student is required to arrive at the attendance center and alternative site, and the daily school start time.

(4) Provides an alternative breakfast site facility adequate for the number of students participating in the breakfast program.

c. The board of directors of a school district that wishes to provide access to a school breakfast program in accordance with paragraph "b", shall notify the parent, guardian, or legal or actual custodian of a child enrolled in the district of the school district's intention to develop and implement a plan to provide school breakfast programs only in certain attendance centers. At any time in which the school district proposes to make substantive changes to a plan certified with the department of education, the notification requirements of this paragraph shall apply.

Approved May 19, 1999

CHAPTER 148

SAFE DEPOSIT BOX ACCESS — DEATH OF OWNER OR LESSEE

S.F. 413

AN ACT providing for access to a safe deposit box on the death of the owner or lessee of such box, and exempting state banks and credit unions from liability associated with such access.

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

Section 1. NEW SECTION. 524.810A SAFE DEPOSIT BOX ACCESS ON DEATH OF OWNER OR LESSEE.

1. A bank shall permit a person named in and authorized by a court order to open, examine, and remove the contents of a safe deposit box located at the bank. If a court order has not been delivered to the bank, the following persons may access and remove any or all contents of a safe deposit box located at a state bank and described in an ownership or rental agreement or lease between the state bank and a deceased owner or lessee:

- a. A co-owner or co-lessee of the safe deposit box.
- b. A person designated in the safe deposit box agreement or lease to have access to the safe deposit box upon the death of the lessee, to the extent provided in the safe deposit box agreement or lease.
- c. An executor or administrator of the estate of a deceased owner or lessee upon delivery to the state bank of a certified copy of letters of appointment.
- d. A person named as an executor in a copy of a purported will produced by the person, provided such access shall be limited to the removal of a purported will, and no other contents shall be removed.
- e. A trustee of a trust created by the deceased owner or lessee upon delivery to the state bank of a copy of the trust together with an affidavit by the trustee which certifies that the copy of the trust delivered to the state bank with the affidavit is an accurate and complete copy of the trust, the trustee is the duly authorized and acting trustee under the trust, the trust property includes property in the safe deposit box, and that to the knowledge of the trustee the trust has not been revoked.

2. A person removing any contents of a safe deposit box pursuant to subsection 1 shall deliver any writing purported to be a will of the decedent to the court having jurisdiction over the decedent's estate.

3. a. If a person authorized to have access under subsection 1 does not request access to the safe deposit box within the thirty-day period immediately following the date of death of the owner or lessee of a safe deposit box, and the state bank has knowledge of the death of the owner or lessee of the safe deposit box, the safe deposit box may be opened by or in the presence of two employees of the state bank. If no key is produced, the state bank may cause the safe deposit box to be opened and the state bank shall have a claim against the estate of the deceased owner or lessee and a lien upon the contents of the safe deposit box for the costs of opening and resealing the safe deposit box.

b. If a safe deposit box is opened pursuant to paragraph "a", the bank employees present at such opening shall do all of the following:

- (1) Remove any purported will of the deceased owner or lessee.
- (2) Unseal, copy, and retain in the records of the state bank a copy of a purported will removed from the safe deposit box. An additional copy of such purported will shall be made, dated, and signed by the bank employees present at the safe deposit box opening and placed in the safe deposit box. The safe deposit box shall then be resealed.
- (3) The original of a purported will shall be sent by registered or certified mail or personally delivered to the district court in the county of the last known residence of the deceased owner or lessee, or the court having jurisdiction over the testator's estate. If the residence is unknown or last known and not in this state, the purported will shall be sent by registered or certified mail or personally delivered to the district court in the county where the safe deposit box is located.

4. The state bank may rely upon published information or other reasonable proof of death of an owner or lessee. A state bank has no duty to inquire about or discover, and is not liable to any person for failure to inquire about or discover, the death of the owner or lessee of a safe deposit box. A state bank has no duty to open or cause to be opened, and is not liable to any person for failure to open or cause to be opened, a safe deposit box of a deceased owner or lessee. Upon compliance with the requirements of subsection 1 or 3, the state bank is not liable to any person as a result of the opening of the safe deposit box, removal and delivery of the purported will, or retention of the unopened safe deposit box and contents.

Sec. 2. NEW SECTION. 533.49E SAFE DEPOSIT ACCESS ON DEATH OF OWNER OR LESSEE.

1. A credit union shall permit a person named in and authorized by a court order to open, examine, and remove the contents of a safe deposit box located at the credit union. If a court order has not been delivered to the credit union, the following persons may access and remove any or all contents of a safe deposit box located at a state credit union and described in an ownership or rental agreement or lease between the state credit union and a deceased owner or lessee:

a. A co-owner or co-lessee of the safe deposit box.

b. A person designated in the safe deposit box agreement or lease to have access to the safe deposit box upon the death of the lessee, to the extent provided in the safe deposit box agreement or lease.

c. An executor or administrator of the estate of a deceased owner or lessee upon delivery to the state credit union of a certified copy of letters of appointment.

d. A person named as an executor in a copy of a purported will produced by the person, provided such access shall be limited to the removal of a purported will, and no other contents shall be removed.

e. A trustee of a trust created by the deceased owner or lessee upon delivery to the state credit union of a copy of the trust together with an affidavit by the trustee which certifies that the copy of the trust delivered to the state credit union with the affidavit is an accurate and complete copy of the trust, the trustee is the duly authorized and acting trustee under the trust, the trust property includes property in the safe deposit box, and that to the knowledge of the trustee the trust has not been revoked.

2. A person removing any contents of a safe deposit box pursuant to subsection 1 shall deliver any writing purported to be a will of the decedent to the court having jurisdiction over the decedent's estate.

3. a. If a person authorized to have access under subsection 1 does not request access to the safe deposit box within the thirty-day period immediately following the date of death of the owner or lessee of a safe deposit box, and the state credit union has knowledge of the death of the owner or lessee of the safe deposit box, the safe deposit box may be opened by or in the presence of two employees of the state credit union. If no key is produced, the state credit union may cause the safe deposit box to be opened and the state credit union shall have a claim against the estate of the deceased owner or lessee and a lien upon the contents of the safe deposit box for the costs of opening and resealing the safe deposit box.

b. If a safe deposit box is opened pursuant to paragraph "a", the credit union employees present at such opening shall do all of the following:

(1) Remove any purported will of the deceased owner or lessee.

(2) Unseal, copy, and retain in the records of the state credit union a copy of a purported will removed from the safe deposit box. An additional copy of such purported will shall be made, dated, and signed by the credit union employees present at the safe deposit box opening and placed in the safe deposit box. The safe deposit box shall then be resealed.

(3) The original of a purported will shall be sent by registered or certified mail or personally delivered to the district court in the county of the last known residence of the deceased owner or lessee or the court having jurisdiction over the testator's estate. If the residence is unknown or last known and not in this state, the purported will shall be sent by registered or certified mail or personally delivered to the district court in the county where the safe deposit box is located.

4. The state credit union may rely upon published information or other reasonable proof of death of an owner or lessee. A state credit union has no duty to inquire about or discover, and is not liable to any person for failure to inquire about or discover, the death of the owner or lessee of a safe deposit box. A state credit union has no duty to open or cause to be opened, and is not liable to any person for failure to open or cause to be opened, a safe deposit box of a deceased owner or lessee. Upon compliance with the requirements of subsection 1 or 2, the

state credit union is not liable to any person as a result of the opening of the safe deposit box, removal and delivery of the purported will, or retention of the unopened safe deposit box and contents.

Approved May 19, 1999

CHAPTER 149

UNPAID CHARGES FOR CITY WATER, SEWAGE, AND SOLID WASTE SERVICES

H.F. 700

AN ACT relating to the liability for unpaid rates or charges of a city utility or enterprise service for water, sewage, and solid waste services.

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

Section 1. Section 384.84, subsection 2, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. If a delinquent amount is owed by an account holder for a utility service associated with a prior property or premises, a city utility, city enterprise, or combined city enterprise may withhold service from the same account holder at any new property or premises until such time as the account holder pays the delinquent amount owing on the account associated with the prior property or premises.

Sec. 2. Section 384.84, subsection 3, paragraphs a, c, and d, Code 1999, are amended to read as follows:

a. All Except as provided in paragraph "d", all rates or charges for the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, water, solid waste disposal, or any of these services, if not paid as provided by ordinance of the council or resolution of the trustees, are a lien upon the property or premises served by any of these services upon certification to the county treasurer that the rates or charges are due.

c. A lien for a city utility or enterprise service under paragraph "a" shall not be certified to the county treasurer for collection unless prior written notice of intent to certify a lien is given to the account holder of the delinquent account. If the account holder is a tenant, and if the owner or landlord of the property has made a written request for notice, the notice shall also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail not less than ten days prior to certification of the lien to the county treasurer.

d. ~~For a residential~~ Residential rental property where a charge for water service is separately metered and paid directly to the city utility or enterprise by the tenant, ~~the rental property~~ is exempt from a lien for ~~those delinquent rates or charges incurred after~~ associated with such water service if the landlord gives written notice to the city utility or enterprise that the property is residential rental property and that the tenant is liable for the rates or charges ~~and~~ a city utility or enterprise may require a deposit not exceeding the usual cost of ninety days of water service is to be paid to the utility or enterprise. Upon receipt, the utility or enterprise shall acknowledge the notice and deposit. A written notice shall contain the name of the tenant responsible for charges, address of the residential rental property that the tenant is to occupy, and the date that the occupancy begins. A change in tenant shall require a new written notice ~~and deposit to be given to the city utility or enterprise~~ within ten business days of the change in tenant. When the tenant moves from the rental property, the city utility or enterprise shall return the deposit if the water service charges are

paid in full and the lien exemption shall be lifted from the rental property. A change in the ownership of the residential rental property shall require written notice of such change to be given to the city utility or enterprise within ten business days of the completion of the change of ownership. The lien exemption for rental property does not apply to charges for repairs to a water service if the repair charges become delinquent.

Approved May 19, 1999

CHAPTER 150

NAME CHANGE — MARRIAGE LICENSES

H.F. 714

AN ACT relating to name changes.

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

Section 1. Section 595.5, Code 1999, is amended to read as follows:

595.5 SURNAME NAME ADOPTED.

1. A party may ~~request~~ indicate on the application for a marriage license ~~the adoption of a name change to that of the other party or to some other surname mutually agreed upon by the parties.~~ The names used on the marriage license shall become the legal names of the parties to the marriage. The marriage license shall contain a statement that when a name change is requested and affixed to the marriage license, the new name is the legal name of the requesting party. ~~If a party requests a name change, other than a change of surname to that of the other spouse or to a combination of the surnames of both spouses, the party shall request approval of the court pursuant to chapter 674 and shall submit to the court the information required by section 674.2. Upon approval of the court and solemnization of the marriage, the~~

2. ~~The~~ county registrar shall send a certified copy of the return of marriage to the recorder's office in every county in this state where real property is owned by either of the parties, upon request of the parties. ~~The judge may approve the name change.~~ The new names and the immediate former names shall appear on the return of marriage, and the return of marriage shall be recorded in the miscellaneous records in the recorder's office.

3. An individual shall have only one legal name at any one time.

Sec. 2. Section 674.2, subsection 7, Code 1999, is amended to read as follows:

7. A certified copy of the birth certificate to be attached to the petition. If a certified copy of the birth certificate is not available, the reason for the unavailability shall be stated and another form of identification, which may include documents provided by the United States department of immigration and naturalization service, shall be attached in lieu of the certified copy of the birth certificate.

Approved May 19, 1999

CHAPTER 151**TAX ADMINISTRATION AND RELATED MATTERS**

S.F. 136

AN ACT relating to the administration of the tax and related laws by the department of revenue and finance, including administration of state individual income, corporate income, franchise, sales and use, motor fuel, cigarette and tobacco, local option, inheritance and estate, and property taxes, and the livestock production credit; providing penalties; and including effective and retroactive applicability date provisions.

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

Section 1. Section 421.1, unnumbered paragraph 8, Code 1999, is amended to read as follows:

The state board shall ~~hold at least six regular meetings each year, the first of which shall be on the second secular day of July~~ meet as deemed necessary by the chairperson. Special meetings of the state board may be called by the chairperson on five days' notice given to each member. All meetings shall be held at the office of the tax department unless a different place within the state is designated by the state board or in the notice of the meeting.

Sec. 2. Section 421.16, Code 1999, is amended to read as follows:

421.16 EXPENSES.

The director, ~~deputy directors~~, and 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. 3. Section 421.18, Code 1999, is amended to read as follows:

421.18 DUTIES OF PUBLIC OFFICERS AND EMPLOYEES.

It shall be the duty of all public officers and employees of the state and ~~of all municipalities~~ local governments to give to the director of revenue and finance information in their possession relating to taxation when required by the director, and to co-operate with and aid the director's efforts to secure a fair, equitable, and just enforcement of the taxation and revenue laws.

Sec. 4. Section 422.5, subsections 3 and 11, Code 1999, are amended by striking the subsections.

Sec. 5. Section 422.13, subsection 5, Code 1999, is amended to read as follows:

5. Notwithstanding subsections 1 through 4 and sections 422.15 and 422.36, a partnership, a limited liability company whose members are taxed on the company's income under provisions of the Internal Revenue Code, trust, or corporation whose stockholders are taxed on the corporation's income under the provisions of the Internal Revenue Code ~~is entitled to request permission from the director~~ may, not later than the due date for filing its return for the taxable year, including any extension thereof, elect to file a composite return for the nonresident partners, members, beneficiaries, or shareholders. The director may ~~grant permission to file~~ or require that a composite return be filed under the conditions deemed appropriate by the director. A partnership, limited liability company, trust, or corporation filing a composite return is liable for tax required to be shown due on the return. All powers of the director and requirements of the director apply to returns filed under this subsection including, but not limited to, the provisions of this division and division VI of this chapter.

Sec. 6. Section 422.16, subsection 2, unnumbered paragraph 2, Code 1999, is amended to read as follows:

Every withholding agent on or before the end of the second month following the close of the calendar year in which the withholding occurs shall make an annual reporting of taxes withheld and other information prescribed by the director and send to the department copies of wage and tax statements with the return. At the discretion of the director, the withholding agent shall not be required to send wage statements and tax statements with the annual reporting return form if the information is available from the internal revenue service or other state or federal agencies.

Sec. 7. Section 422.23, unnumbered paragraph 2, Code 1999, is amended by striking the unnumbered paragraph.

Sec. 8. Section 422.25, subsection 1, paragraph b, Code 1999, is amended to read as follows:

b. The period for examination and determination of the correct amount of tax is unlimited in the case of a false or fraudulent return made with the intent to evade tax or in the case of a failure to file a return. In lieu of the period of limitation for any prior year for which an overpayment of tax or an elimination or reduction of an underpayment of tax due for that prior year results from the carryback to that prior year of a net operating loss or net capital loss, the period is the period of limitation for the taxable year of the net operating loss or net capital loss which results in the carryback. If the tax found due is greater than the amount paid, the department shall compute the amount due, together with interest and penalties as provided in subsection 2, and shall mail a notice of assessment to the taxpayer and, if applicable, to the taxpayer's authorized representative of the total, which shall be computed as a sum certain if paid on or before the last day of the month in which the notice is ~~postmarked dated~~, or on or before the last day of the following month if the notice is ~~postmarked dated~~ after the twentieth day of any month. The notice shall also inform the taxpayer of the additional interest and penalty which will be added to the total due if not paid on or before the last day of the applicable month.

Sec. 9. Section 422.25, subsection 3, Code 1999, is amended to read as follows:

3. If the amount of the tax as determined by the department 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 second calendar month following the date of payment or the date the return was due to be filed, or the extended due date by which the return was due to be filed if ninety percent of the tax was paid by the original due date, 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 director. If an overpayment of tax results from a net operating loss or net capital loss which is carried back to a prior year, the overpayment, for purposes of computing interest on refunds, shall be considered as having been made on the date a claim for refund or amended return carrying back the net operating loss or net capital loss is filed with the department or on the first day of the second calendar month following the date of the actual payment of the tax, whichever is later. However, when the net operating loss or net capital loss carryback to a prior year eliminates or reduces an underpayment of tax due for an earlier year, the full amount of the underpayment of tax shall bear interest at the rate in effect under section 421.7 for each month counting each fraction of a month as an entire month from the due date of the tax for the earlier year to the last day of the taxable year in which the net operating loss or net capital loss occurred.

Sec. 10. Section 422.33, subsection 1, unnumbered paragraph 1, Code 1999, is amended to read as follows:

A tax is imposed annually upon each corporation ~~organized under the laws of this state, and upon each foreign corporation~~ doing business in this state, or deriving income from sources within this state, in an amount computed by applying the following rates of taxation to the net income received by the corporation during the income year:

Sec. 11. Section 422.33, subsection 2, unnumbered paragraph 1, Code 1999, is amended to read as follows:

If the trade or business of the corporation is carried on entirely within the state, the tax shall be imposed on the entire net income, but if the trade or business is carried on partly within and partly without the state or if income is derived from sources partly within and partly without the state, or if income is derived from trade or business and sources, all of which are not entirely in the state, the tax shall be imposed only on the portion of the net income reasonably attributable to the trade or business or sources within the state, with the net income attributable to the state to be determined as follows:

Sec. 12. Section 422.42, subsection 6, Code 1999, is amended to read as follows:

6. "Gross taxable services" means the total amount received in money, credits, property, or other consideration, valued in money, from services rendered, furnished, or performed in this state except where such service ~~is performed on tangible personal property delivered into interstate commerce or~~ is used in processing of tangible personal property for use in taxable retail sales or services and embraced within the provisions of this division. However, the taxpayer may take credit in the taxpayer's report of gross taxable services for an amount equal to the value of services rendered, furnished, or performed when the full value of ~~such the~~ services ~~thereof~~ is refunded either in cash or by credit. Taxes paid on gross taxable services represented by accounts found to be worthless and actually charged off for income tax purposes may be credited upon a subsequent payment of the tax due ~~hereunder~~, but if any ~~such~~ accounts are thereafter collected by the taxpayer, a tax shall be paid upon the amounts so collected.

Sec. 13. Section 422.42, subsection 18, unnumbered paragraph 1, Code 1999, is amended to read as follows:

"Services" means all acts or services rendered, furnished, or performed, other than services ~~performed on tangible personal property delivered into interstate commerce, or services~~ used in processing of tangible personal property for use in taxable retail sales or services, for an "employer" as defined in section 422.4, subsection 3, for a valuable consideration by any person engaged in any business or occupation specifically enumerated in this division. The tax shall be due and collectible when the service is rendered, furnished, or performed for the ultimate user ~~thereof~~ of the service.

Sec. 14. Section 422.44, unnumbered paragraph 2, Code 1999, is amended by striking the unnumbered paragraph.

Sec. 15. Section 422.45, subsection 2, Code 1999, is amended to read as follows:

2. The gross receipts from the sales, furnishing, or service of transportation service except the rental of recreational vehicles or recreational boats, except the rental of motor vehicles subject to registration which are registered for a gross weight of thirteen tons or less for a period of sixty days or less, and except the rental of aircraft for a period of sixty days or less. This exemption does not apply to the transportation of electric energy.

Sec. 16. Section 422.45, subsection 2, Code 1999, is amended to read as follows:

2. The gross receipts from the sales, furnishing, or service of transportation service except the rental of recreational vehicles or recreational boats, except the rental of motor vehicles subject to registration which are registered for a gross weight of thirteen tons or less for a period of sixty days or less, and except the rental of aircraft for a period of sixty days or less. This exemption does not apply to the transportation of natural gas.

Sec. 17. Section 422.45, subsection 7, paragraph b, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Such governmental unit, educational institution, or nonprofit private museum shall, not more than ~~six months~~ one year after the final settlement has been made, make application to the department for any refund of the amount of ~~such the~~ sales or use tax which shall have

been paid upon any goods, wares or merchandise, or services rendered, furnished, or performed, ~~such the~~ application to be made in the manner and upon forms to be provided by the department, and the department shall forthwith audit ~~such the~~ claim and, if approved, issue a warrant to ~~such the~~ governmental unit, educational institution, or nonprofit private museum in the amount of ~~such the~~ sales or use tax which has been paid to the state of Iowa under ~~such the~~ contract.

Sec. 18. Section 422.45, subsection 46, Code 1999, is amended to read as follows:

46. The gross receipts from the sale of property or of services performed on property which the ~~seller~~ retailer transfers to a carrier for shipment to a point outside of Iowa, places in the United States mail or parcel post directed to a point outside of Iowa, or transports to a point outside of Iowa by means of the ~~seller's~~ retailer's own vehicles, and which is not thereafter returned to a point within Iowa, except solely in the course of interstate commerce or transportation. This exemption shall not apply if the purchaser, consumer, or their agent, other than a carrier, takes physical possession of the property in Iowa.

Sec. 19. Section 422.47, subsection 3, paragraphs a and b, Code 1999, are amended to read as follows:

a. The department shall issue or the seller may separately provide exemption certificates in the form prescribed by the director to assist retailers in properly accounting for nontaxable sales of tangible personal property or services to purchasers for ~~purposes of resale or for processing, except fuel consumed in processing a nontaxable purpose.~~ The department shall also allow the use of exemption certificates for those circumstances in which a sale is taxable but the seller is not obligated to collect tax from the buyer.

b. The sales tax liability for all sales of tangible personal property and all sales of services is upon the seller and the purchaser unless the seller takes in good faith from the purchaser a valid exemption certificate stating under penalties for perjury that the purchase is for ~~resale or for processing a nontaxable purpose~~ and is not a retail sale as defined in section 422.42, subsection 14, or the seller is not obligated to collect tax due, or unless the seller takes a fuel exemption certificate pursuant to subsection 4. If the tangible personal property or services are purchased tax free pursuant to a valid exemption certificate which is taken in good faith by the seller, and the tangible personal property or services are used or disposed of by the purchaser in a nonexempt manner, the purchaser is solely liable for the taxes and shall remit the taxes directly to the department and sections 422.50, 422.51, 422.52, 422.54, 422.55, 422.56, 422.57, 422.58, and 422.59 shall apply to the purchaser.

Sec. 20. Section 422.47, subsection 3, paragraph e, Code 1999, is amended to read as follows:

e. If the circumstances change and as a result the tangible personal property or services are used or disposed of by the purchaser in a nonexempt manner or the purchaser becomes obligated to pay the tax, the purchaser is liable solely for the taxes and shall remit the taxes directly to the department in accordance with this subsection.

Sec. 21. Section 422.47, subsection 4, paragraph c, Code 1999, is amended to read as follows:

c. The purchaser may apply to the department for its review of the fuel exemption certificate. In this event, the department shall review the fuel exemption certificate within twelve months from the date of application and determine the correct amount of the exemption. If the amount determined by the department is different than the amount that the purchaser claims is exempt, the department shall promptly notify the purchaser of the determination. Failure of the department to make a determination within twelve months from the date of application shall constitute a determination that the fuel exemption certificate is correct as submitted. A determination of exemption by the department is final unless the purchaser appeals to the director for a revision of the determination within ~~thirty~~ sixty days after the ~~postmark~~ date of the notice of determination. The director shall grant a hearing, and upon

the hearing the director shall determine the correct exemption and notify the purchaser of the decision by mail. The decision of the director is final unless the purchaser seeks judicial review of the director's decision under section 422.55 within ~~thirty~~ sixty days after the ~~postmark~~ date of the notice of the director's decision. Unless there is a substantial change, the department shall not impose penalties pursuant to section 422.58, both retroactively to purchases made after the date of application and prospectively until the department gives notice to the purchaser that a tax or additional tax is due, for failure to remit any tax due which is in excess of a determination made under this section. A determination made by the department pursuant to this subsection does not constitute an audit for purposes of section 422.54.

Sec. 22. Section 422.50, Code 1999, is amended to read as follows:
422.50 RECORDS REQUIRED.

It shall be the duty of every retailer required to make a ~~report~~ return and pay any tax under this division, to preserve those records of the gross ~~proceeds of receipts from sales or services~~ as the director may require and it shall be the duty of every retailer to preserve for a period of five years all invoices and other records of goods, wares, merchandise, or services ~~purchased for resale~~; and all these books, invoices, and other records shall be open to examination at any time by the department, and shall be made available within this state for examination upon reasonable notice when the director orders.

Sec. 23. Section 422.52, subsection 3, unnumbered paragraph 2, Code 1999, is amended by striking the unnumbered paragraph.

Sec. 24. Section 422.68, subsection 4, Code 1999, is amended to read as follows:

4. The department may make photostat, microfilm, or other photographic copies of records, reports, and other papers either filed by the taxpayer or prepared by the department. In addition, the department may create and use any system of recordkeeping reasonably calculated to preserve its records for any time period required by law. When ~~such~~ photostat, ~~or~~ microfilm, ~~or other~~ copies have been made, the department may destroy ~~such the~~ original records which are the basis for the copies in such any manner as prescribed by the director. ~~Such photostat or~~ Photostat, microfilm, or other types of copies, when no longer of use, may be destroyed as provided in subsection 3. ~~Such photostat~~ Photostat, microfilm, or other ~~photographic~~ records shall be admissible in evidence when duly certified and authenticated by the officer having custody and control ~~thereof of them.~~

Sec. 25. Section 422.72, subsection 1, unnumbered paragraph 1, Code 1999, is amended to read as follows:

It is unlawful for the director, or any person having an administrative duty under this chapter, or any present or former officer or other employee of the state authorized by the director to examine returns, to divulge in any manner whatever, the business affairs, operations, or information obtained by an investigation under this chapter of records and equipment of any person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular thereof, set forth or disclosed in any return, or to permit any return or copy of a return or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law. It is unlawful for any person to willfully inspect, except as authorized by the director, any return or return information. However, the director may authorize examination of such state returns and other state information which is confidential under this section, if a reciprocal arrangement exists, by tax officers of another state or the federal government. The director may, by rules adopted pursuant to chapter 17A, authorize examination of state information and returns by other officers or employees of this state to the extent required by their official duties and responsibilities. Disclosure of state information to tax officers of another state is limited to disclosures which have a tax administrative purpose and only to officers of those states which by agreement with this state limit the disclosure of the

information as strictly as the laws of this state protecting the confidentiality of returns and information. The director shall place upon the state tax form a notice to the taxpayer that state tax information may be disclosed to tax officials of another state or of the United States for tax administrative purposes.

Sec. 26. Section 422.110, Code 1999, is amended to read as follows:

422.110 INCOME TAX CREDIT IN LIEU OF REFUND.

In lieu of the fuel tax refund provided in ~~sections~~ section 452A.17 ~~to 452A.19~~, a person or corporation subject to taxation under divisions II or III of this chapter, ~~except persons or corporations licensed under section 452A.4~~, may elect to receive an income tax credit ~~for tax years beginning on or after January 1, 1975~~. The person or corporation which elects to receive an income tax credit shall cancel its refund permit obtained under section 452A.18 within thirty days after the first day of its tax year or the permit becomes invalid at that time. For the purposes of this section, "person" includes a person claiming a tax credit based upon the person's pro rata share of the earnings from a partnership, limited liability company, or corporation which is not subject to a tax under division II or III of this chapter as a partnership, limited liability company, or corporation. If the election to receive an income tax credit has been made, it remains effective for at least one tax year, and for subsequent tax years unless a change is requested and a new refund permit applied for within thirty days after the first day of the person's or corporation's tax year. The income tax credit shall be the amount of the Iowa fuel tax paid on fuel purchased by the person or corporation and ~~used as follows: is subject to the conditions provided in section 452A.17 with the exception that the income tax credit is not available for refunds relating to casualty losses, transport diversions, pumping credits, blending errors, idle time, power takeoffs, reefer units, and exports by eligible purchasers.~~

~~1. Motor fuel as defined in section 452A.2, subsection 17, used for the purpose of operating or propelling farm tractors, corn shellers, roller mills, truck mounted feed grinders, stationary engines, for producing denatured alcohol within the state, for cleaning or dyeing, or for any purpose other than in watercraft or aircraft or in motor vehicles operated or intended to be operated upon the public highways.~~

~~2. Special fuel, as defined in section 452A.2, used for the purpose of operation of corn shellers, roller mills, and feed grinders mounted on trucks.~~

~~3. Motor fuel placed in motor vehicles and used, other than on public highways, in the extraction and processing of natural deposits.~~

~~4. Motor fuel or special fuel used by a bona fide commercial fisher, licensed and operating under an owner's certificate for commercial fishing gear issued pursuant to section 482.4.~~

~~However, no credit shall be given with respect to motor fuel taken out of the state in fuel supply tanks of motor vehicles, motor fuel used in aircraft or watercraft, or motor fuel used in the performance of a contract which is paid out of state funds unless the contract for the work contains a certificate made under penalty for false certificate that the estimate, bid or price to be paid for the work includes no amount representing motor fuel tax subject to a credit. The right to a credit under this section is not assignable and the credit may be claimed only by the person or corporation that purchased the fuel.~~

Sec. 27. Section 422.111, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The fuel tax credit may be applied against the income tax liability of the person or corporation as determined on the tax return filed for the year in which the fuel tax was paid. The department shall provide forms for claiming the fuel tax credit. If the fuel tax credit would result in an overpayment of income tax, the person or corporation may apply for a refund of the amount of overpayment or may have the overpayment credited to income tax due in subsequent years. Each person or corporation that claims a fuel tax credit shall maintain the original invoices showing the purchase of the fuel on which a credit is claimed. ~~No~~ An invoice is not acceptable in support of a claim for credit unless ~~it~~ the invoice is a separate serially numbered invoice covering no more than one purchase of motor fuel or undyed

special fuel, prepared by the seller on a form approved by the department, ~~nor unless it or unless the invoice~~ is legibly written with no corrections or erasures and shows the date of sale, the name and address of the seller and of the purchaser, the kind of fuel, the gallonage in figures, the per gallon price of the fuel, the total purchase price including the Iowa fuel tax, and that the total purchase price has been paid. However, as to refund invoices made on a billing machine the department may waive these requirements. If an original invoice is lost or destroyed, the department may approve a credit supported by a copy identified and certified by the seller as being a true copy of the original. Each person or corporation that claims a fuel tax credit shall maintain complete records of purchases of motor fuel or undyed special fuel on which Iowa fuel tax was paid, and for which a fuel tax credit is claimed.

Sec. 28. Section 422.111, unnumbered paragraph 3, Code 1999, is amended by striking the unnumbered paragraph.

Sec. 29. Section 422.121, Code 1999, is amended to read as follows:

422.121 APPROPRIATION — LIMITATION.

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. In calculating the tax credit for cow-calf operations for tax years beginning in the 1997 calendar year, mature beef cows bred or for breeding, bred yearling heifers, and breeding bulls in the operations' inventory on December 31 of the tax year which were also in the operations on July 1 of the tax year and stockers and feeders sold during the tax year may be counted. In calculating the tax credit for cow-calf operations for tax years beginning on or after January 1, 1998, only those bred cows, bred heifers, and breeding bulls in the operations' inventory on December 31 of the tax year which were also in the operations on July 1 of the tax year may be counted.

Sec. 30. Section 422B.8, unnumbered paragraph 1, Code 1999, is amended to read as follows:

A local sales and services tax at the rate of not more than one percent may be imposed by a county on the gross receipts taxed by the state under chapter 422, division IV. A local sales and services tax shall be imposed on the same basis as the state sales and services tax and ~~may shall~~ not be imposed on the sale of any property or on any service not taxed by the state, except the tax shall not be imposed on the gross receipts from the sale of motor fuel or special fuel as defined in chapter 452A, on the gross receipts from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 422A during the period the hotel and motel tax is imposed, on the gross receipts from the sale of natural gas or electric energy in a city or county where the gross receipts are subject to a franchise fee or user fee during the period the franchise or user fee is imposed, on the gross receipts from the sale of equipment by the state department of transportation, on the gross receipts from the sale of self-propelled building equipment, pile drivers, motorized scaffolding, or attachments customarily drawn or attached to self-propelled building equipment, pile drivers, and motorized scaffolding, including auxiliary attachments which improve the performance, safety, operation, or efficiency of the equipment and replacement parts and are directly and primarily used by contractors, subcontractors, and builders for new construction, reconstruction, alterations, expansion, or remodeling of real property or structures, and on the gross receipts from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 99E. A local sales and services tax is applicable to transactions within those incorporated and unincorporated areas of the county where it is imposed and shall be collected by all persons required to collect state gross receipts taxes. All cities contiguous to each other shall be treated as part of one incorporated area and the tax would be imposed in each of those contiguous cities only if the majority of those voting in the total area covered by the contiguous cities favor its imposition.

Sec. 31. Section 422B.8, unnumbered paragraphs 1 and 3, Code 1999, are amended to read as follows:

A local sales and services tax at the rate of not more than one percent may be imposed by a county on the gross receipts taxed by the state under chapter 422, division IV. A local sales and services tax shall be imposed on the same basis as the state sales and services tax or in the case of the use of natural gas, natural gas service, electricity, or electric service on the same basis as the state use tax and may not be imposed on the sale of any property or on any service not taxed by the state, except the tax shall not be imposed on the gross receipts from the sale of motor fuel or special fuel as defined in chapter 452A, on the gross receipts from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 422A during the period the hotel and motel tax is imposed, ~~on the gross receipts from the sale of natural gas or electric energy in a city or county where the gross receipts are subject to a franchise fee or user fee during the period the franchise or user fee is imposed,~~ on the gross receipts from the sale of equipment by the state department of transportation, and on the gross receipts from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 99E and except the tax shall not be imposed on the gross receipts from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the gross receipts from the sale of natural gas or electric energy are subject to a franchise fee or user fee during the period the franchise or user fee is imposed. A local sales and services tax is applicable to transactions within those incorporated and unincorporated areas of the county where it is imposed and shall be collected by all persons required to collect state gross receipts taxes. All cities contiguous to each other shall be treated as part of one incorporated area and the tax would be imposed in each of those contiguous cities only if the majority of those voting in the total area covered by the contiguous cities favor its imposition.

A tax permit other than the state tax permit required under section 422.53 or 423.10 shall not be required by local authorities.

Sec. 32. Section 422B.8, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If a local sales and services tax is imposed by a county pursuant to this chapter, a local excise tax at the same rate shall be imposed by the county on the purchase price of natural gas, natural gas service, electricity, or electric service subject to tax under chapter 423 and not exempted from tax by any provision of chapter 423. The local excise tax is applicable only to the use of natural gas, natural gas service, electricity, or electric service within those incorporated and unincorporated areas of the county where it is imposed and, except as otherwise provided in this chapter, shall be collected and administered in the same manner as the local sales and services tax. For purposes of this chapter, "local sales and services tax" shall also include the local excise tax.

Sec. 33. Section 422B.9, subsection 2, paragraph b, Code 1999, is amended to read as follows:

b. The ordinance of a county board of supervisors imposing a local sales and services tax shall adopt by reference the applicable provisions of the appropriate sections of chapter 422, division IV and chapter 423. All powers and requirements of the director to administer the state gross receipts tax law and use tax law are applicable to the administration of a local sales and services tax law and the local excise tax, including but not limited to, the provisions of section 422.25, subsection 4, sections 422.30, 422.48 to 422.52, 422.54 to 422.58, 422.67, 422.68, 422.69, subsection 1, and sections 422.70 to 422.75, 423.6, subsections 2 to 4, and sections 423.11 to 423.18, and 423.21. Local officials shall confer with the director of revenue and finance for assistance in drafting the ordinance imposing a local sales and services tax. A certified copy of the ordinance shall be filed with the director as soon as possible after passage.

Sec. 34. Section 422B.10, subsection 2, paragraph c, Code 1999, is amended to read as follows:

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 November 10 of the next fiscal year. If an overpayment has resulted during the previous fiscal year, the ~~first~~ November payment ~~of the new fiscal year~~ shall be adjusted to reflect any overpayment.

Sec. 35. Section 422D.3, unnumbered paragraph 4, Code 1999, is amended to read as follows:

The director, in consultation with local officials, shall collect and account for a local income surtax and any interest and penalties. The director shall credit local income surtax receipts and any interest and penalties collected from returns filed on or before November 1 of the calendar year following the tax year for which the local income surtax is imposed to a "local income surtax fund" established in the ~~office of the treasurer of state~~ department of revenue and finance. All local income surtax receipts and any interest and penalties received or refunded from returns filed after November 1 of the calendar year following the tax year for which the local income surtax is imposed shall be deposited in or withdrawn from the state general fund and shall be considered part of the cost of administering the local income surtax.

Sec. 36. Section 422E.1, subsection 1, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If a local sales and services tax for school infrastructure is imposed by a county pursuant to this chapter, a local excise tax for school infrastructure at the same rate shall be imposed by the county on the purchase price of natural gas, natural gas service, electricity, or electric service subject to tax under chapter 423 and not exempted from tax by any provision of chapter 423. The local excise tax for school infrastructure is applicable only to the use of natural gas, natural gas service, electricity, or electric service within those incorporated and unincorporated areas of the county where it is imposed and, except as otherwise provided in this chapter, shall be collected and administered in the same manner as the local sales and services tax for school infrastructure. For purposes of this chapter, "local sales and services tax for school infrastructure" shall also include the local excise tax for school infrastructure.

Sec. 37. Section 422E.3, subsection 2, Code 1999, is amended to read as follows:

2. The tax shall be imposed on the same basis as the state sales and services tax or in the case of the use of natural gas, natural gas service, electricity, or electric service on the same basis as the state use tax and shall not be imposed on the sale of any property or on any service not taxed by the state, except the tax shall not be imposed on the gross receipts from the sale of motor fuel or special fuel as defined in chapter 452A, on the gross receipts from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 422A during the period the hotel and motel tax is imposed, on the gross receipts from the sale of equipment by the state department of transportation, and on the gross receipts from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 99E and except the tax shall not be imposed on the gross receipts from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the gross receipts from the sale of natural gas or electric energy are subject to a franchise fee or user fee during the period the franchise or user fee is imposed.

Sec. 38. Section 422E.3, subsection 2, Code 1999, is amended to read as follows:

2. The tax shall be imposed on the same basis as the state sales and services tax and shall not be imposed on the sale of any property or on any service not taxed by the state, except the tax shall not be imposed on the gross receipts from the sale of motor fuel or special fuel as defined in chapter 452A, on the gross receipts from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 422A during the period the hotel and motel

tax is imposed, on the gross receipts from the sale of equipment by the state department of transportation, on the gross receipts from the sale of self-propelled building equipment, pile drivers, motorized scaffolding, or attachments customarily drawn or attached to self-propelled building equipment, pile drivers, and motorized scaffolding, including auxiliary attachments which improve the performance, safety, operation, or efficiency of the equipment, and replacement parts and are directly and primarily used by contractors, subcontractors, and builders for new construction, reconstruction, alterations, expansion, or remodeling of real property or structures. and on the gross receipts from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 99E.

Sec. 39. Section 422E.3, subsection 3, Code 1999, is amended to read as follows:

3. The tax is applicable to transactions within the county where it is imposed and shall be collected by all persons required to collect state gross receipts or local excise taxes. The amount of the sale, for purposes of determining the amount of the tax, does not include the amount of any state gross receipts or excise taxes or other local option sales or excise taxes. A tax permit other than the state tax permit required under section 422.53 or 423.10 shall not be required by local authorities.

Sec. 40. Section 424.10, subsections 2 and 3, Code 1999, are amended to read as follows:

2. If a return required by this chapter is not filed, or if a return when filed is incorrect or insufficient and the maker fails to file a corrected or sufficient return within twenty days after the return is required by notice from the department, the department shall determine the amount of charge due from information as the department may be able to obtain and, if necessary, may estimate the charge on the basis of external indices or factors. The department shall give notice of the determination to the person liable for the charge. The determination shall fix the charge unless the person against whom it is assessed shall, within sixty days after the ~~giving of~~ date of the notice of the determination, apply to the director for a hearing or unless the taxpayer contests the determination by paying the tax, interest, and penalty and timely filing a claim for refund. At the hearing evidence may be offered to support the determination or to prove that it is incorrect. After the hearing the director shall give notice of the decision to the person liable for the charge.

If a depositor's, receiver's, or other person's challenge relates to the diminution rate, the burden of proof upon the challenger shall only be satisfied by clear and convincing evidence.

3. If the amount paid is greater than the correct charge, penalty, and interest due, the department shall refund the excess, with interest after sixty days from the date of payment at the rate in effect under section 421.7, pursuant to rules prescribed by the director. However, the director shall not allow a claim for refund that has not been filed with the department within five years after the charge payment upon which a refund is claimed became due, or one year after the charge payment was made, whichever time is later. A determination by the department of the amount of charge, penalty, and interest due, or the amount of refund for any excess amount paid, is final unless the person aggrieved by the determination appeals to the director for a revision of the determination within ~~thirty~~ sixty days from the ~~postmark~~ date of the notice of determination of charge, penalty, and interest due or refund owing. The director shall grant a hearing, and upon hearing the director shall determine the correct charge, penalty, and interest due or refund owing, and notify the appellant of the decision by mail. The decision of the director is final unless the appellant seeks judicial review of the director's decision under section 424.13.

Sec. 41. Section 427.1, subsection 14, unnumbered paragraph 1, Code 1999, is amended to read as follows:

A society or organization claiming an exemption under subsection 5 or subsection 8 ~~of this section~~ shall file with the assessor not later than ~~July 1~~ April 15 a statement upon forms to be prescribed by the director of revenue and finance, describing the nature of the property upon which the exemption is claimed and setting out in detail any uses and income from the

property derived from the rentals, leases, or other uses of the property not solely for the appropriate objects of the society or organization. Upon the filing and allowance of the claim, the claim shall be allowed on the property for successive years without further filing as long as the property is used for the purposes specified in the original claim for exemption. When the property is sold or transferred, the county recorder shall provide notice of the transfer to the assessor. The notice shall describe the property transferred and the name of the person to whom title to the property is transferred.

Sec. 42. Section 427.1, subsection 24, Code 1999, is amended to read as follows:

24. LAND CERTIFIED AS A WILDLIFE HABITAT. The owner of agricultural land may designate not more than two acres of the land for use as a wildlife habitat. After inspection, if the land meets the standards established by the natural resource commission for a wildlife habitat under section 483A.3, the department of natural resources shall certify the designated land as a wildlife habitat and shall send a copy of the certification to the appropriate assessor not later than February 1 of the assessment year for which the exemption is requested. The department of natural resources may subsequently withdraw certification of the designated land if it fails to meet the established standards for a wildlife habitat and the assessor shall be given written notice of the decertification.

Sec. 43. Section 428.1, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Every person shall list for the assessor all property subject to taxation in the state, of which the person is the owner, or has the control or management, in the following manner including but not limited to the following:

Sec. 44. Section 429.2, subsection 1, Code 1999, is amended to read as follows:

1. Notwithstanding the provisions of chapter 17A, the taxpayer shall have thirty days from the date of ~~postmark~~ of the notice of assessment to appeal the assessment to the state board of tax review. Thereafter, the proceedings before the state board of tax review shall conform to the provisions of subsection 2, section 421.1, subsection 4, and chapter 17A.

Sec. 45. Section 450.7, subsection 1, unnumbered paragraph 2, Code 1999, is amended to read as follows:

Inheritance taxes owing with respect to a passing of property of a deceased person are no longer a lien against the property ten years from the date of death of the decedent owner regardless of whether the decedent owner died prior to or subsequent to July 1, 1995, except to the extent taxes are attributable to remainder or deferred interests and are deferred in accordance with the provisions of this chapter.

Sec. 46. Section 450.22, Code 1999, is amended to read as follows:

450.22 ADMINISTRATION AVOIDED — INHERITANCE TAX DUTIES REQUIRED.

When the heirs or persons entitled to inherit the property of an estate subject to tax under this chapter desire to avoid the appointment of a personal representative as provided in section 450.21, and in all instances where real estate is involved and there are no regular probate proceedings, they or one of them shall file under oath the inventories required by section 633.361 and the required reports, perform all the duties required by this chapter of the personal representative, and file the inheritance tax return. However, this section does not apply and a return is not required even though real estate is part of the assets subject to tax under this chapter, if all of the assets are held in joint tenancy with right of survivorship between husband and wife alone, or if the estate exclusively consists of property held in joint tenancy with the right of survivorship solely by the decedent and any individuals listed in section 450.9 as individuals that are entirely exempt from Iowa inheritance tax and the estate does not have a federal estate tax obligation. When this section applies, proceedings for the collection of the tax when a personal representative is not appointed, shall conform as nearly as possible to proceedings under this chapter in other cases.

Sec. 47. Section 450.37, Code 1999, is amended by adding the following new subsection: NEW SUBSECTION. 3. In addition to the applicable period of limitation for examination and determination, the department shall make an examination to adjust the value of real property for Iowa inheritance tax purposes to the value accepted by the internal revenue service for federal estate tax purposes. The department shall make an examination and adjustment for the value of the real property at any time within six months from the date of receipt by the department of written notice from the personal representative for the estate that all federal estate tax matters between the estate and the internal revenue service have been concluded. To begin the running of the six-month period, the notice shall be in writing in a form sufficient to inform the department of the final disposition of the federal estate tax obligation with the internal revenue service and a copy of the federal document showing the final disposition and final federal adjustments of all real property values must be attached. The department shall make an adjustment to the value of real property for inheritance tax purposes to the value accepted for federal estate tax purposes regardless of whether an inheritance clearance has been issued, an appraisal has been obtained on the real property indicating a contrary value, whether there has been an acceptance of another value for real property by the department, or whether an agreement has been entered into by the department and the personal representative for the estate and persons having an interest in the real property regarding the value of the real property. Notwithstanding the period of limitation specified in section 450.94, subsection 3, the personal representative for the estate shall have six months from the day of final disposition of any real property valuation matter between the personal representative for the estate and the internal revenue service to claim a refund of an overpayment of tax due to the change in the valuation of real property by the internal revenue service.

Sec. 48. Section 450.94, subsections 2 and 3, Code 1999, are amended to read as follows:

2. The taxpayer shall file an inheritance tax return on forms to be prescribed by the director of revenue and finance on or before the last day of the ninth month after the death of the decedent. When an inheritance tax return is filed, the department shall examine it and determine the correct amount of tax. If the amount paid is less than the correct amount due, the department shall notify the taxpayer of the total amount due together with any penalty and interest which shall be a sum certain if paid on or before the last day of the month in which the notice is ~~postmarked~~ dated, or on or before the last day of the following month if the notice is ~~postmarked~~ dated after the twentieth day of a month and before the first day of the following month.

3. If the amount paid is greater than the correct tax, penalty, and interest due, the department shall refund the excess with interest. Interest shall be computed at the rate in effect under section 421.7, under the rules prescribed by the director counting each fraction of a month as an entire month and the interest shall begin to accrue on the first day of the second calendar month following the date of payment or on the date the return was due to be filed or was filed, whichever is the latest. However, the director shall not allow a claim for refund or credit that has not been filed with the department within three years after the tax payment upon which a refund or credit is claimed became due, or one year after the tax payment was made, whichever time is later. A determination by the department of the amount of tax, penalty, and interest due, or the amount of refund for excess tax paid, is final unless the person aggrieved by the determination appeals to the director for a revision of the determination within sixty days from the ~~postmark~~ date of the notice of determination of tax, penalty, and interest due or refund owing or unless the taxpayer contests the determination by paying the tax, interest, and penalty and timely filing a claim for refund. The director shall grant a hearing, and upon the hearing the director shall determine the correct tax, penalty, and interest or refund due, and notify the appellant of the decision by mail. The decision of the director is final unless the appellant seeks judicial review of the director's decision under section 450.59 within sixty days after the ~~postmark~~ date of the notice of the director's decision.

Sec. 49. Section 451.12, Code 1999, is amended to read as follows:

451.12 APPLICABLE STATUTES — PENALTIES.

All the provisions of chapter 450 with respect to the lien provisions of section 450.7, and the determination, imposition, payment, and collection of the tax imposed under that chapter, including penalty and interest upon delinquent taxes and the confidentiality of the tax return, are applicable to this chapter, except as they are in conflict with this chapter. The exceptions to the lien provisions found in section 450.7 do not apply to this chapter. The penalty provisions set out in section 450.53 shall apply to a person in possession of assets to be reported for purposes of taxation who willfully makes a false or fraudulent return or willfully fails to pay the tax, supply the information, make, sign, or file the required return within the time required by law or a person who willfully attempts in any manner to evade taxes imposed by this chapter or avoid payment of the tax. The director of revenue and finance shall adopt rules necessary for the enforcement of this chapter.

Sec. 50. Section 452A.2, subsection 11, Code 1999, is amended to read as follows:

11. "Exporter" means a person or other entity who acquires fuel in this state ~~exclusively~~ for export to another state.

Sec. 51. Section 452A.2, subsection 17, paragraph a, Code 1999, is amended to read as follows:

a. All products commonly or commercially known or sold as gasoline, ~~(including casing-head and absorption or natural gasoline),~~ regardless of their classifications or uses, and including transmix which serves as a buffer between fuel products in the pipeline distribution process.

Sec. 52. Section 452A.3, subsection 5, paragraph b, Code 1999, is amended to read as follows:

b. The person who owns ~~or causes the fuel to be~~ at the time it is brought into the state by a restrictive supplier or importer, upon the invoiced gross gallonage of motor fuel or undyed special fuel imported.

Sec. 53. Section 452A.8, subsection 1, unnumbered paragraph 1, Code 1999, is amended to read as follows:

For the purpose of determining the amount of the supplier's, restrictive supplier's, or importer's tax liability, a supplier or restrictive supplier shall file a return, not later than the last day of the month following the month in which this division becomes effective and not later than the last day of each calendar month thereafter, and an importer shall file a ~~report~~ return semi-monthly with the department, signed under penalty for false certification. For an importer for the reporting period from the first day of the month through the fifteenth of the month, the ~~report~~ return is due on the last day of the month. For an importer for the reporting period from the sixteenth of the month through the last day of the month, the ~~report~~ return is due on the fifteenth day of the following month. The ~~reports~~ returns shall include the following:

Sec. 54. Section 452A.8, subsection 2, unnumbered paragraph 1, Code 1999, is amended to read as follows:

At the time of filing a ~~report~~ return, a supplier or restrictive supplier shall pay to the department the full amount of the fuel tax due for the preceding calendar month. An importer shall pay to the department the full amount of fuel tax due for the preceding semi-monthly period. The tax shall be computed as follows:

Sec. 55. Section 452A.8, subsection 2, paragraph d, Code 1999, is amended to read as follows:

d. The director may require by rule that reports and returns be filed by electronic transmission.

Sec. 56. Section 452A.8, subsection 3, Code 1999, is amended to read as follows:

3. For the purpose of determining the amount of the tax liability on alcohol blended to produce ethanol blended gasoline, each licensed blender shall, not later than the last day of each month following the month in which the blending is done, file with the department a monthly ~~report~~ return, signed under penalty for false certificate, containing information required by rules adopted by the director.

Sec. 57. Section 452A.9, Code 1999, is amended to read as follows:

452A.9 ~~REPORT RETURNS~~ FROM PERSONS NOT LICENSED AS SUPPLIERS, RESTRICTIVE SUPPLIERS, OR IMPORTERS.

Every person other than a licensed supplier, restrictive supplier, or importer, who purchases, brings into this state, or otherwise acquires within this state motor fuel or undyed special fuel, not otherwise exempted, which the person has knowingly not paid or incurred liability to pay either to a licensee or to a dealer the motor fuel or special fuel tax, shall be subject to the provisions of this division that apply to suppliers, restrictive suppliers, and importers of motor fuel or undyed special fuel and shall ~~make file~~ the same reports returns and ~~make the same~~ tax payments and be subject to the same penalties for delinquent ~~reporting or nonreporting filing or nonfiling~~ or delinquent payment or nonpayment as apply to suppliers, restrictive suppliers, and importers.

Sec. 58. Section 452A.15, subsection 3, Code 1999, is amended to read as follows:

3. The reports required in this section shall be for information purposes only and the department may in its discretion waive the filing of any of these reports not necessary for proper administration of this division. The reports required in this section shall be certified under penalty for false certificate and filed with the department within the time allowed for filing of suppliers' and restrictive suppliers' ~~reports returns~~ of motor fuel or special fuel withdrawn from a terminal within this state or imported into this state.

Sec. 59. Section 452A.17, subsection 1, paragraph a, subparagraphs (4) and (6), Code 1999, are amended to read as follows:

(4) Fuel used in unlicensed vehicles, stationary engines, and implements used in agricultural production, ~~and machinery and equipment used for nonhighway purposes.~~

(6) Fuel used for idle time, power takeoffs, reefer units, pumping credits, and transport diversions, fuel lost through casualty, exports by ~~eligible purchasers~~ distributors, and blending errors for special fuel. The department shall adopt rules setting forth specific requirements relating to refunds for idle time, power takeoffs, reefer units, pumping credits, and transport diversions, fuel lost through casualty, and blending errors for special fuel.

Sec. 60. Section 452A.17, subsection 1, paragraph b, subparagraphs (4) and (5), Code 1999, are amended to read as follows:

(4) The claim shall state the ~~gallage of motor fuel or undyed special fuel~~ that was used or will be used by the claimant other than in aircraft, watercraft, or to propel motor vehicles ~~and the gallage of undyed special fuel that was or will be used by the claimant other than in 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 aircraft, watercraft, 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 ~~or whether the claimant used fuel for aircraft or to propel motor vehicles from the same tanks or receptacles in which the claimant kept the undyed special fuel on which the refund is claimed.~~

Sec. 61. Section 452A.17, subsection 2, Code 1999, is amended to read as follows:

2. In lieu of the refund provided in this section, a person may receive an income tax credit as provided in chapter 422, division IX, but only as to motor fuel ~~or undyed special fuel~~ not used in motor vehicles, aircraft, or watercraft ~~or as to undyed special fuel not used in motor vehicles or aircraft.~~

Sec. 62. Section 452A.17, subsection 3, paragraph b, Code 1999, is amended to read as follows:

b. A refund shall not be paid with respect to any motor fuel ~~or undyed special fuel~~ taken out of this state in supply tanks of watercraft, aircraft, or motor vehicles ~~or with respect to any undyed special fuel taken out of this state in supply tanks of aircraft or motor vehicles.~~

Sec. 63. Section 452A.17, subsection 3, paragraph c, Code 1999, is amended by striking the paragraph.

Sec. 64. Section 452A.21, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Persons not licensed under this division who blend motor fuel and alcohol to produce ethanol blended gasoline may file for a refund for the difference between taxes paid on the motor fuel purchased to produce ethanol blended gasoline and the tax due on the ethanol blended gasoline blended. If, during any month, a person licensed under this division uses tax paid motor fuel to blend ethanol blended gasoline and the refund otherwise due under this section is greater than the licensee's total tax liability for that month, the licensee is entitled to a credit. The claim for credit shall be filed as part of the ~~report~~ return required by section 452A.8.

Sec. 65. Section 452A.21, unnumbered paragraph 3, Code 1999, is amended to read as follows:

A refund shall not be issued unless the claim is filed within ~~ninety days~~ one year following the end of the month during which the ethanol blended gasoline was actually blended. An income tax credit is not allowed under this section.

Sec. 66. NEW SECTION. 452A.22 TAX COLLECTED ON EXEMPT FUEL.

If an amount of tax represented by a licensee to a purchaser as constituting tax due is computed upon gallonage that is not taxable or the amount represented is in excess of the actual amount of tax due and the amount represented is actually paid by the purchaser to the licensee, the excess amount of tax paid shall be returned to the purchaser by the licensee. If the licensee fails to return the excess tax paid to the purchaser, the amount which the purchaser has paid to the licensee shall be remitted by the licensee to the department.

Sec. 67. Section 452A.60, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The department of revenue and finance or the state department of transportation shall prescribe and furnish all forms, as applicable, upon which reports, returns, and applications shall be made and claims for refund presented under this chapter and may prescribe forms of record to be kept by suppliers, restrictive suppliers, importers, exporters, blenders, common carriers, contract carriers, licensed compressed natural gas and liquefied petroleum gas dealers and users, terminal operators, and interstate commercial motor vehicle operators.

Sec. 68. Section 452A.61, Code 1999, is amended to read as follows:

452A.61 TIMELY FILING OF REPORTS AND RETURNS — EXTENSION.

The reports, returns, and remittances required under this chapter shall be deemed filed within the required time if postpaid, properly addressed and postmarked on or before midnight of the day on which due and payable. If the final filing date falls on a Saturday, Sunday or legal holiday the next secular or business day shall be the final filing date.

The department of revenue and finance or the state department of transportation upon application may grant a reasonable extension of time for the filing of any required report, return, or tax payment, ~~or both.~~

Sec. 69. Section 452A.63, Code 1999, is amended to read as follows:

452A.63 INFORMATION CONFIDENTIAL.

All information obtained by the department of revenue and finance or the state department of transportation from the examining of reports, returns, or records required to be filed or kept under this chapter shall be treated as confidential and shall not be divulged except to other state officers, a member or members of the general assembly, or any duly appointed committee of either or both houses of the general assembly, or to a representative of the state having some responsibility in connection with the collection of the taxes imposed or in proceedings brought under ~~the provisions of~~ this chapter. The appropriate state agency may make available to the public on or before forty-five days following the last day of the month in which the tax is required to be paid, the names of suppliers, restrictive suppliers, and importers and as to each of them the total gallons of motor fuel, undyed special fuel, and ethanol-blended gasoline withdrawn from terminals or imported into the state during that month. The department of revenue and finance or the state department of transportation, upon request of officials entrusted with enforcement of the motor vehicle fuel tax laws of the federal government or any other state, may forward to ~~such~~ these officials any pertinent information which the appropriate state agency may have relative to motor fuel and special fuel provided the officials of the other state furnish like information.

Any person violating ~~the provisions of~~ this section, and disclosing the contents of any records, returns, or reports required to be kept or made under ~~the provisions of~~ this chapter, except as otherwise provided, shall be guilty of a simple misdemeanor.

Sec. 70. Section 452A.67, Code 1999, is amended to read as follows:

452A.67 LIMITATION ON COLLECTION PROCEEDINGS.

The department shall examine the return and enforce collection of any amount of tax, penalty, fine, or interest over and above the amount shown to be due by ~~reports~~ the return filed by a licensee as soon as practicable but no later than three years after the return is filed. An assessment shall not be made covering a period beyond three years after the return is filed except that the period for the examination and determination of the correct amount of tax is unlimited in the case of a false or fraudulent return made with the intent to evade tax or in the case of a failure to file a return.

The three-year period of limitation may be extended by a taxpayer by signing a waiver agreement form to be provided by the department. The agreement must stipulate the period of extension and the tax period to which the extension applies. The agreement must also provide that a claim for refund may be filed by the taxpayer at any time during the period of extension.

Sec. 71. Section 452A.68, unnumbered paragraph 1, Code 1999, is amended to read as follows:

If a licensee files a false ~~report~~ return of the data or information required by this chapter, or fails, refuses, or neglects to file a ~~report~~ return required by this chapter, or to pay the full amount of fuel tax as required by this chapter, or is substantially delinquent in paying a tax due, owing, and administered by the department of revenue and finance, and interest and penalty if appropriate, or if the person is a corporation and if any officer having a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax of the licensee corporation, or interest or penalty on the tax, administered by the department, then after ten days' written notice by mail directed to the last known address of the licensee setting a time and place at which the licensee may appear and show cause why the license should not be canceled, and if the licensee fails to appear or if upon the hearing it is shown that the licensee failed to correctly report or pay the tax, the appropriate state agency may cancel the license and shall notify the licensee of the cancellation by mail to the licensee's last known address.

Sec. 72. Section 452A.74A, subsection 7, Code 1999, is amended to read as follows:

7. FALSE OR FRAUDULENT REPORT OR RETURN. Any person, including an officer of a corporation or a manager of a limited liability company, who is required to make, render, sign, or verify any report or return required by this chapter and who makes a false or

fraudulent report or return, or who fails to file a report or return with the intent to evade the tax, shall be guilty of a fraudulent practice. Any person who aids, abets, or assists another person in making any false or fraudulent report or return or false statement in any report or return with the intent to evade payment of tax shall be guilty of a fraudulent practice.

Sec. 73. Section 452A.86, Code 1999, is amended to read as follows:

452A.86 METHOD OF DETERMINING GALLONAGE.

The exclusive method of determining gallonage of any purchases or sales of motor fuel, undyed special fuel, compressed natural gas, or liquefied petroleum gas as defined in this chapter and distillate fuels shall be on a gross volume basis. A temperature-adjusted or other method shall not be used, except as it applies to liquefied petroleum gas and the sale or exchange of petroleum products between petroleum refiners. All invoices, bills of lading, or other records of sale or purchase and all ~~reports~~ returns or records required to be made, kept, and maintained by a supplier, restrictive supplier, importer, exporter, blender, or compressed natural gas or liquefied petroleum gas dealer or user shall be made, kept, and maintained on the gross volume basis. For purposes of this section, "distillate fuels" means any fuel oil, gas oil, topped crude oil, or other petroleum oils derived by refining or processing crude oil or unfinished oils which have a boiling range at atmospheric pressure which falls completely or in part between five hundred fifty and twelve hundred degrees Fahrenheit.

Sec. 74. Section 453A.6, subsection 3, Code 1999, is amended to read as follows:

3. Payment of ~~such the~~ tax shall be evidenced by stamps purchased from the department by a distributor or manufacturer and securely affixed to each individual package of cigarettes in amounts equal to the tax ~~thereon~~ as imposed by this chapter, or by the impressing of an indicium upon individual packages of cigarettes, under regulations prescribed by the director.

Sec. 75. Section 453A.6, Code 1999, is amended by adding the following new subsections:

NEW SUBSECTION. 4. Any other person who purchases or is in possession of unstamped cigarettes shall pay the tax directly to the department.

NEW SUBSECTION. 5. The per cigarette amount of the tax shall be added to the selling price of every package of cigarettes sold in this state and shall be collected from the purchaser so that the ultimate consumer bears the burden of the tax.

Sec. 76. Section 453A.8, subsection 1, Code 1999, is amended to read as follows:

1. Stamps shall be sold by and purchased from the department. The department shall sell stamps to the holder of a state distributor's or manufacturer's permit which has not been revoked and to no other person. Stamps shall be sold to the permit holders at a discount of two percent of the face value. Stamps shall be sold in ~~unbroken books of one thousand stamps~~, unbroken rolls of thirty thousand stamps, or unbroken lots of any other form authorized by the director.

Sec. 77. Section 453A.15, subsections 1, 3, 4, and 6, Code 1999, are amended to read as follows:

1. The director may prescribe the forms necessary for the efficient administration of this division and may require uniform books and records to be used and kept by each permit holder or other person as deemed necessary. The director may also require each permit holder or other person to keep and retain in the director's possession evidence on prescribed forms of all transactions involving the purchase and sale of cigarettes or the purchase and use of stamps. The evidence shall be kept for a period of two years from the date of each transaction, for the inspection at all times by the department.

3. The director may by regulation require every holder of a manufacturer's or state permit or other person to make and deliver to the department on or before the tenth day of each month a report or reports for the preceding calendar month, upon a form or forms prescribed by the director, and may require that ~~such the~~ reports shall be properly sworn to and executed by the permit holder or the holder's duly authorized representative or other person.

4. Every permit holder or other person shall, when requested by the department, make ~~such~~ additional reports as the department deems necessary and proper and shall at the request of the department furnish full and complete information pertaining to any transaction of the permit holder or other person involving the purchase or sale or use of cigarettes or purchase of cigarette stamps.

6. If any distributor, manufacturer, or other person fails or refuses to pay any tax, penalties, or cost of audit hereinafter provided, and it becomes necessary to bring suit or to intervene in any manner for the establishment or collection of said claims, in any judicial proceedings, any report filed in the office of the director by ~~such the~~ distributor, manufacturer, or other person, or the distributor's, manufacturer's, or other person's representative, or a copy thereof, certified to by the director, showing the number of cigarettes sold by ~~such the~~ distributor, or the distributor's representative, the manufacturer, or the other person, upon which ~~such a~~ tax, penalty, or cost of audit has not been paid, or any audit made by the department from the books or records of ~~said the~~ distributor, manufacturer, or other person when signed and sworn to by the agent of the department making the audit as being made from the records of ~~said the~~ distributor, manufacturer, or other person from or to whom ~~such the~~ distributor, manufacturer, or other person has bought, received, or delivered cigarettes, whether from a transportation company or otherwise, such report or audit shall be admissible in evidence in such proceedings and shall be prima facie evidence of the contents thereof; ~~provided, however, that~~. However, the incorrectness of ~~said the~~ report or audit may be shown.

Sec. 78. Section 453A.16, Code 1999, is amended to read as follows:
453A.16 MANUFACTURER'S PERMIT.

The department may, upon application of any manufacturer, issue without charge to ~~such the~~ manufacturer a manufacturer's permit. ~~Such The~~ application shall contain ~~such~~ information as the director shall prescribe. The holder of ~~such a~~ manufacturer's permit ~~shall be~~ is authorized to purchase stamps from the department, and ~~to~~ must affix ~~such~~ stamps to individual packages of cigarettes outside of this state, prior to their shipment into the state unless the cigarettes are shipped to an Iowa permitted distributor or an Iowa permitted distributor's agent.

Sec. 79. Section 453A.28, Code 1999, is amended to read as follows:
453A.28 ASSESSMENT OF TAX BY DEPARTMENT — INTEREST — PENALTY.

If after any audit, examination of records, or other investigation the department finds that any person has sold cigarettes without stamps affixed ~~thereto or that any person responsible for paying the tax has not done so~~ as required by this division, the department shall fix and determine the amount of tax due, and shall assess the tax against the person, together with a penalty as provided in section 421.27. The taxpayer shall pay interest on the tax or additional tax at the rate determined under section 421.7 counting each fraction of a month as an entire month, computed from the date the tax was due. If any person fails to furnish evidence satisfactory to the director showing purchases of sufficient stamps to stamp unstamped cigarettes purchased by the person, the presumption shall be that the cigarettes were sold without the proper stamps affixed ~~thereto~~. Within two years after the ~~return report~~ is filed or within two years after the ~~return report~~ became due, whichever is later, the department shall examine the ~~return report~~ and determine the correct amount of tax. The period for examination and determination of the correct amount of tax is unlimited in the case of a false or fraudulent report made with the intent to evade tax, or in the case of a failure to file a report, or if a person purchases or is in possession of unstamped cigarettes.

The two-year period of limitation may be extended by a taxpayer by signing a waiver agreement form to be provided by the department. The agreement must stipulate the period of extension and the tax period to which the extension applies. The agreement must also provide that a claim for refund may be filed by the taxpayer at any time during the period of extension.

Sec. 80. Section 453A.29, Code 1999, is amended to read as follows:

453A.29 NOTICE AND APPEAL.

The department shall notify any person assessed pursuant to section 453A.28 by sending a written notice of the determination by mail to the principal place of business of the person as shown on the person's application for permit, and if an application was not filed by the person, to the person's last known address. A determination by the department of the amount of tax, penalty, and interest due, or the amount of refund for excess tax paid, is final, unless the person aggrieved by the determination appeals to the director for a revision of the determination within sixty days from the ~~postmark~~ date of the notice of determination of tax, penalty, and interest or refund owing or unless the taxpayer contests the determination by paying the tax, interest, and penalty and timely filing a claim for refund. The director shall grant a hearing and upon the hearing, the director shall determine the correct tax, penalty, and interest or refund due and notify the appellant of the decision by mail. Judicial review of action of the director may be sought in accordance with the Iowa administrative procedure Act and section 422.29.

Sec. 81. Section 453A.31, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

453A.31 CIVIL PENALTY FOR CERTAIN VIOLATIONS.

If a permit holder fails to keep any of the records required to be kept by the provisions of this division, or sells cigarettes upon which a tax is required to be paid by this division without at the time having a valid permit, or if a distributor, wholesaler, manufacturer, or distributing agent fails to make reports to the department as required, or makes a false or incomplete report to the department, or if a distributing agent stores unstamped cigarettes in the state or distributes or delivers unstamped cigarettes within this state without at the time of storage or delivery having a valid permit, or if a person purchases or is in possession of unstamped cigarettes, or if a person affected by this division fails or refuses to abide by any of its provisions or the rules adopted under this division, the person is civilly liable to the state for a penalty as follows:

1. For possession of unstamped cigarettes:
 - a. A two hundred dollar penalty for the first violation if a person is in possession of more than forty but not more than four hundred unstamped cigarettes.
 - b. A five hundred dollar penalty for the first violation if a person is in possession of more than four hundred but not more than two thousand unstamped cigarettes.
 - c. A one thousand dollar penalty for the first violation if a person is in possession of more than two thousand unstamped cigarettes.
 - d. For a second violation within two years of the first violation, the penalty is four hundred dollars if a person is in possession of more than forty but not more than four hundred unstamped cigarettes; one thousand dollars if a person is in possession of more than four hundred but not more than two thousand unstamped cigarettes; and two thousand dollars if a person is in possession of more than two thousand unstamped cigarettes.
 - e. For a third or subsequent violation within two years of the first violation, the penalty is six hundred dollars if a person is in possession of more than forty but not more than four hundred unstamped cigarettes; one thousand five hundred dollars if a person is in possession of more than four hundred but not more than two thousand unstamped cigarettes; and three thousand dollars if a person is in possession of more than two thousand unstamped cigarettes.
2. For all other violations of this section:
 - a. A two hundred dollar penalty for the first violation.
 - b. A five hundred dollar penalty for a second violation within two years of the first violation.
 - c. A thousand dollar penalty for a third or subsequent violation within two years of the first violation.

The penalty imposed under this section shall be assessed and collected pursuant to section 453A.28 and is in addition to the tax, penalty, and interest imposed in that section.

Sec. 82. Section 453A.45, subsections 2, 3, and 4, Code 1999, are amended to read as follows:

2. Every person who sells tobacco products to persons other than the ultimate consumer shall render with each sale itemized invoices showing the seller's name and address, the purchaser's name and address, the date of sale, and all prices and discounts. The person shall preserve legible copies of all such invoices for ~~one year~~ two years from the date of sale.

3. Every retailer and subjobber shall procure itemized invoices of all tobacco products purchased. The invoices shall show the name and address of the seller and the date of purchase. The retailer and subjobber shall preserve a legible copy of each such invoice for ~~one year~~ two years from the date of purchase. Invoices shall be available for inspection by the director or the director's authorized agents or employees at the retailer's or subjobber's place of business.

4. Records of all deliveries or shipments of tobacco products from any public warehouse of first destination in this state which is subject to the provisions of and licensed under chapter 554 shall be kept by the warehouse and be available to the director for inspection. They shall show the name and address of the consignee, the date, the quantity of tobacco products delivered, and such other information as the commissioner may require. These records shall be preserved for ~~one year~~ two years from the date of delivery of the tobacco products.

Sec. 83. Section 453A.46, subsections 1, 4, and 6, Code 1999, are amended to read as follows:

1. On or before the twentieth day of each calendar month every distributor with a place of business in this state shall file a return with the director showing the quantity and wholesale sales price of each tobacco product brought, or caused to be brought, into this state for sale; and made, manufactured or fabricated in this state for sale in this state, during the preceding calendar month. Every licensed distributor outside this state shall in like manner file a return showing the quantity and wholesale sales price of each tobacco product shipped or transported to retailers in this state to be sold by those retailers, during the preceding calendar month. Returns shall be made upon forms furnished and prescribed by the director and shall contain other information as the director may require. Each return shall be accompanied by a remittance for the full tax liability shown on the return, less a discount as fixed by the director not to exceed five percent of the tax. Within two years after the return is filed or within two years after the return became due, whichever is later, the department shall examine it, determine the correct amount of tax, and assess the tax against the taxpayer for any deficiency. The period for examination and determination of the correct amount of tax is unlimited in the case of a false or fraudulent return made with the intent to evade tax, or in the case of a failure to file a return.

The two-year period of limitation may be extended by a taxpayer by signing a waiver agreement form to be provided by the department. The agreement must stipulate the period of extension and the tax period to which the extension applies. The agreement must also provide that a claim for refund may be filed by the taxpayer at any time during the period of extension.

4. The department shall notify any person assessed pursuant to this section by sending a written notice of the determination by mail to the principal place of business of the person as shown on the person's application for permit, and if an application was not filed by the person, to the person's last known address. A determination by the department of the amount of tax, penalty, and interest due, or the amount of refund for excess tax paid, is final, unless the person aggrieved by the determination appeals to the director for a revision of the determination within sixty days from the ~~postmark~~ date of the notice of determination of tax, penalty, and interest or refund owing or unless the taxpayer contests the determination

by paying the tax, interest, and penalty and timely filing a claim for refund. The director shall grant a hearing and upon the hearing, the director shall determine the correct tax, penalty, and interest or refund due and notify the appellant of the decision by mail. Judicial review of action of the director may be sought in accordance with chapter 17A and section 422.29.

6. On or before the twentieth day of each calendar month, every consumer who, during the preceding calendar month, has acquired title to or possession of tobacco products for use or storage in this state, upon which tobacco products the tax imposed by section 453A.43 has not been paid, shall file a return with the director showing the quantity of tobacco products so acquired. The return shall be made upon a form furnished and prescribed by the director, and shall contain ~~such~~ other information as the director may require. The return shall be accompanied by a remittance for the full unpaid tax liability shown by it. Within two years after the return is filed or within two years after the return became due, whichever is later, the department shall examine it, determine the correct amount of tax, and assess the tax against the taxpayer for any deficiency. The period for examination and determination of the correct amount of tax is unlimited in the case of a false or fraudulent return made with the intent to evade tax, or in the case of a failure to file a return.

Sec. 84. Section 602.8102, subsection 59, Code 1999, is amended by striking the subsection.

Sec. 85. Section 422.90, Code 1999, is repealed.

Sec. 86. Section 450.92, Code 1999, is repealed.

Sec. 87. MACHINE, EQUIPMENT, AND COMPUTERS PROPERTY TAX.

1. By January 15, 2000, the department of economic development shall prepare and submit a report to the general assembly regarding the phaseout of the machine, equipment, and computers property tax including at least the following:

- a. The estimated impact on Iowa taxing jurisdictions.
- b. Recommendations for the modification or extension of the reimbursement formula.

2. The department may convene an advisory committee of local and state officials and technical experts to assist in the review of the phaseout of the machine, equipment, and computers property tax.

Sec. 88. DIRECTIONS TO CODE EDITOR. The Iowa Code editor shall transfer sections 427.3 through 427.7 to chapter 426A and change internal references as necessary.

Sec. 89. EFFECTIVE AND APPLICABILITY DATES.

1. Section 5 of this Act, amending section 422.13, subsection 5, applies retroactively to January 1, 1999, for tax years beginning on or after that date.

2. Section 7 of this Act, amending section 422.23, unnumbered paragraph 2, applies retroactively to January 1, 1999, for tax years beginning on or after that date.

3. Section 9 of this Act, amending section 422.25, subsection 3, applies retroactively to January 1, 1999, for tax years beginning on or after that date.

4. Section 11 of this Act, amending section 422.33, subsection 2, applies retroactively to January 1, 1999, for tax years beginning on or after that date.

5. Section 16 of this Act, amending section 422.45, subsection 2, as it relates to the transportation of natural gas, takes effect April 1, 2000.

6. Section 29 of this Act, amending section 422.121, applies retroactively to January 1, 1997, for tax years beginning on or after that date.

7. Sections 31, 32, 33, 36, 37, and 39 of this Act, amending chapters 422B and 422E, take effect May 1, 1999.

8. Sections 46 through 49 and section 86 of this Act, amending chapters 450 and 451, take effect July 1, 1999, for estates of decedents dying on or after that date.

9. Except as otherwise provided in this section, this Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 20, 1999

CHAPTER 152

TAX ADMINISTRATION — ADDITIONAL RELATED MATTERS

S.F. 473

AN ACT relating to the administration of the state individual income tax, corporate income tax, sales and use taxes, franchise tax, replacement taxes on electric and natural gas providers, motor fuel taxes, inheritance and estate taxes, property taxes, collection of taxes and debts owed to or collected by the state, and including effective and retroactive applicability date provisions.

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

Section 1. Section 421.17, subsection 34, paragraph c, Code 1999, is amended to read as follows:

c. The director shall establish a formal debt collection policy for use by state agencies which have not established their own policy. Other state agencies may use the collection facilities of the department pursuant to formal agreement with the department. The agreement shall provide that the information provided to the department shall be sufficient to establish the obligation in a court of law and to render it as a legal judgment on behalf of the state. After transferring the file to the department for collection, an individual state agency shall terminate all collection procedures and be available to provide assistance to the department. Upon receipt of the file, the department shall assume all liability for its actions without recourse to the agency, and shall comply with all applicable state and federal laws governing collection of the debt. The department may use a participating agency's statutory collection authority to collect the participating agency's delinquent accounts, charges, fees, loans, taxes, or other indebtedness owed to or being collected by the state. The department has the powers granted in this section regarding setoff from income tax refunds or other accounts payable by the state for any of the obligations transferred by state agencies.

Sec. 2. Section 422.4, subsection 17, paragraph c, Code 1999, is amended by striking the paragraph.

Sec. 3. Section 422.25, subsection 9, Code 1999, is amended by striking the subsection.

Sec. 4. Section 422.32, subsection 2, unnumbered paragraph 1, Code 1999, is amended to read as follows:

"Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business; or income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations; or gain or loss resulting from the sale, exchange, or other disposition of real property or of tangible or intangible personal property, if the property while owned by the taxpayer was operationally related to the taxpayer's trade or business carried on in Iowa or operationally related to sources within Iowa, or the property was operationally related to sources outside this state and to the taxpayer's trade or

business carried on in Iowa; or gain or loss resulting from the sale, exchange, or other disposition of stock in another corporation if the activities of the other corporation were operationally related to the taxpayer's trade or business carried on in Iowa while the stock was owned by the taxpayer. A taxpayer may have more than one regular trade or business in determining whether income is business income.

Sec. 5. Section 422.42, subsections 6 and 18, Code 1999, are amended to read as follows:

6. "Gross taxable services" means the total amount received in money, credits, property, or other consideration, valued in money, from services rendered, furnished, or performed in this state except where ~~such the~~ service is performed on tangible personal property delivered into interstate commerce or is used in processing of tangible personal property for use in ~~taxable~~ retail sales or services and embraced within the provisions of this division. However, the taxpayer may take credit in the taxpayer's report of gross taxable services for an amount equal to the value of services rendered, furnished, or performed when the full value of ~~such these~~ services ~~thereof~~ is refunded either in cash or by credit. Taxes paid on gross taxable services represented by accounts found to be worthless and actually charged off for income tax purposes may be credited upon a subsequent payment of the tax due hereunder, but if any such accounts are thereafter collected by the taxpayer, a tax shall be paid upon the amounts ~~so~~ collected.

18. "Services" means all acts or services rendered, furnished, or performed, other than services performed on tangible personal property delivered into interstate commerce, or services used in processing of tangible personal property for use in ~~taxable~~ retail sales or services, for an "employer" as defined in section 422.4, subsection 3, for a valuable consideration by any person engaged in any business or occupation specifically enumerated in this division. The tax shall be due and collectible when the service is rendered, furnished, or performed for the ultimate user ~~thereof of the services~~.

"Services used in the processing of tangible personal property" includes the reconditioning or repairing of tangible personal property of the type normally sold in the regular course of the retailer's business and which is held for sale.

Sec. 6. Section 422.45, subsection 41, unnumbered paragraph 2, Code 1999, is amended by striking the unnumbered paragraph.

Sec. 7. Section 422.53, subsection 6, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Persons engaged in selling tangible personal property or performing services shall not be required to obtain or retain a sales tax permit for a place of business at which taxable sales of tangible personal property or taxable performance of services will not occur.

Sec. 8. Section 422.58, subsection 6, Code 1999, is amended by striking the subsection.

Sec. 9. Section 422.68, subsection 4, Code 1999, is amended to read as follows:

4. The department may make photostat, microfilm, electronic, or other photographic copies of records, reports and other papers either filed by the taxpayer or prepared by the department. When ~~such these~~ photostat, electronic, or microfilm copies have been made, the department may destroy ~~such the~~ original records in such manner as prescribed by the director. ~~Such These~~ photostat, electronic, or microfilm copies, when no longer of use, may be destroyed as provided in subsection 3. ~~Such These~~ photostat, microfilm, electronic, or other photographic records shall be admissible in evidence when duly certified and authenticated by the officer having custody and control ~~thereof of them~~.

Sec. 10. Section 422.72, subsection 6, unnumbered paragraph 2, Code 1999, is amended to read as follows:

City or county employees designated to have access to information under this subsection are deemed to be officers and employees of the state for purposes of the restrictions ~~and~~

penalties pursuant to subsection 1 pertaining to confidential information. The department may refuse to enter into a written informational exchange agreement if the city or county does not agree to pay the actual cost of providing the information and the department may refuse to abide by a written informational exchange agreement if the city or county does not promptly pay the actual cost of providing the information or take reasonable precautions to protect the information's confidentiality.

Sec. 11. Section 423.18, subsection 4, Code 1999, is amended by striking the subsection.

Sec. 12. Section 424.17, subsection 4, Code 1999, is amended by striking the subsection.

Sec. 13. Section 425.17, subsections 2, 4, 5, and 6, Code 1999, are amended to read as follows:

2. "Claimant" means either of the following:

a. A person filing a claim for credit or reimbursement under this division who has attained the age of sixty-five years on or before December 31 of the base year, ~~who is a surviving spouse having attained the age of fifty-five years on or before December 31, 1988, or who is totally disabled and was totally disabled on or before December 31 of the base year, and was domiciled in this state during the entire base year,~~ and is domiciled in this state at the time the claim is filed or at the time of the person's death in the case of a claim filed by the executor or administrator of the claimant's estate.

b. A person filing a claim for credit or reimbursement under this division who has attained the age of twenty-three years on or before December 31 of the base year or was a head of household on December 31 of the base year, as defined in the Internal Revenue Code, but has not attained the age or disability status described in paragraph "a", ~~and was domiciled in this state during the entire base year,~~ and is domiciled in this state at the time the claim is filed or at the time of the person's death in the case of a claim filed by the executor or administrator of the claimant's estate, and was not claimed as a dependent on any other person's tax return for the base year.

"Claimant" under paragraph "a" or "b" includes a vendee in possession under a contract for deed and may include one or more joint tenants or tenants in common. In the case of a claim for rent constituting property taxes paid, the claimant shall have rented the property during any part of the base year. In the case of a claim for property taxes due, the claimant shall have occupied the property during any part of the fiscal year beginning July 1 of the base year. If a homestead is occupied by two or more persons, and more than one person is able to qualify as a claimant, the persons may ~~determine among them who will be the claimant each file a claim based upon each person's income and rent constituting property taxes paid or property taxes due. If they are unable to agree, the matter shall be referred to the director of revenue and finance not later than June 1 of each year and the director's decision is final.~~

4. "Homestead" means the dwelling owned or rented and actually used as a home by the claimant during ~~all or part of the base year~~ the period specified in subsection 2, and so much of the land surrounding it including one or more contiguous lots or tracts of land, as is reasonably necessary for use of the dwelling as a home, and may consist of a part of a multidwelling or multipurpose building and a part of the land upon which it is built. It does not include personal property except that a mobile home may be a homestead. Any dwelling or a part of a multidwelling or multipurpose building which is exempt from taxation does not qualify as a homestead under this division. However, solely for purposes of claimants living in a property and receiving reimbursement for rent constituting property taxes paid immediately before the property becomes tax exempt, and continuing to live in it after it becomes tax exempt, the property shall continue to be classified as a homestead. A homestead must be located in this state. When a person is confined in a nursing home, extended-care facility, or hospital, the person shall be considered as occupying or living in the person's homestead if the person is the owner of the homestead and the person maintains

the homestead and does not lease, rent, or otherwise receive profits from other persons for the use of the homestead.

5. "Household" means a claimant, ~~spouse, and any person related to the claimant or spouse by blood, marriage, or adoption~~ and the claimant's spouse if living with the claimant at any time during the base year. "Living with" refers to domicile and does not include a temporary visit.

6. "Household income" means all income of the claimant and the claimant's spouse in a household and actual monetary contributions received from any other ~~household member or nonmember~~ person living with the claimant during their respective twelve-month income tax accounting periods ending with or during the base year.

Sec. 14. Section 425.19, Code 1999, is amended to read as follows:

425.19 CLAIM AND CREDIT OR REIMBURSEMENT.

Subject to the limitations provided in this division, a claimant may annually claim a credit for property taxes due during the fiscal year next following the base year or claim a reimbursement for rent constituting property taxes paid in the base year. The amount of the credit for property taxes due for a homestead shall be paid on ~~February~~ June 15 of each year by the director to the county treasurer who shall credit the money received against the amount of the property taxes due and payable on the homestead of the claimant and the amount of the reimbursement for rent constituting property taxes paid shall be paid to the claimant from the state general fund on or before December 31 of each year.

Sec. 15. Section 425.21, Code 1999, is amended to read as follows:

425.21 SATISFACTION OF OUTSTANDING TAX LIABILITIES.

The amount of any claim for credit or reimbursement payable under this division may be applied by the department of revenue and finance against any tax liability, delinquent accounts, charges, loans, fees, or other indebtedness due the state or state agency that have formal agreements with the department for central debt collection, outstanding on the books of the department against the claimant, or against a spouse who was a member of the claimant's household in the base year.

Sec. 16. Section 425.29, Code 1999, is amended to read as follows:

425.29 FALSE CLAIM — PENALTY.

A person who makes a false affidavit for the purpose of obtaining credit or reimbursement provided for in this division or who knowingly receives the credit or reimbursement without being legally entitled to it or makes claim for the credit or reimbursement in more than one county in the state without being legally entitled to it is guilty of a fraudulent practice. ~~Prosecution under this section shall be brought in the county of residence of the person to be charged.~~ The claim for credit or reimbursement shall be disallowed in full and if the claim has been paid the amount shall be recovered in the manner provided in section 425.27. The director of revenue and finance shall send a notice of disallowance of the claim.

Sec. 17. Section 427.1, subsection 16, Code 1999, 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 shall be applicable to the tax year commencing with the tax year in which the application is made to the director of revenue and finance. 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. 18. Section 427A.12, subsection 6, Code 1999, 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, 1985, and ending June 30, 1986, and for each succeeding~~ For each 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. 19. Section 435.22, subsection 2, unnumbered paragraph 2, Code 1999, is amended to read as follows:

For purposes of this subsection "income" means income as defined in section 425.17, subsection 7, and "base year" means the calendar year preceding the year in which the claim for a reduced rate of tax is filed. The home reduced rate of tax shall only be allowed on the home in which the claimant is residing at the time ~~in which~~ the claim for a reduced rate of tax is filed or was residing at the time of the claimant's death in the case of a claim filed on behalf of a deceased claimant by the claimant's legal guardian, spouse, or attorney, or by the executor or administrator of the claimant's estate.

Sec. 20. Section 435.22, subsection 5, unnumbered paragraph 1, Code 1999, is amended to read as follows:

A claim for credit for mobile home tax due shall not be paid or allowed unless the claim is actually filed with the county treasurer between January 1 and June 1, both dates inclusive, immediately preceding the fiscal year during which the home taxes are due ~~and, with the exception of a claim filed on behalf of a deceased claimant by the claimant's legal guardian, spouse, or attorney, or by the executor or administrator of the claimant's estate, contains an affidavit of the claimant's intent to occupy the home for six months or more during the fiscal year beginning in the calendar year in which the claim is filed.~~ However, in case of sickness, absence, or other disability of the claimant, or if in the judgment of the county treasurer good cause exists, the county treasurer may extend the time for filing a claim for credit through September 30 of the same calendar year. The county treasurer shall certify to the director of revenue and finance on or before November 15 each year the total dollar amount due for claims allowed.

Sec. 21. Section 437A.3, subsection 13, Code 1999, is amended to read as follows:

13. "Local taxing ~~district~~ authority" means a city, county, community college, school district, or other taxing ~~district~~ authority located in this state and authorized to certify a levy on property located within such ~~district~~ authority for the payment of bonds and interest or other obligations of such ~~district~~ authority.

13A. "Local taxing district" means a geographic area with a common consolidated property tax rate.

Sec. 22. Section 437A.3, subsection 19, paragraph a, subparagraph (2), Code 1999, is amended to read as follows:

(2) The natural gas competitive service area, excluding any municipal natural gas competitive service area described in subparagraph (1) and consisting of Sioux county; Plymouth county; Woodbury county; Ida county; Harrison county; Shelby county; Audubon county; Palo Alto county; Humboldt county; Mahaska county; Scott county; Lyon county except Wheeler, Dale, Liberal, Grant, Midland, and Elgin townships; O'Brien county except Union, Dale, Summit, Highland, Franklin, and Center townships; Cherokee county except Cherokee and Pilot townships; Monona county except Franklin township and the south half of Ashton township; Pottawattamie county except Crescent, Hazel Dell, Lake, Garner, Kane, and Lewis townships; Mills county except Glenwood and Center townships; Montgomery county except Douglas, Washington, and East townships; Page county except Valley, Douglas, Nodaway, Nebraska, Harlan, East River, Amity, and Buchanan townships; Fremont county except Green, Scott, Sidney, Benton, Washington, and Madison townships; Brighton and Pleasant townships in Cass county; Sac county except Clinton, Wall Lake, Coon Valley, Levey, Viola, and Sac townships; Newell township in Buena Vista county; Calhoun county except Reading township; Denmark township in Emmet county; Kossuth county except Eagle, Grant, Springfield, Hebron, Swea, Harrison, Ledyard, Lincoln, Seneca, Greenwood, Ramsey, and German townships; Webster county except Roland, Clay, Burnside, Yell, Webster, Gowrie, Lost Grove, Dayton, and Hardin townships; Guthrie county except Grant, Thompson, and Beaver townships; Union township in Union county; Madison county except Ohio and New Hope townships; Warren county except Virginia, Squaw, Liberty, and White Breast townships; Cedar, Union, Bluff Creek, and Pleasant townships in Monroe county; Marion county except Lake Prairie, Knoxville, Summit, and Union townships; Dallas county except Des Moines and Grant townships; Polk county except sections 4, 5, 6, 7, 8, 9, 16, 17, and 18 in Lincoln township and the city of Grimes, and sections 1, 2, 3, 10, 11, 12, 13, 14, and 15 in Union township; Poweshiek, Washington, Mound Prairie, Des Moines, Elk Creek, and Fairview townships in Jasper county; Wright county except Belmond and Pleasant townships; Geneseo township in Cerro Gordo county; Franklin county except Wisner and Scott townships and the city of Coulter; Butler county except Bennezzette, Coldwater, Dayton, and Fremont townships; Floyd county except Rock Grove, Rudd, Rockford, Ulster, Scott, and Union townships; Branford township in Chickasaw county; Bremer county except Frederika, LeRoy, Sumner No. 2, Fremont, Dayton, Maxfield, and Franklin townships; Perry, Washington, Westburg, and Sumner townships in Buchanan county; Black Hawk county except Big Creek township; Fremont township in Benton county; Wapello county except Washington township; Benton and Steady Run townships in Keokuk county; the city of Barnes City in Poweshiek county; Iowa township in Washington county; Johnson county except Fremont township; Linn county except Franklin, Grant, Spring Grove, Jackson, Boulder, and Washington, townships, Monroe township west and north of Otter creek and County Home road, and Otter Creek, Maine, Buffalo, and Fayette, and Clinton townships; Monroe township west and north of Otter Creek to its intersection with County Home road, and north of County Home road in Linn county; the city of Walford in Linn county; Farmington township in Cedar county; Wapsinonoc, Goshen, Moscow, Wilton, and Fulton townships in Muscatine county; and Lee county except Des Moines, Montrose, Keokuk, and Jackson townships.

Sec. 23. Section 437A.3, subsection 28, Code 1999, is amended to read as follows:

28. "Transfer replacement tax" means the excise tax imposed in a competitive service area of a municipal utility which replaces transfers made by the municipal utility in accordance with section 384.89.

Sec. 24. Section 437A.7, subsection 2, paragraph b, Code 1999, is amended by striking the paragraph and inserting in lieu thereof the following:

b. Transmission lines owned by or leased to a lessor when the transmission lines are subject to the replacement transmission tax payable by the lessee or sublessee.

Sec. 25. Section 437A.10, subsection 2, Code 1999, is amended to read as follows:

2. For cause and upon a showing by the director that collection of the tax in dispute is in doubt, the court may order the petitioner to file with the clerk of the district court a bond for the use of the appropriate local taxing ~~districts~~ authorities, with sureties approved by the clerk of the district court, in the amount of the tax appealed from, conditioned upon the performance by the petitioner of any orders of the court.

Sec. 26. Section 437A.14, subsection 4, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Notwithstanding subsections 2 and 3, the chief financial officer of any local taxing ~~district~~ authority and any designee of such officer shall have access to any computations made by the director pursuant to the provisions of this chapter, and any tax return or other information used by the director in making such computations, which affect the replacement tax owed by any such taxpayer.

Sec. 27. Section 437A.14, subsection 5, Code 1999, is amended to read as follows:

5. Local taxing ~~district~~ authority employees are deemed to be officers and employees of the state for purposes of subsection 2.

Sec. 28. Section 437A.15, subsection 7, unnumbered paragraph 2, Code 1999, is amended to read as follows:

The task force shall study the effects of the replacement tax on local taxing authorities, local taxing districts, consumers, and taxpayers and the department of management shall report to the general assembly by January 1 of each year through January 1, 2003, the results of the study and the specific recommendations of the task force for modifications to the replacement tax, if any, which will further the purposes of tax neutrality for local taxing authorities, local taxing districts, taxpayers, and consumers, consistent with the stated purposes of this chapter. The department of management shall also report to the legislative council by November 15 of each year through 2002, the status of the task force study and any recommendations.

Sec. 29. Section 437A.16, Code 1999, is amended to read as follows:

437A.16 ASSESSMENT EXCLUSIVE.

All operating property and all other property that is primarily and directly used in the production, generation, transmission, or delivery of electricity or natural gas ~~owned by or leased to a person~~ subject to ~~taxation under this chapter~~ replacement tax or transfer replacement tax is exempt from taxation except as otherwise provided by this chapter. This exemption shall not extend to taxes imposed under chapters 437, 438, and 468, taxpayers described in section 437A.8, subsection 6, or facilities or property described in section 437A.6, subsection 1, paragraphs "a" through "f", and section 437A.7, subsection 2.

Sec. 30. NEW SECTION. 437A.17A CENTRALLY ASSESSED PROPERTY TAX ADJUSTMENT.

A municipal utility whose property tax assessment for the 1998 assessment year was adjusted by the department of revenue and finance to include depreciation and whose property tax assessment for the 1997 assessment year did not include depreciation in determining its assessment shall be entitled to file a property tax adjustment form provided by the department. The tax adjustment form shall be filed by July 1, 1999. The tax adjustment form shall include an adjusted centrally assessed property tax computation determined by multiplying the centrally assessed property tax which was payable in the fiscal year beginning July 1, 1998, based upon valuation determined for the 1997 assessment year allocated to electric service and natural gas service by the percentage of adjustment for depreciation made by the department for the 1998 assessment year. The adjusted centrally assessed

property tax allocated to electric service and natural gas service shall be used to determine the replacement delivery tax rates in accordance with sections 437A.4 and 437A.5.

Sec. 31. Section 437A.19, subsection 2, unnumbered paragraph 4, Code 1999, is amended to read as follows:

Nothing in this chapter shall be interpreted to authorize local taxing ~~districts~~ authorities to exclude from the calculation of levy rates the adjusted assessed value of taxpayer property reported to county auditors pursuant to this subsection.

Sec. 32. Section 450.1, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. "Real estate or real property" for the purpose of appraisal under this chapter means real estate which is the land and appurtenances, including structures affixed thereto.

Sec. 33. Section 450.27, Code 1999, is amended to read as follows:
450.27 COMMISSION TO APPRAISERS.

When an appraisal of real estate is requested by the department of revenue and finance, as provided in section 450.37, or is otherwise required by this chapter, the clerk shall issue a commission to the appraisers, who shall fix a time and place for appraisal, except that if the only interest that is subject to tax is a remainder or deferred interest upon which the tax is not payable until the determination of a prior estate or interest for life or term of years, the clerk shall not issue the commission until the determination of the prior estate, except at the request of the department of revenue and finance when the parties in interest seek to remove an inheritance tax lien. When valuing the real estate for purposes of inheritance tax, an appraiser does not have the jurisdiction to determine what property or partial interests may or may not be subject to tax. Whole interests in the property should be appraised and the question of the actual property or partial interest subject to inheritance tax is to be determined by means of the administrative procedures pursuant to section 450.94. All joint property that is to be appraised should be listed at its full market value. Long-term leases are not considered in determining the value of property when being appraised.

Sec. 34. Section 450.37, subsection 2, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Fair market value of real estate in the ordinary course of trade shall be established by agreement, including an agreement to accept the values as finally determined for federal estate tax purposes. The agreement shall be between the department of revenue and finance, the personal representative, and the persons who have an interest in the property.

Sec. 35. Section 452A.74, subsection 8, unnumbered paragraph 2, Code 1999, is amended to read as follows:

A person found guilty of an offense specified in this section is guilty of a fraudulent practice. ~~For purposes of determining the place of trial, the situs of an offense specified in this section is in the county of the residence of the person charged with the offense. However, if the person is a nonresident or the person's residence cannot be determined, the situs of the offense is in Polk county.~~ Prosecution for an offense specified in this section shall be commenced within six years following its commission.

Sec. 36. Section 452A.75, unnumbered paragraph 2, Code 1999, is amended to read as follows:

~~In determining the place of trial, the situs of an offense in this section is in the county of the residence of the person charged with the offense. However, if the person is a nonresident or the person's residence cannot be determined, the situs of the offense is in Polk county.~~ Prosecution for an offense specified in this section shall be commenced within six years following its commission.

Sec. 37. Section 803.3, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 6. a. If a person is charged with a violation of the tax laws arising out of individual tax liability, venue is in the county of residence of the person charged with the offense, unless the person is a nonresident of this state or the residence of the person cannot be established, in which event venue is in Polk county.

b. If a person is charged with a violation of the tax laws arising out of a business, venue is in any county where business was conducted. If a specific county cannot be established as a situs, venue is in Polk county.

c. If a person is charged with a violation of section 453B.12, venue is in the county of the residence of the person charged with the offense or the county in which the drugs were found.

d. If a person is charged with a violation of the tax laws in which venue is set under multiple provisions of this section, venue is in any county in which one of the charges may be prosecuted.

Sec. 38. 1998 Iowa Acts, chapter 1194, section 38, is amended by adding the following new subsection:

NEW SUBSECTION. 9. Notwithstanding subsections 1 through 8, a municipal utility shall report to the director its centrally assessed property tax allocated to electric service and its centrally assessed property tax allocated to natural gas service for the 1997 assessment year only.

Sec. 39. Section 427A.14, Code 1999, is repealed.

Sec. 40. **EFFECTIVE AND APPLICABILITY DATES.**

1. Section 4 of this Act, amending section 422.32, is retroactive to January 1, 1999, for tax years beginning on or after that date.

2. Sections 21 through 29, 31, and 38 of this Act, amending sections related to the replacement taxes on electricity and natural gas providers, take effect July 1, 1999.

3. Section 30 of this Act, establishing new section 437A.17A, being deemed of immediate importance, takes effect upon enactment.

4. Sections 32 through 34 of this Act, amending sections 450.1, 450.27, and 450.37, take effect July 1, 1999, for estates of decedents dying on or after that date.

5. Except as otherwise provided in this section, this Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 20, 1999

CHAPTER 153

MISDEMEANOR CLASSIFICATIONS AND PENALTIES — OWI REVOCATIONS

S.F. 189

AN ACT to change the penalty for and to reclassify certain misdemeanors.

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

Section 1. Section 123.47, subsection 3, Code 1999, is amended to read as follows:

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, 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 simple 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.

Sec. 2. Section 321.218, subsection 1, Code 1999, is amended to read as follows:

1. A person whose driver's 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 simple misdemeanor. In addition to any other penalties, the punishment imposed for a violation of this subsection shall include assessment of a fine of not less than two hundred fifty dollars nor more than one thousand five hundred dollars.

Sec. 3. Section 321.260, subsection 1, paragraph a, Code 1999, is amended to read as follows:

a. A person who willfully and intentionally, without lawful authority, attempts to or in fact alters, defaces, injures, knocks down, or removes an official traffic-control device, an authorized warning sign or signal or barricade, whether temporary or permanent, a railroad sign or signal, an inscription, shield or insignia on any of such devices, signs, signals, or barricades, or any other part thereof, shall, upon conviction, be guilty of a serious simple misdemeanor and shall be required to make restitution to the affected jurisdiction. In addition to any other penalties, the punishment imposed for a violation of this subsection shall include assessment of a fine of not less than two hundred fifty dollars.

Sec. 4. Section 321.260, subsection 2, Code 1999, is amended to read as follows:

2. It shall be unlawful for any person to have in the person's possession any official traffic-control device except by legal right or authority. Any person convicted of unauthorized possession of any official traffic-control device shall upon conviction be guilty of a serious simple misdemeanor. In addition to any other penalties, the punishment imposed for a violation of this subsection shall include assessment of a fine of not less than two hundred fifty dollars.

Sec. 5. Section 321A.32, subsection 1, Code 1999, is amended to read as follows:

1. Any person whose license or registration or nonresident's operating privilege has been suspended, denied or revoked under this chapter or continues to remain suspended or revoked under this chapter, and who, during such suspension, denial or revocation, or during such continuing suspension or continuing revocation, drives any motor vehicle upon any highway or knowingly permits any motor vehicle owned by such person to be operated by another upon any highway, except as permitted under this chapter, shall be guilty of a serious simple misdemeanor. In addition to any other penalties, the punishment imposed for a violation of this subsection shall include assessment of a fine of not less than two hundred fifty dollars nor more than one thousand five hundred dollars.

Sec. 6. Section 321J.21, subsection 1, Code 1999, is amended to read as follows:

1. A person whose driver's license or nonresident operating privilege has been suspended, denied, revoked, or barred due to a violation of this chapter and who drives a motor vehicle while the license or privilege is suspended, denied, revoked, or barred commits a serious misdemeanor, ~~punishable with a mandatory fine of one thousand dollars.~~ In addition to any other penalties, the punishment imposed for a violation of this subsection shall include assessment of a fine of one thousand dollars.

Sec. 7. Section 331.302, subsection 2, Code 1999, is amended to read as follows:

2. A county shall not provide a penalty in excess of a ~~one~~ two hundred dollar fine or in excess of thirty days imprisonment for the violation of an ordinance. The criminal penalty surcharge required by section 911.2 shall be added to a county fine and is not a part of the county's penalty.

Sec. 8. Section 331.302, subsection 4A, paragraph a, subparagraph (2), Code 1999, is amended to read as follows:

(2) A portion of the Code of Iowa may be adopted by reference only if the criminal penalty provided by the law adopted does not exceed thirty days' imprisonment or a ~~one~~ two hundred dollar fine.

Sec. 9. Section 364.3, subsection 2, Code 1999, is amended to read as follows:

2. A city shall not provide a penalty in excess of a ~~one~~ two hundred dollar fine or in excess of thirty days imprisonment for the violation of an ordinance. An amount equal to ten percent of all fines collected by cities shall be deposited in the account established in section 602.8108. However, one hundred percent of all fines collected by a city pursuant to section 321.236, subsection 1, shall be retained by the city. The criminal penalty surcharge required by section 911.2 shall be added to a city fine and is not a part of the city's penalty.

Sec. 10. Section 461A.42, subsection 2, Code 1999, is amended to read as follows:

2. The use of fireworks, as defined in section 727.2, in state parks and preserves is prohibited except as authorized by a permit issued by the department. The commission shall establish, by rule adopted pursuant to chapter 17A, a fireworks permit system which authorizes the issuance of a limited number of permits to qualified persons to use or display fireworks in selected state parks and preserves. A person violating this subsection is guilty of a ~~serious~~ simple misdemeanor. In addition to any other penalties, the punishment imposed for a violation of this subsection shall include assessment of a fine of not less than two hundred fifty dollars. The court ~~may~~ shall order restitution ~~for if any~~ damages were caused by the violation which may include, but is not limited to, community service. ~~The court may also require that the violator provide proof of restitution.~~

Sec. 11. Section 714.2, subsections 4 and 5, Code 1999, are amended to read as follows:

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

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

Sec. 12. Section 714.12, unnumbered paragraph 1, Code 1999, is amended to read as follows:

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

Sec. 13. Section 714.13, unnumbered paragraph 1, Code 1999, is amended to read as follows:

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

Sec. 14. Section 716.6, Code 1999, is amended to read as follows:

716.6 CRIMINAL MISCHIEF IN THE FOURTH AND FIFTH DEGREES.

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

the first degree, second degree, third degree, or fourth degree is criminal mischief in the fifth degree. Criminal mischief in the fifth degree is a simple misdemeanor.

Sec. 15. Section 716.8, subsection 2, Code 1999, is amended to read as follows:

2. Any person committing a trespass as defined in section 716.7 which results in injury to any person or damage in an amount more than ~~one~~ two hundred dollars to anything, animate or inanimate, located thereon or therein commits a serious misdemeanor.

Sec. 16. Section 716.8, subsection 4, Code 1999, is amended to read as follows:

4. A person committing a trespass as defined in section 716.7 with the intent to commit a hate crime which results in injury to any person or damage in an amount more than ~~one~~ two hundred dollars to anything, animate or inanimate, located thereon or therein commits an aggravated misdemeanor.

Sec. 17. Section 716A.7, Code 1999, is amended to read as follows:

716A.7 COMPUTER DAMAGE IN THE FOURTH DEGREE.

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

Sec. 18. Section 716A.8, Code 1999, is amended to read as follows:

716A.8 COMPUTER DAMAGE IN THE FIFTH DEGREE.

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

Sec. 19. Section 716A.13, Code 1999, is amended to read as follows:

716A.13 COMPUTER THEFT IN THE FOURTH DEGREE.

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

Sec. 20. Section 716A.14, Code 1999, is amended to read as follows:

716A.14 COMPUTER THEFT IN THE FIFTH DEGREE.

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

Sec. 21. Section 719.1, subsection 1, Code 1999, is amended to read as follows:

1. A person who knowingly resists or obstructs anyone known by the person to be a peace officer, emergency medical care provider under chapter 147A, or fire fighter, whether paid or volunteer, in the performance of any act which is within the scope of the lawful duty or authority of that officer, emergency medical care provider under chapter 147A, or fire fighter, whether paid or volunteer, or who knowingly resists or obstructs the service or execution by any authorized person of any civil or criminal process or order of any court, commits a serious simple misdemeanor. In addition to any other penalties, the punishment imposed for a violation of this subsection shall include assessment of a fine of not less than two hundred fifty dollars. However, if a person commits an interference with official acts, as defined in this subsection, and in so doing inflicts bodily injury other than serious injury, that person commits an aggravated misdemeanor. If a person commits an interference with official acts, as defined in this subsection, and in so doing inflicts or attempts to inflict serious injury, or displays a dangerous weapon, as defined in section 702.7, or is armed with a firearm, that person commits a class "D" felony.

Sec. 22. Section 727.2, unnumbered paragraph 2, Code 1999, is amended to read as follows:

A person, firm, copartnership, or corporation who offers for sale, exposes for sale, sells at retail, or uses or explodes any fireworks, commits a ~~serious~~ simple misdemeanor. In addition to any other penalties, the punishment imposed for a violation of this section shall include assessment of a fine of not less than two hundred fifty dollars. However, the council of a city or a county board of supervisors may, upon application in writing, grant a permit for the display of fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals approved by the city or the county board of supervisors when the fireworks display will be handled by a competent operator, but no such permit shall be required for the display of fireworks at the Iowa state fairgrounds by the Iowa state fair board, at incorporated county fairs, or at district fairs receiving state aid. Sales of fireworks for such display may be made for that purpose only.

Sec. 23. Section 730.4, subsection 6, Code 1999, is amended to read as follows:

6. A person who violates this section commits a ~~serious~~ simple misdemeanor. In addition to any other penalties, the punishment imposed for a violation of this section shall include assessment of a fine of not less than two hundred fifty dollars.

Sec. 24. Section 903.1, subsection 1, paragraph a, Code 1999, is amended to read as follows:

a. For a simple misdemeanor, ~~either imprisonment not to exceed thirty days, or there shall be a fine of at least fifty dollars but not to exceed one five hundred dollars. The court may order imprisonment not to exceed thirty days in lieu of a fine or in addition to a fine.~~

Sec. 25. THIRD OFFENSE OWI REVOCATIONS.

1. When revoking a defendant's driver's license under section 321J.4, the court shall not consider a conviction under section 321J.2 which occurred on or prior to June 30, 1991, for the purpose of determining whether a conviction is a third or subsequent offense under section 321J.2. If a person whose license was revoked under section 321J.4, subsection 4, for three violations of section 321J.2, one of which occurred on or prior to June 30, 1991, the person may apply for reinstatement of the person's driving privileges and the court shall reinstate those privileges two years after the date of the order for revocation.

2. a. If a defendant's driver's license is revoked for a third or subsequent violation of section 321J.2 and one or more of the violations which resulted in the revocation occurred before June 30, 1991, the person shall be permitted to apply to the court for restoration of the defendant's driving privileges. 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.

b. The court shall forward to the department a record of any application submitted under paragraph "a" and the results of the court's disposition of the application.

CHAPTER 154**BENEFITED FIRE DISTRICT AREAS — TAX LEVY RATES**

S.F. 308

AN ACT relating to the levy rate for fire protection imposed in an area of a benefited fire district and including an effective date.

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

Section 1. Section 357B.5, subsection 2, Code 1999, is amended to read as follows:

2. If a benefited fire district is dissolved that has been providing fire protection by contract, direct levy, or combination of both, to a city within the district for at least twenty years and the city's annual payments by contract or levy for the fire protection comprise seventy-five percent or more of the district's annual budget, the board of supervisors, in lieu of the disposal of property as provided in subsection 1, shall transfer to the city all of the district's real and personal property. The city shall assume all of the outstanding obligations of the district. If the district provides fire protection outside of the city's boundaries, the city shall continue to provide fire protection to this area until it is assigned to another fire protection district by the board of supervisors. If the city continues the fire protection outside its boundaries, the city shall certify to the board of supervisors the cost of providing this service, which shall be at the same rate as contained in the budget for property within the city, but not exceeding ~~forty sixty and one-half three-fourths~~ cents per thousand dollars of assessed value of all taxable property in the area. The board of supervisors shall levy the amount of tax certified as provided in section 357B.3. The tax shall be collected and allocated in the same manner as other property taxes and paid to the city.

Sec. 2. Section 357B.8, subsection 2, Code 1999, is amended to read as follows:

2. a. In lieu of subsection 1, a benefited fire district that includes a city within the boundaries of the fire district may certify an annual tax levy not exceeding forty and one-half cents per thousand dollars of assessed valuation of the taxable property within the city for the purpose of fire protection.

b. If the levy authorized under paragraph "a" is insufficient to provide fire protection services, the benefited fire district may certify an additional annual tax levy not exceeding twenty and one-fourth cents per thousand dollars of assessed valuation of the taxable property within the city to provide fire protection services.

c. The benefited fire district shall certify the tax levy as provided in this subsection only after agreement granted by resolution of the city council. The amount of the tax rate levied under this subsection shall reduce by an equal amount the maximum tax levy authorized for the general fund of that city under section 384.1. If the district levies directly against property within a city to provide fire protection for that city, the city shall not be responsible for providing fire protection as provided in section 364.16, and shall have no liability for the method, manner, or means in which the district provides the fire protection.

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

Approved May 20, 1999

CHAPTER 155**LANDLORD AND TENANT RELATIONS — ABANDONED
AND VALUELESS PROPERTY**

S.F. 337

AN ACT relating to landlords' and tenants' relations, by providing notice requirements, establishing a tenant's duty to properly maintain utility facilities, issuing new titles for valueless homes to third parties, and providing for other properly related matters and an effective date.

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

Section 1. Section 555B.1, subsection 2, Code 1999, is amended to read as follows:

2. "Claimant" includes but is not limited to any government subdivision with authority to levy a tax on abandoned personal property. "Claimant" also includes a holder of a lien as defined in section 555B.2.

Sec. 2. Section 555C.2, Code 1999, is amended to read as follows:

555C.2 REMOVAL OR TRANSFER OF TITLE OF VALUELESS HOME — PRESUMPTION OF VALUE.

1. An owner of a mobile home park may remove, or cause to be removed, from the mobile home park a valueless home and personal property associated with the home at any time following a determination of abandonment by the mobile home park owner in accordance with section 562B.27, subsection 1, and an order of removal pursuant to chapter 648 without further notice to the owner or occupant of the valueless home. Within ten days of the removal or transfer of title, the mobile home park owner shall give written notice to the county treasurer for the county in which the mobile home park is located by affidavit which shall include a description of the valueless home, its owner or occupant, if known, the date of removal or transfer of title, and if applicable, the name and address of any third party to whom a new title shall be issued.

2. A valueless home and any personal property associated with the valueless home shall be conclusively deemed in value to be equal to or less than the reasonable cost of disposal plus all sums owing to the mobile home park owner pertaining to the valueless home, if the mobile home park owner or an agent of the owner removes the home and personal property to a demolisher, sanitary landfill, or other lawful disposal site or if the mobile home park owner allows a disinterested third party to remove the valueless home and personal property or to leave the home in the mobile home park in a transaction in which the mobile home park owner receives no consideration.

Sec. 3. Section 555C.3, Code 1999, is amended to read as follows:

555C.3 NEW TITLE — THIRD PARTY.

If a new title to a valueless home is to be issued to a third party ~~who is removing a valueless home~~, the county treasurer shall issue, upon receipt of the affidavit required in section 555C.2, a new title upon payment of a fee equal to the fee specified in section 321.42 for replacement certificates of title for vehicles. Any tax lien levied pursuant to chapter 435 is canceled and the ownership interest of the previous owner or occupant of the valueless home is terminated as of the date of issuance of the new title. The new title owner shall take the title free of all rights and interests even though the mobile home park owner fails to comply with the requirements of this chapter or any judicial proceedings, if the new title owner acts in good faith.

Sec. 4. Section 555C.5, Code 1999, is amended to read as follows:

555C.5 LIABILITY LIMITED.

A person who removes or allows the removal of a valueless home or transfers title or allows the transfer of title of a valueless home as provided in this chapter is not liable to the previous owner of the valueless home due to the removal or transfer of title of the valueless home.

Sec. 5. Section 562A.8, Code 1999, is amended to read as follows:

562A.8 NOTICE.

A person "notifies" or "gives" a notice or notification to another by taking steps reasonably calculated to inform the other in ordinary course whether or not the other actually comes to know of it. ~~A person "receives" a notice or notification when it comes to that person's attention or in~~ In the case of the landlord, notice is received when it comes to the landlord's attention or when it is delivered in hand or mailed by certified mail or restricted certified mail, ~~as defined in section 618.15, whether or not the landlord signs a receipt for the notice,~~ to the place of business of the landlord through which the rental agreement was made or at a place held out by the landlord as the place for receipt of the communication or delivered to any individual who is designated as an agent of the landlord ~~or, when in,~~ In the case of the tenant, notice is received when it comes to the tenant's attention or when it is delivered in hand to the tenant or mailed by certified mail or restricted certified mail, ~~as defined in section 618.15, whether or not the tenant signs a receipt for the notice,~~ to such person at the place held out by such person as the place for receipt of the communication, or in the absence of such designation, to such person's last known place of residence.

Any notice required under this chapter, except a written notice of termination required by section 562A.27, subsection 1 or 2, a notice of termination and notice to quit under section 562A.27A, a notice to quit as required by section 648.3, or a petition for forcible entry and detainer pursuant to chapter 648, shall be deemed legally sufficient notice if made by posting at or delivering to the dwelling unit. The date of posting of the notice shall be written on the notice.

Sec. 6. NEW SECTION. 562A.8A COMPUTATION OF TIME.

The calculation of all time periods required under this chapter shall be made in accordance with section 4.1, subsection 34.

Sec. 7. Section 562A.29A, subsection 2, Code 1999, is amended to read as follows:

2. By sending notice by certified or restricted certified mail, as defined in section 618.15, whether or not the tenant signs a receipt for the notice.

Sec. 8. Section 562B.9, Code 1999, is amended to read as follows:

562B.9 NOTICE.

A person "notifies" or "gives" a notice or notification to another by taking steps reasonably calculated to inform the other in ordinary course whether or not the other actually comes to know of it. ~~A person "receives" a notice or notification when it comes to that person's attention, or in~~ In the case of the landlord, notice is received when it comes to the landlord's attention or when it is delivered in hand or mailed by certified mail or restricted certified mail, ~~as defined in section 618.15, whether or not the landlord signs a receipt for the notice,~~ to the place of business of the landlord through which the rental agreement was made or at any place held out by the landlord as the place for receipt of the communication or delivered to any individual who is designated as an agent by section 562B.14 ~~or, in,~~ In the case of the tenant, notice is received when it comes to the tenant's attention or when it is delivered in hand to the tenant or mailed by certified mail or restricted certified mail, ~~as defined in section 618.15, whether or not the tenant signs a receipt for the notice,~~ to the tenant at the place held out by the tenant as the place for receipt of the communication or, in the absence of such designation, to the tenant's last known place of residence other than the landlord's mobile home or space.

Any notice required under this chapter given to all tenants of a mobile home park, except a written notice of termination required by section 562B.25, subsection 1 or 2, a notice of termination and notice to quit under section 562B.25A, a notice to quit as required by section 648.3, or a petition for forcible entry and detainer pursuant to chapter 648, shall be deemed legally sufficient notice if made by posting at or delivering to each mobile home space. The date of posting of the notice shall be written on the notice.

Sec. 9. NEW SECTION. 562B.9A COMPUTATION OF TIME.

The calculation of all time periods required under this chapter shall be made in accordance with section 4.1, subsection 34.

Sec. 10. Section 562B.18, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Maintain in good and safe working order all utility lines, pipes, and cables extending from the mobile home to outlets provided by the landlord for electric, water, sewer, and other services. This subsection shall not apply to a tenant who does not own the mobile home.

Sec. 11. Section 562B.27, subsection 2, paragraph a, Code 1999, is amended to read as follows:

a. If a tenant abandons a mobile home on a mobile home space, the landlord shall notify the mobile home owner or other claimant of the mobile home and communicate to that person that the person is liable for any costs incurred for the mobile home space, including rent and utilities due and owing. A claimant includes a holder of a lien as defined in section 555B.2. However, the person is only liable for costs incurred ninety days before the landlord's communication. After the landlord's communication, costs for which liability is incurred shall then become the responsibility of the mobile home owner or other claimant of the mobile home. The mobile home shall not be removed from the mobile home space without a signed written agreement from the landlord showing clearance for removal, and that all debts are paid in full, or an agreement reached with the mobile home owner or other claimant and the landlord.

Sec. 12. Section 562B.27A, subsection 2, Code 1999, is amended to read as follows:

2. By sending notice by certified or restricted certified mail, as defined in section 618.15, whether or not the tenant signs a receipt for the notice.

Sec. 13. Section 631.4, subsection 2, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. If personal service cannot be made upon each defendant in an action for forcible entry or detention of real property joined with an action for rent or recovery pursuant to section 648.19, service may be made pursuant to paragraph "c".

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

Approved May 20, 1999

CHAPTER 156**SALES AND USE TAXES — MISCELLANEOUS PROVISIONS**

S.F. 469

AN ACT relating to the state sales and use taxes by providing for the effective date for any rate increase or decrease, filing of consolidated sales tax returns by affiliated corporations, changing the statute of limitations for assessing tax and applying for refunds and relating to local sales and services taxes by providing the effective dates for imposing, repealing, or changing rates, allowing cities in more than one county to impose the tax, providing for refunds of tax payable to construction contractors, allowing for 28E agreements to be entered into between school districts and counties or other school districts, and providing for utilization of excess revenue for property tax reduction, and including retroactive applicability and effective dates.

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

Section 1. Section 422.43, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 14. An increase or decrease in the retail sales tax rate shall only be effective on January 1 or July 1, but not sooner than ninety days after enactment of the rate increase or decrease.

Sec. 2. Section 422.51, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 5. Upon making application and receiving approval from the director, a parent corporation and its affiliated corporations that make retail sales of tangible personal property or taxable enumerated services may make deposits and file a consolidated sales tax return for the affiliated group, pursuant to rules adopted by the director. A parent corporation and each affiliate corporation that files a consolidated return is jointly and severally liable for all tax, penalty, and interest found due for the tax period for which a consolidated return is filed or required to be filed.

Sec. 3. Section 422.54, subsections 1 and 3, Code 1999, are amended to read as follows:
1. As soon as practicable after a return is filed and in any event within ~~five~~ four years after the return is filed, if filed for quarterly periods beginning on or after January 1, 2000, and before January 1, 2001, and within three years after the return is filed, if filed for quarterly periods beginning on or after January 1, 2001, the department shall examine it, assess and determine the tax due if the return is found to be incorrect, and give notice to the taxpayer of the assessment and determination as provided in subsection 2. The period for the examination and determination of the correct amount of tax is unlimited in the case of a false or fraudulent return made with the intent to evade tax or in the case of a failure to file a return.
3. The ~~five-year~~ four-year or three-year period of limitation, as applicable, provided in subsection 1 may be extended by a taxpayer by signing a waiver agreement form to be provided by the department. The agreement shall stipulate the period of extension and the tax period to which the extension applies. The agreement shall also provide that a claim for refund may be filed by the taxpayer at any time during the period of extension.

Sec. 4. Section 422.73, subsection 1, Code 1999, is amended to read as follows:
1. If it shall appear that, as a result of mistake, an amount of tax, penalty, or interest has been paid which was not due under the provisions of division IV of this chapter or chapter 423, then such amount shall be credited against any tax due, or to become due, on the books of the department from the person who made the erroneous payment, or such amount shall be refunded to such person by the department. A claim for refund or credit that has not been filed with the department within ~~five~~ four years after the tax payment for quarterly periods beginning on or after January 1, 2000, and before January 1, 2001, upon which a refund or

credit is claimed became due, and within three years after the tax payment for quarterly periods beginning on or after January 1, 2001, upon which a refund or credit is claimed became due, or one year after such tax payment was made, whichever time is the later, shall not be allowed by the director.

Sec. 5. Section 422B.1, subsection 2, paragraph a, subparagraphs (1) and (2), Code 1999, are amended to read as follows:

(1) ~~All~~ At least eighty-five percent of the residents of the city live in one county.

(2) The county in which at least eighty-five percent of the city residents reside has held an election on the question of the imposition of a local sales and services tax and a majority of those voting on the question in the city favored its imposition.

Sec. 6. Section 422B.1, subsection 2, paragraph b, subparagraph (1), Code 1999, is amended to read as follows:

(1) The tax shall only be imposed in the area of the city located in the county where ~~none~~ not more than fifteen percent of its ~~the city's~~ residents reside.

Sec. 7. Section 422B.1, subsection 2, paragraph e, Code 1999, is amended to read as follows:

e. A city is not authorized to impose a local sales and services tax under this subsection after ~~January 1, 1998~~ July 1, 2000. A city that has imposed a local sales and services tax under this subsection on or before ~~January 1, 1998~~ July 1, 2000, may continue to collect the tax until such time as the tax is repealed by the city and the fact that ~~that the~~ the area acquires more than fifteen percent of the city's residents after the tax is imposed shall not affect the imposition or collection of the tax.

Sec. 8. Section 422B.1, subsection 5, Code 1999, is amended to read as follows:

5. The county commissioner of elections shall submit the question of imposition of a local option tax at a state general election or at a special election held at any time other than the time of a city regular election. The election shall not be held sooner than sixty days after publication of notice of the ballot proposition. The ballot proposition shall specify the type and rate of tax and in the case of a vehicle tax the classes that will be exempt and in the case of a local sales and services tax the date it will be imposed which date shall not be earlier than ninety days following the election. The ballot proposition shall also specify the approximate amount of local option tax revenues that will be used for property tax relief and shall contain a statement as to the specific purpose or purposes for which the revenues shall otherwise be expended. If the county board of supervisors decides under subsection 6 to specify a date on which the local option sales and services tax shall automatically be repealed, the date of the repeal shall also be specified on the ballot. The rate of the vehicle tax shall be in increments of one dollar per vehicle as set by the petition seeking to impose the tax. The rate of a local sales and services tax shall not be more than one percent as set by the governing body. The state commissioner of elections shall establish by rule the form for the ballot proposition which form shall be uniform throughout the state.

Sec. 9. Section 422B.1, subsection 6, paragraph a, Code 1999, is amended to read as follows:

6. a. If a majority of those voting on the question of imposition of a local option tax favor imposition of a local option tax, the governing body of that county shall impose the tax at the rate specified for an unlimited period. However, in the case of a local sales and services tax, the county shall not impose the tax in any incorporated area or the unincorporated area if the majority of those voting on the tax in that area did not favor its imposition. For purposes of the local sales and services tax, all cities contiguous to each other shall be treated as part of one incorporated area and the tax shall be imposed in each of those contiguous cities only if the majority of those voting on the tax in the total area covered by the contiguous cities favored its imposition. The local option tax may be repealed or the rate

increased or decreased or the use thereof changed after an election at which a majority of those voting on the question of repeal or rate or use change favored the repeal or rate or use change. The date on which the repeal, rate, or use change is to take effect shall not be earlier than ninety days following the election. The election at which the question of repeal or rate or use change is offered shall be called and held in the same manner and under the same conditions as provided in subsections 4 and 5 for the election on the imposition of the local option tax. However, in the case of a local sales and services tax where the tax has not been imposed countywide, the question of repeal or imposition or rate or use change shall be voted on only by the registered voters of the areas of the county where the tax has been imposed or has not been imposed, as appropriate. However, the governing body of the incorporated area or unincorporated area where the local sales and services tax is imposed may, upon its own motion, request the county commissioner of elections to hold an election in the incorporated or unincorporated area, as appropriate, on the question of the change in use of local sales and services tax revenues. The election may be held at any time but not sooner than sixty days following publication of the ballot proposition. If a majority of those voting in the incorporated or unincorporated area on the change in use favor the change, the governing body of that area shall change the use to which the revenues shall be used. The ballot proposition shall list the present use of the revenues, the proposed use, and the date after which revenues received will be used for the new use.

When submitting the question of the imposition of a local sales and services tax, the county board of supervisors may direct that the question contain a provision for the repeal, without election, of the local sales and services tax on a specific date, which date shall be ~~the end of a calendar quarter~~ as provided in section 422B.9, subsection 1.

Sec. 10. Section 422B.1, subsection 6, paragraph b, Code 1999, is amended to read as follows:

b. Within ten days of the election at which a majority of those voting on the question favors the imposition, repeal, or change in the rate of a local option tax, the ~~governing body~~ county auditor shall give written notice by sending a copy of the abstract of the ballot from the favorable election to the director of revenue and finance or, in the case of a local vehicle tax, to the director of the department of transportation, of the result of the election.

Sec. 11. Section 422B.1, subsection 9, Code 1999, is amended to read as follows:

9. In a county that has imposed a local option sales and services tax, the board of supervisors shall, notwithstanding any contrary provision of this chapter, repeal the local option sales and services tax in the unincorporated areas or in an incorporated city area in which the tax has been imposed upon adoption of its own motion for repeal in the unincorporated areas or upon receipt of a motion adopted by the governing body of that incorporated city area requesting repeal. The board of supervisors shall repeal the local option sales and services tax effective ~~at the end of the calendar quarter during which it adopted the repeal motion or the motion for the repeal was received~~ on the later of the date of the adoption of the repeal motion or the earliest date specified in section 422B.9, subsection 1. For purposes of this subsection, incorporated city area includes an incorporated city which is contiguous to another incorporated city.

Sec. 12. Section 422B.8, unnumbered paragraph 1, Code 1999, is amended to read as follows:

A local sales and services tax at the rate of not more than one percent may be imposed by a county on the gross receipts taxed by the state under chapter 422, division IV. A local sales and services tax shall be imposed on the same basis as the state sales and services tax and may not be imposed on the sale of any property or on any service not taxed by the state, except the tax shall not be imposed on the gross receipts from the sale of motor fuel or special fuel as defined in chapter 452A, on the gross receipts from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 422A during the period the hotel and

motel tax is imposed, on the gross receipts from the sale of natural gas or electric energy in a city or county where the gross receipts are subject to a franchise fee or user fee during the period the franchise or user fee is imposed, on the gross receipts from the sale of equipment by the state department of transportation, and on the gross receipts from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 99E. A local sales and services tax is applicable to transactions within those incorporated and unincorporated areas of the county where it is imposed and shall be collected by all persons required to collect state gross receipts taxes. However, a person required to collect state retail sales tax under chapter 422, division IV, is not required to collect local sales and services tax on transactions delivered within the area where the local sales and services tax is imposed unless the person has physical presence in that taxing area. All cities contiguous to each other shall be treated as part of one incorporated area and the tax would be imposed in each of those contiguous cities only if the majority of those voting in the total area covered by the contiguous cities favor its imposition.

Sec. 13. Section 422B.9, subsection 1, Code 1999, is amended to read as follows:

1. a. A local sales and services tax shall be imposed either January 1, ~~April 1,~~ or July 1 ~~or October 1~~ following the notification of the director of revenue and finance but not sooner than ninety days following the favorable election.

b. A local sales and services tax shall be repealed only on ~~March 31, June 30, September 30,~~ or December 31 but not sooner than ninety days following the favorable election if one is held. However, a local sales and services tax shall not be repealed before the tax has been in effect for one year. At least forty days before the imposition or repeal of the tax, a county shall provide notice of the action by certified mail to the director of revenue and finance.

c. If a local sales and services tax has been imposed prior to the effective date of this section of this Act and at the time of the election a date for repeal was specified on the ballot, the local sales and services tax may be repealed on that date, notwithstanding paragraph "b".

Sec. 14. Section 422B.10, subsection 3, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. If a subsequent certified census exists which modifies that most recent certified federal census for a participating jurisdiction under paragraphs "a" and "b", the computations under paragraphs "a" and "b" shall utilize the subsequent certified census in the distribution formula under rules established by the director of revenue and finance.

Sec. 15. Section 422E.2, subsections 1 and 3, Code 1999, are amended to read as follows:

1. a. A local sales and services tax shall be imposed by a county only after an election at which a majority of those voting on the question favors imposition. The effective date shall be either January 1 or July 1 but not sooner than ninety days following the favorable election. A local sales and services tax approved by a majority vote shall apply to all incorporated and unincorporated areas of that county.

b. A local sales and services tax shall be repealed on either June 30 or December 31 but not sooner than ninety days following the favorable election, if one is held.

c. If a local sales and services tax has been imposed prior to the effective date of this section of this Act and at the time of the election a date for repeal was specified on the ballot, the local sales and services tax may be repealed on that date, notwithstanding paragraph "b".

3. The county commissioner of elections shall submit the question of imposition of a local sales and services tax for school infrastructure purposes at a state general election or at a special election held at any time other than the time of a city regular election. The election shall not be held sooner than sixty days after publication of notice of the ballot proposition. The ballot proposition shall specify the rate of tax, the date the tax will be imposed and repealed, and shall contain a statement as to the specific purpose or purposes

for which the revenues shall be expended. The dates for the imposition and repeal of the tax shall be as provided in subsection 1. The rate of tax shall not be more than one percent as set by the county board of supervisors. The state commissioner of elections shall establish by rule the form for the ballot proposition which form shall be uniform throughout the state.

Sec. 16. Section 422E.2, subsection 4, paragraph b, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Within ten days of the election at which a majority of those voting on the question favors the imposition, repeal, or change in the rate of the tax, the county ~~board of supervisors~~ auditor shall give written notice by sending a copy of the abstract of ballot from the favorable election to the director of revenue and finance of the result of the election. Election costs shall be apportioned among school districts within the county on a pro rata basis in proportion to the number of registered voters in each school district and the total number of registered voters in all of the school districts within the county.

Sec. 17. Section 422E.3, subsection 3, Code 1999, is amended to read as follows:

3. The tax is applicable to transactions within the county where it is imposed and shall be collected by all persons required to collect state gross receipts taxes. However, a person required to collect state retail sales tax under chapter 422, division IV, is not required to collect local sales and services tax on transactions delivered within the area where the local sales and services tax is imposed unless the person has physical presence in that taxing area. The amount of the sale, for purposes of determining the amount of the tax, does not include the amount of any state gross receipts taxes or other local option sales taxes. A tax permit other than the state tax permit required under section 422.53 shall not be required by local authorities.

Sec. 18. Section 422E.3, subsection 5, paragraph c, Code 1999, is amended to read as follows:

c. The director shall remit a final payment of the remainder of tax moneys due for the fiscal year before November 10 of the next fiscal year. If an overpayment has resulted during the previous fiscal year, the first November payment ~~of the new fiscal year~~ shall be adjusted to reflect any overpayment.

Sec. 19. Section 422E.3, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 7. Construction contractors may make application to the department for a refund of the additional local sales and services tax paid under this chapter by reason of taxes paid on goods, wares, or merchandise under the conditions specified in section 422B.11. The refund shall be paid by the department from the appropriate school district's account in the local sales and services tax fund. The penalty provisions contained in section 422B.11, subsection 3, shall apply regarding an erroneous application for refund of local sales and services tax paid under this chapter.

Sec. 20. Section 422E.4, unnumbered paragraph 2, Code 1999, is amended to read as follows:

A school district in which a local option sales tax for school infrastructure purposes has been imposed shall be authorized to enter into a chapter 28E agreement with one or more cities or a county whose boundaries encompass all or a part of the area of the school district. A city or cities entering into a chapter 28E agreement shall be authorized to expend its designated portion of the local option sales and services tax revenues for any valid purpose permitted in this chapter or authorized by the governing body of the city. A county entering into a chapter 28E agreement with a school district in which a local option sales tax for school infrastructure purposes has been imposed shall be authorized to expend its designated portion of the local option sales and services tax revenues to provide property tax relief within the boundaries of the school district located in the county. A school district where a

local option sales and services tax is imposed is also authorized to enter into a chapter 28E agreement with another school district which is located partially or entirely in or is contiguous to the county where the tax is imposed. The school district shall only expend its designated portion of the local option sales and services tax for infrastructure purposes.

Sec. 21. Section 423.12, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. An increase or decrease in the excise tax rate in this section shall only be effective on January 1 or July 1, but not sooner than ninety days after enactment of the rate increase or decrease.

Sec. 22. Section 423.16, Code 1999, is amended to read as follows:

423.16 DETERMINATION BY DEPARTMENT.

If any return required by this chapter is not filed, or if any return when filed is incorrect or insufficient, and the maker or person from whom it is due fails to file a corrected or sufficient return within twenty days after the same is required by notice from the department, the department shall have the same power to determine the amount due, as is vested in the department by sections 422.54, 422.55, and 422.57, subject to all of the provisions, and restrictions, and rights to seek judicial review provided in the sections. If a return required by this chapter has been filed, the ~~five-year~~ period of limitation specified in section 422.54, subsection 1, shall apply to the making of a determination by the department of the amount of tax due and to the giving of notice to the taxpayer of such determination. The right to waive the ~~five-year~~ period of limitation as provided in section 422.54, subsection 3, is applicable to this chapter.

Sec. 23. **EFFECTIVE AND APPLICABILITY DATES.**

1. Sections 1 through 4, 21, and 22 of this Act take effect January 1, 2000, for state sales and use taxes.

2. Sections 8, 9, 11, 13, and 15 of this Act take effect April 1, 2000, for local sales and services taxes.

3. Sections 19 and 20 of this Act, being deemed of immediate importance, take effect upon enactment and apply retroactively to July 1, 1998.

4. Sections 5, 6, and 7 of this Act, being deemed of immediate importance, take effect upon enactment.

Approved May 20, 1999

CHAPTER 157

TOBACCO PRODUCT MANUFACTURERS — SETTLEMENT AGREEMENT

S.F. 482

AN ACT relating to tobacco product manufacturers, providing penalties, and providing an effective date.

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

Section 1. NEW SECTION. 453C.1 DEFINITIONS.

1. "Adjusted for inflation" means increased in accordance with the formula for inflation adjustment set forth in exhibit "C" to the master settlement agreement.

2. "Affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for purposes of this definition, the terms "owns", "is owned", and "ownership" mean ownership of an equity interest, or the equivalent thereof, of ten percent or more, and the term "person" means an individual, partnership, committee, association, corporation, or any other organization or group of persons.

3. "Allocable share" means allocable share as defined in the master settlement agreement.

4. "Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains any of the following:

a. Any roll of tobacco wrapped in paper or in any substance not containing tobacco.

b. Tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette.

c. Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph "a" of this definition.

The term "cigarette" includes "roll-your-own" tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes. For purposes of this definition of "cigarette", 0.09 ounces of "roll-your-own" tobacco shall constitute one individual "cigarette".

5. "Master settlement agreement" means the settlement agreement and related documents entered into on November 23, 1998, by the state and leading United States tobacco product manufacturers.

6. "Qualified escrow fund" means an escrow arrangement with a federally or state-chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least one billion dollars where such arrangement requires that such financial institution hold the escrowed funds' principal for the benefit of releasing parties and prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing, or directing the use of the funds' principal except as consistent with section 453C.2, subsection 2, paragraph "b".

7. "Released claims" means released claims as that term is defined in the master settlement agreement.

8. "Releasing parties" means releasing parties as that term is defined in the master settlement agreement.

9. "Tobacco product manufacturer" means an entity that on or after the effective date of this Act directly and not exclusively through any affiliate does any of the following:

a. Manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer, except where such importer is an original participating manufacturer, as that term is defined in the master settlement agreement, that will be responsible for the payments under the master settlement agreement with respect to such cigarettes as a result of the provisions of the subsection II(mm) of the master settlement agreement and that pays the taxes specified in subsection II(z) of the master settlement agreements* and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States.

b. Is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States.

c. Becomes a successor of an entity described in paragraph "a" or "b".

The term "tobacco product manufacturer" shall not include an affiliate of a tobacco product manufacturer unless such affiliate itself falls within any of paragraphs "a" through "c".

10. "Units sold" means the number of individual cigarettes sold in the state by the applicable tobacco product manufacturer, whether directly or through a distributor, retailer, or

* The phrase "master settlement agreement" probably intended

similar intermediary or intermediaries, during the year in question, as measured by excise taxes collected by the state on packs or roll-your-own tobacco containers bearing the excise tax stamp of the state. The department of revenue and finance shall adopt rules as are necessary to ascertain the amount of state excise tax paid on the cigarettes of such tobacco product manufacturer for each year.

Sec. 2. NEW SECTION. 453C.2 REQUIREMENTS.

Any tobacco product manufacturer selling cigarettes to consumers within the state, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, on or after the effective date of this Act shall do one of the following:

1. Become a participating manufacturer as that term is defined in section II(jj) of the master settlement agreement and generally perform its financial obligations under the master settlement agreement.

2. a. Place into a qualified escrow fund by April 15 of the year following the year in question, the following amounts, as such amounts are adjusted for inflation:

(1) For 1999: \$.0094241 per unit sold on or after the effective date of this Act.

(2) For 2000: \$.0104712 per unit sold.

(3) For each of 2001 and 2002: \$.0136125 per unit sold.

(4) For each of 2003 through 2006: \$.0167539 per unit sold.

(5) For 2007 and each year thereafter: \$.0188482 per unit sold.

b. A tobacco product manufacturer that places funds into escrow pursuant to paragraph "a" shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under any of the following circumstances:

(1) To pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the state or any releasing party located or residing in the state. Funds shall be released from escrow under this subparagraph (1) in the order in which they were placed into escrow and only to the extent and at the time necessary to make payments required under such judgment or settlement.

(2) To the extent that a tobacco product manufacturer establishes that the amount the manufacturer was required to place into escrow in a particular year was greater than the state's allocable share of the total payments that such manufacturer would have been required to make in that year under the master settlement agreement had such manufacturer been a participating manufacturer, as such payments are determined pursuant to section IX(i)(2) of the master settlement agreement and before any of the adjustments or offsets described in section IX(i)(3) of that agreement other than the inflation adjustment, the excess shall be released from escrow and revert back to such tobacco product manufacturer.

(3) To the extent not released from escrow under subparagraph (1) or (2), funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five years after the date on which they were placed into escrow.

c. Each tobacco product manufacturer that elects to place funds into escrow pursuant to this subsection shall annually certify to the attorney general that the manufacturer is in compliance with this subsection. The attorney general may bring a civil action on behalf of the state against any tobacco product manufacturer that is not a participating manufacturer under the master settlement agreement and fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails in any year to place into escrow the funds required under this subsection shall be subject to all of the following:

(1) Be required within fifteen days to place such funds into escrow as shall bring the manufacturer into compliance with this subsection. The court, upon a finding of a violation of this subsection, may impose a civil penalty, to be paid to the general fund of the state, in an amount not to exceed five percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed one hundred percent of the original amount improperly withheld from escrow.

(2) In the case of a knowing violation, be required within fifteen days to place such funds into escrow as shall bring the manufacturer into compliance with this subsection. The

court, upon a finding of a knowing violation of this subsection, may impose a civil penalty, to be paid to the general fund of the state, in an amount not to exceed fifteen percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed three hundred percent of the original amount improperly withheld from escrow.

(3) In the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the state, whether directly or through a distributor, retailer, or similar intermediary, for a period not to exceed two years.

d. Each failure to make an annual deposit required under this subsection shall constitute a separate violation.

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

Approved May 20, 1999

CHAPTER 158
MARKETING OF TURKEYS AND TURKEY PRODUCTS —
COUNCIL — PRODUCER ASSESSMENT
H.F. 570

AN ACT relating to the Iowa turkey marketing council, by providing procedures for the administration of the council, a producer assessment, refunds, and for the expenditure of moneys by the council, and providing an effective date.

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

Section 1. Section 184A.1, Code 1999, is amended to read as follows:

184A.1 DEFINITIONS.

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

1. "Account" means the turkey council account created pursuant to section 184A.4.
2. "Council" means the "Iowa turkey marketing council" or "council" means the council administering promotion and research funds established pursuant to sections 184A.1A and 184A.1B. The council shall consist of the following seven members:
 - a. The Iowa secretary of agriculture or the secretary's representative.
 - b. The chairperson of the poultry science department of the Iowa state university of science and technology.
 - c. The Iowa turkey federation shall nominate ten representatives of the Iowa turkey industry, and the secretary shall appoint five representatives from the ten nominees or other representatives of the Iowa turkey industry of the secretary's choice as the representatives of the turkey industry on the council.
3. "Fund" means the Iowa turkey fund created pursuant to section 184A.4.
4. "Integrator" means any person who is both a producer and a processor.
2. 5. "Market development" means research and education programs directed toward to provide better and more efficient production, marketing, and utilization of turkey and turkey products produced for resale, and methods and means, including. The programs may include, but are not limited to, supporting public relations and other, promotion techniques, for and research efforts. The programs may provide for all of the following:
 - a. The maintenance of present markets, for and the development of new or larger domestic or foreign markets, for the sale of turkeys, and for,

~~b. The prevention, modification, or elimination of trade barriers which obstruct the free flow of such agricultural commodities to market commerce. Market development includes providing promotion and research funds for Iowa's participation~~

~~c. The education of consumers regarding the benefits of purchasing and consuming turkey products and the role of turkey producers and processors.~~

~~d. Participation in activities such as the and events sponsored by the national turkey federation, the "eat more turkey" campaign, and the national turkey federation research fund and other activities as may be authorized by the council which provide for research and promotion regarding the production and marketing of turkeys and turkey products.~~

~~3. 6. "Processor" means any a person who purchases more than one thousand turkeys for slaughter each year. The word "processor" may include where applicable; A processor includes an integrator, who is a person who both produces and processes turkeys.~~

~~4. 7. "Producer" means any a person doing business residing within this state or outside this state who does business in this state and who grows raises more than two hundred five thousand turkeys for slaughter each year. The word "producer" may include where applicable; A producer includes an integrator, who is a person who both produces and processes turkeys.~~

~~5. 8. "Qualified financial institution" means a bank, credit union, or savings and loan as defined in section 12C.1.~~

~~6. "Secretary" means a person employed by the Iowa turkey marketing council to perform duties specified by this chapter or the council.~~

~~7. "Treasurer" means the person appointed as treasurer by the Iowa turkey marketing council from the membership of the council.~~

~~9. "Qualified producer" means a producer who resides within this state.~~

~~8. 10. "Turkeys" "Turkey" means turkeys a turkey raised for slaughter.~~

~~11. "Turkey product" means a product produced in whole or in part from a turkey.~~

Sec. 2. NEW SECTION. 184A.1A REFERENDUM CONDUCTED TO ESTABLISH AN IOWA TURKEY MARKETING COUNCIL AND IMPOSE AN ASSESSMENT.

1. The department shall call and conduct a referendum upon the department's receipt of a petition which is signed by at least twenty eligible voters requesting a referendum to determine whether to establish an Iowa turkey marketing council as provided in section 184A.1B and impose an assessment as provided in section 184A.2. In order to be an eligible voter under this section, a petitioner must be a qualified producer. The referendum shall be conducted by election within sixty days following receipt of the petition. The petitioners shall guarantee payment of the cost of the referendum by providing evidence of financial security as required by the department.

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

3. a. Each eligible voter who signs a statement certifying that the eligible voter is a qualified producer shall be an eligible voter under this section. An eligible voter is entitled to cast one vote in each referendum conducted under this section. The department may conduct the referendum by mail, electronic means, or a general meeting of eligible voters.

b. At the close of the referendum, the department shall count and tabulate the ballots cast.

(1) If a majority of eligible voters who vote in the referendum approve establishing the council and imposing an assessment, a council shall be established, and an assessment shall be imposed commencing not more than sixty days following the referendum as determined by the council. The council and assessment shall continue for five years as provided in section 184A.12.

(2) If a majority of eligible voters who vote in the referendum do not approve establishing the council and imposing the assessment, the council shall not be established and an assessment shall not be imposed until another referendum is held under this section and a majority of the eligible voters voting approve establishing a council and imposing the assessment. If a referendum should fail, another referendum shall not be held within one hundred eighty days from the date of the last referendum.

4. Within thirty days after approval at the referendum to establish a council to impose an assessment, the department shall organize the council as provided in section 184A.1B.

Sec. 3. NEW SECTION. 184A.1B TURKEY MARKETING COUNCIL — COMPOSITION AND PROCEDURES.

1. The council shall consist of the following members:

a. The secretary of agriculture or the secretary's designee who shall serve at the pleasure of the secretary.

b. Six persons appointed by the board of the Iowa turkey federation. The appointees shall be knowledgeable about the care and management of poultry. The board shall appoint and replace the appointees by election as provided by the board. An appointee shall serve on the council at the pleasure of the board.

c. Any number of ex officio nonvoting members appointed by the board of the Iowa turkey federation. The board shall appoint and replace the appointees by election as provided by the board. An appointee shall serve on the council at the pleasure of the board.

2. The council shall elect a chairperson, and other officers, as needed, from among its members. An officer shall serve for a term as provided by the council, and may be reelected to serve subsequent terms unless otherwise provided by the council.

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

4. The council shall meet on the call of the chairperson or as otherwise provided by the council.

Sec. 4. NEW SECTION. 184A.1C POWERS OF THE COUNCIL.

The council may do all of the following:

1. Employ, manage, and discharge assistants and professional counsel as necessary, prescribe their duties and powers, and provide for their compensation.

2. Establish offices, incur expenses, and enter into any contracts or agreements necessary to carry out the purposes of this chapter.

3. Adopt rules necessary to administer the functions of the council as provided in this chapter.

4. Enter into arrangements for the collection and deposit of the assessment.

5. Require that any administrator, employee, or other person occupying a position of trust under this chapter give bond in the amount required by the council. The premiums for bonds shall be part of the costs of collecting the assessment.

6. Receive money, including in the form of gifts, rents, royalties, or license fees which shall be deposited in the turkey council account as provided in section 184A.4.

Sec. 5. Section 184A.2, Code 1999, is amended to read as follows:

184A.2 ~~FEE IMPOSED~~ — RATE ASSESSMENT.

1. If an assessment is approved by a majority of the eligible voters voting at a referendum as provided in section ~~184A.10~~ 184A.1A or 184A.12, there is hereby imposed a fee upon each turkey delivered for processing in the state of Iowa all of the following shall apply:

a. The assessment shall be imposed on each turkey delivered for processing.

b. The council shall establish a rate of the fee imposed assessment for each turkey delivered for processing. The council may establish different rates based on attributes or

~~characteristics of turkeys. However, a rate shall not be more than one cent for each turkey weighing less than ten pounds live weight and not more than two three cents for each turkey weighing ten or more pounds live weight, as established at the discretion of the council delivered for processing.~~

~~c. The fee assessment shall be imposed on the producer and collected at the time of delivery of a turkey to the processing plant and processor. The assessment shall be deducted by the processor at the time of delivery from the price paid to the producer at the time of the sale to the processor. A processor shall remit assessments to the council on a monthly basis as provided by the council. The council shall deposit the remitted assessments in the Iowa turkey fund as provided in section 184A.4.~~

~~2. The council may enter into agreements with processors from outside this state for the payment of the assessment.~~

~~3. The council shall provide for a refund of an assessment according to rules adopted by the council.~~

Sec. 6. Section 184A.3, Code 1999, is amended to read as follows:

184A.3 ~~INVOICES ASSESSMENT DOCUMENTATION.~~

~~At the time of delivery to the processing plant, the A processor receiving turkeys for slaughter shall do all of the following:~~

~~1. At the time of payment to the producer, the processor shall sign and submit a receipt to the producer which includes the rate of assessment imposed and the amount of the assessment for all turkeys delivered for processing.~~

~~2. Within a period established by rules adopted by the council, the processor shall regularly sign and deliver submit to the producer separate invoices for each purchase or such council an invoice or other records which will required by the council to expedite collection of the fee assessment. The council may require that the processor submit a separate invoice for each purchase. The invoice invoice shall be legibly printed and shall not be altered. An invoice shall show include all of the following:~~

~~1- a. The name and address of the producer and the seller, if the seller's name is different from the producer.~~

~~2- b. The name and address of the processor.~~

~~3- c. The quantity number of turkeys sold.~~

~~4- d. The date of the delivery.~~

~~Invoices shall be legibly written and shall not be altered.~~

Sec. 7. Section 184A.4, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

184A.4 ADMINISTRATION OF MONEYS.

1. The assessments collected by the council as provided in section 184A.2 shall be deposited in the office of the treasurer of state in a special fund known as the Iowa turkey fund. The department of revenue and finance shall transfer moneys from the fund to the council for deposit into the turkey council account established by the council pursuant to this section. The department shall transfer the moneys as provided in a resolution adopted by the council. However, the department is only required to transfer moneys once during each day and only during hours when the offices of the state are open.

2. The council shall establish a turkey council account in a qualified financial institution. The council shall provide for the deposit of all of the following into the account:

a. The assessment collected, deposited in the Iowa turkey fund, and transferred to the council as provided in this section.

b. Moneys, other than assessments, including moneys in the form of gifts, rents, royalties, or license fees received by the council pursuant to section 184A.1C.

Sec. 8. Section 184A.6, Code 1999, is amended to read as follows:

184A.6 USE OF MONEYS—APPROPRIATION.

1. All moneys deposited in the turkey council account pursuant to section 184A.4 shall be used by the council for purposes of administering this chapter. After payment of expenses, in accordance with section 184A.9 the

2. The council may use shall expend moneys transferred to the council as provided in this chapter which are appropriated and shall be used for the administration of this chapter, and for payment of claims based upon obligations incurred in from the account first for the payment of expenses for the collection of assessments, and then for the payment of expenses related to connecting* a referendum as provided in section 184A.12. The council shall expend remaining moneys for market development on behalf of the turkey industry, producer education, and the payment of refunds to producers as provided in this chapter.

Sec. 9. Section 184A.9, Code 1999, is amended to read as follows:
184A.9 AUDIT.

~~Moneys collected, deposited in the fund, and transferred to the council, required to be deposited in the turkey council account as provided in this chapter section 184A.4 shall be subject to audit by the auditor of state. The moneys shall be used by the council first for the payment of collection expenses and for payment of the costs and expenses arising in connection with conducting any required referendums, and secondly by the turkey marketing council for market development.~~

Sec. 10. Section 184A.12, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

184A.12 REFERENDUM CONDUCTED TO CONTINUE THE COUNCIL AND THE IMPOSITION OF THE ASSESSMENT.

1. The council shall call for a referendum to continue the council established pursuant to section 184A.1A, and to continue the assessment established pursuant to section 184A.2. The council shall call and conduct the referendum by election as provided in this section. The department shall oversee the conduct of the referendum. The referendum shall be conducted in the fifth year following the referendum establishing the council and assessment.

2. The following procedures shall apply to a referendum conducted pursuant to this section:

a. The council shall publish a notice of the referendum for a period of not less than five days in at least one newspaper of general circulation in the state and for a similar period in other newspapers as prescribed by the council. The notice shall state the voting places, period of time for voting, manner of voting, and other information deemed necessary by the council. A referendum shall not be commenced until five days after the last date of publication.

b. Upon signing a statement certifying to the council that a producer is an eligible voter, the producer is entitled to one vote in each referendum conducted pursuant to this section. In order to be an eligible voter under this section, a producer must be a qualified producer who paid an assessment in the year in which the referendum is held. The council may conduct the referendum by mail, electronic means, or a general meeting of eligible voters. The council shall conduct the referendum and count and tabulate the ballots filed during the referendum within thirty days following the close of the referendum.

(1) If a majority of eligible voters who vote in the referendum approve the continuation of the council and the imposition of the assessment, the council and the imposition of the assessment shall continue as provided in this chapter.

(2) If a majority of eligible voters who vote in the referendum do not approve continuing the council and the imposition of the assessment, the department shall terminate the collection of the assessment on the first day of the year for which the referendum was to continue. The department shall terminate the activities of the council in an orderly manner as soon as practicable after the referendum. A subsequent referendum may be held as provided in section 184A.1A. However, the subsequent referendum shall not be held within one hundred eighty days from the date of the last referendum.

* The word "conducting" probably intended

Sec. 11. NEW SECTION. 184A.12A REFERENDUM CONDUCTED TO ABOLISH THE COUNCIL AND TERMINATE THE IMPOSITION OF THE ASSESSMENT.

1. A referendum may be called to abolish the council established pursuant to sections 184A.1A and 184A.1B, and to terminate the imposition of the assessment established pursuant to section 184A.2. The department shall call and conduct the referendum upon the department's receipt of a petition requesting the referendum. The petition must be signed by at least twenty eligible voters or fifty percent of all eligible voters, whichever is greater. In order to be an eligible voter under this section, a producer must be a qualified producer who paid an assessment in the year in which the referendum is held. The referendum shall be conducted by election within sixty days following receipt of the petition. The petitioners shall guarantee payment of the cost of the referendum by providing evidence of financial security as required by the department.

2. The following procedures shall apply to a referendum conducted pursuant to this section:

a. The department shall publish a notice of the referendum for a period of not less than five days in at least one newspaper of general circulation in the state and for a similar period in other newspapers as prescribed by the department. The notice shall state the voting places, period of time for voting, manner of voting, and other information deemed necessary by the department. A referendum shall not be commenced until five days after the last date of publication.

b. Upon signing a statement certifying to the department that a producer is an eligible voter, the producer is entitled to one vote in each referendum conducted pursuant to this section. The department may conduct the referendum by mail, electronic means, or a general meeting of eligible voters. The department shall conduct the referendum and count and tabulate the ballots filed during the referendum within thirty days following the close of the referendum.

(1) If a majority of eligible voters who vote in the referendum approve the continuation of the council and the imposition of the assessment, the council and the imposition of the assessment shall continue as provided in this chapter.

(2) If a majority of eligible voters who vote in the referendum do not approve continuing the council and the imposition of the assessment, the department shall terminate the collection of the assessment on the first day of the year for which the referendum was to continue. The department shall terminate the activities of the council in an orderly manner as soon as practicable after the referendum. A subsequent referendum may be held as provided in section 184A.1A. However, the subsequent referendum shall not be held within one hundred eighty days from the date of the last referendum.

Sec. 12. Section 184A.14, Code 1999, is amended to read as follows:

184A.14 EXAMINATION OF BOOKS.

Any person subject to the provisions of this chapter shall furnish, on forms provided by the council, ~~any information needed to enable~~ required by the council ~~and secretary~~ to effectuate the ~~policies~~ provisions of this chapter. ~~For the purpose of ascertaining the correctness of any report made to the council or secretary under the provisions of this~~ In order to administer this chapter, the ~~secretary~~ council may examine books, papers, records, copies of tax returns, accounts, correspondence, contracts, or other documents and memoranda ~~that~~ it deems relevant which are in the control of ~~any a person subject to this chapter~~ and which are not otherwise confidential as provided by law. The ~~secretary~~ council may hold hearings, take testimony, administer oaths, subpoena witnesses, and issue subpoenas duces tecum in connection with the administration of this ~~chapter~~ section.

Sec. 13. Section 184A.15, Code 1999, is amended to read as follows:

184A.15 MISDEMEANOR.

~~It is a simple misdemeanor for any~~ A person to ~~is guilty of a simple misdemeanor for~~ willfully violate ~~violating~~ any provision of this chapter, or for ~~any person to~~ willfully render

~~rendering or furnish~~ furnishing a false or fraudulent report, statement, or record required by the council ~~or secretary~~.

Sec. 14. Section 184A.17, Code 1999, is amended to read as follows:

184A.17 REPORT.

The council shall prepare and submit a report summarizing the activities of the council under this chapter each year to the auditor of state and the secretary of agriculture. The report shall show all income, expenses, and other relevant information concerning fees assessments collected and expended under the provisions of this chapter.

Sec. 15. Section 184A.18, Code 1999, is amended to read as follows:

184A.18 NOT A STATE AGENCY.

The ~~Iowa turkey marketing~~ council ~~shall is~~ not be a state agency.

Sec. 16. Section 184A.19, Code 1999, is amended to read as follows:

184A.19 ~~DEFICIT SPENDING NOT AUTHORIZED~~ PROHIBITED ACTIVITIES.

~~This chapter shall not be construed to authorize the Iowa turkey marketing~~ The council to operate shall not do any of the following:

1. Operate with a deficit or use deficit financing for administration of this chapter.
2. Expend moneys from the account in a manner that is not authorized pursuant to section 184A.6.
3. Become involved in supporting a political campaign or issue, by making a contribution of moneys from the account, either directly or indirectly, to any political party or organization or in support of a political candidate for public office. The council shall not expend the moneys to a political candidate including but not limited to a member of congress or the general assembly for honorariums, speeches, or for any other purposes above actual and necessary expenses.

Sec. 17. Sections 184A.5, 184A.8, 184A.11, 184A.13, and 184A.16, Code 1999, are repealed.

Sec. 18. EFFECT OF THIS ACT — TRANSITION. This Act shall not require a referendum as provided in section 184A.1A, as amended by this Act. This Act does not modify when a referendum must be conducted as provided in section 184A.12, Code 1999. The Iowa turkey marketing council shall establish the rate of assessment as provided in section 184A.2, as amended by this Act.

Sec. 19. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 20, 1999

CHAPTER 159**SEXUAL ABUSE — MISCELLANEOUS PROVISIONS**

H.F. 661

AN ACT relating to the offense of sexual abuse, providing related definitions, and applying penalties.

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

Section 1. Section 709.1, Code 1999, is amended to read as follows:

709.1 SEXUAL ABUSE DEFINED.

Any sex act between persons is sexual abuse by either of the ~~participants~~ persons when the act is performed with the other ~~participant~~ person in any of the following circumstances:

1. The act is done by force or against the will of the other. If the consent or acquiescence of the other is procured by threats of violence toward any person or if the act is done while the other is under the influence of a drug inducing sleep or is otherwise in a state of unconsciousness, the act is done against the will of the other.

2. Such other ~~participant~~ person is suffering from a mental defect or incapacity which precludes giving consent, or lacks the mental capacity to know the right and wrong of conduct in sexual matters.

3. Such other ~~participant~~ person is a child.

Sec. 2. NEW SECTION. 709.1A INCAPACITATION.

As used in this chapter, "incapacitated" means a person is disabled or deprived of ability, as follows:

1. "Mentally incapacitated" means that a person is temporarily incapable of apprising or controlling the person's own conduct due to the influence of a narcotic, anesthetic, or intoxicating substance.

2. "Physically helpless" means that a person is unable to communicate an unwillingness to act because the person is unconscious, asleep, or is otherwise physically limited.

3. "Physically incapacitated" means that a person has a bodily impairment or handicap that substantially limits the person's ability to resist or flee.

Sec. 3. Section 709.3, Code 1999, is amended to read as follows:

709.3 SEXUAL ABUSE IN THE SECOND DEGREE.

A person commits sexual abuse in the second degree when the person commits sexual abuse under any of the following circumstances:

1. During the commission of sexual abuse the person displays in a threatening manner a dangerous weapon, or uses or threatens to use force creating a substantial risk of death or serious injury to any person.

2. The other ~~participant~~ person is under the age of twelve.

3. The person is aided or abetted by one or more persons and the sex act is committed by force or against the will of the other ~~participant~~ person against whom the sex act is committed.

Sexual abuse in the second degree is a class "B" felony.

Sec. 4. Section 709.4, Code 1999, is amended to read as follows:

709.4 SEXUAL ABUSE IN THE THIRD DEGREE.

A person commits sexual abuse in the third degree when the person performs a sex act under any of the following circumstances:

1. The act is done by force or against the will of the other ~~participant~~ person, whether or not the other ~~participant~~ person is the person's spouse or is cohabiting with the person.

2. The act is between persons who are not at the time cohabiting as husband and wife and if any of the following are true:

a. The other ~~participant person~~ is suffering from a mental defect or incapacity which precludes giving consent.

b. The other ~~participant person~~ is twelve or thirteen years of age.

c. The other ~~participant person~~ is fourteen or fifteen years of age and any of the following are true:

(1) The person is a member of the same household as the other ~~participant person~~.

(2) The person is related to the other ~~participant person~~ by blood or affinity to the fourth degree.

(3) The person is in a position of authority over the other ~~participant person~~ and uses that authority to coerce the other ~~participant person~~ to submit.

(4) The person is ~~five~~ four or more years older than the other ~~participant person~~.

3. The act is performed while the other ~~participant person~~ 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. a.~~ The controlled substance, which may include but is not limited to flunitrazepam, prevents the other ~~participant person~~ from consenting to the act.

~~e. b.~~ The person performing the act knows or reasonably should have known that the other ~~participant person~~ was under the influence of the controlled substance, which may include but is not limited to flunitrazepam.

4. The act is performed while the other person is mentally incapacitated, physically incapacitated, or physically helpless.

Sexual abuse in the third degree is a class "C" felony.

Sec. 5. Section 709.5, Code 1999, is amended to read as follows:

709.5 RESISTANCE TO SEXUAL ABUSE.

Under the provisions of this chapter it shall not be necessary to establish physical resistance by a ~~participant person~~ in order to establish that an act of sexual abuse was committed by force or against the will of the ~~participant person~~. However, the circumstances surrounding the commission of the act may be considered in determining whether or not the act was done by force or against the will of the other.

Approved May 20, 1999

CHAPTER 160**MENTAL HEALTH, MENTAL RETARDATION, AND
DEVELOPMENTAL DISABILITIES SERVICES***H.F. 664*

AN ACT relating to mental health, mental retardation, and other developmental disabilities and including effective date and applicability provisions.

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

DIVISION I**ADULT MH/MR/DD SERVICES FUNDING PILOT PROJECT**

Section 1. NEW SECTION. 331.440A ADULT MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES SERVICES FUNDING DECATEGORIZATION PILOT PROJECT.

1. DEFINITIONS. For the purposes of this section, unless the context requires otherwise:

a. "Department" means the department of human services.

b. "Pilot project areas" means the pilot project created under this section involving the three-county or multicounty single entry point process administrative areas designated in accordance with this section.

c. "Target population" means any person who is a legal resident of a pilot project county and meets both of the following conditions:

(1) The person is eighteen years of age or older. However, a person who is more than sixty-four years of age who requires full-time nursing facility care shall not be included in the target population.

(2) The person is eligible for assistance under the pilot project county management plan approved under section 331.439.

2. PURPOSE. The purpose of the pilot project is to improve outcomes for service consumers by allowing pilot project counties to administer overall projected funding from state and federal sources together with other available funding, and by reducing or eliminating unnecessary barriers associated with funding sources, and thereby to creatively meet the divergent, individual needs of service consumers in the community.

3. PROJECT ESTABLISHED. The department of human services shall establish a pilot project for decategorizing the public funding for adult mental health, mental retardation, and developmental disabilities services in accordance with this section. The pilot project shall include the three-county single entry point process administrative areas designated for decategorization planning under 1997 Iowa Acts, chapter 169, section 13. Under the pilot project, a projected funding amount for a fiscal year shall be developed for each of the three administrative areas, from the funding sources designated in this section. The projected funding amount for a fiscal year, manner of payment, and other provisions of the pilot project shall be delineated in contracts between the department and the counties involved in the pilot project.

4. COUNTY MANAGEMENT PLAN. The counties participating in the pilot project shall amend their county management plans approved under section 331.439 to be applicable to the period of the pilot project. Unless a change in federal or state funding provisions reduces the availability of funding, a pilot project county's management plan eligibility provisions shall not be more restrictive than the provisions in effect as of June 30, 1999. The amended county management plans shall address the service needs of the populations served under the funding sources included in the pilot project beginning with the applicable phase.

For purposes of determining the financial responsibility of a pilot project county, a legal resident includes anyone living in the county at the time services or other support are provided who is a member of the target population. A legal resident includes but is not limited to a person who is homeless or living in a homeless shelter. However, if an individual

resides in a pilot project county as a result of placement or referral for services or other support by another county or another state, financial responsibility remains with the other county or other state.

5. COUNTY RESPONSIBILITIES.

a. A county participating in the pilot project is responsible to provide or pay for services and other support to appropriately address the needs of the target population attributable to that county. This responsibility includes accountability for clinical, administrative, and fiscal functions.

b. A pilot project area may choose among alternative approaches in administering services under the pilot project. The alternative approaches include but are not limited to any of the following:

- (1) A case rate approach to purchase of services.
- (2) A fee-for-service purchasing approach with an emphasis on flexible, creative services.
- (3) A mixed model involving both case rate and fee-for-service approaches.

c. A pilot project area shall provide data and other reports as provided in the contract with the department.

d. Moneys received by a county under the pilot project shall be deposited in the county's services fund. Moneys received that remain unencumbered or unobligated at the close of the fiscal year shall remain available to be used to benefit the county's target population in the succeeding fiscal year.

e. Receipt and expenditures of moneys under the pilot project shall be subject to examination during the regular audit of the pilot project area counties performed in accordance with chapter 11.

6. FUNDING — PHASES. The department shall negotiate with the pilot project areas to identify the projected funding amount to be provided to the areas for a fiscal year. The projected funding amount shall be determined in accordance with a pilot project area's relative share of the statewide expenditures for services and other support paid by the funding sources included in the pilot project plus the related administrative expenses. Unless the commencement dates are delayed due to a determination by the oversight committee, the pilot project funding shall be implemented in two phases with the first phase to commence July 1, 2000, and the second phase to commence July 1, 2001, as provided in paragraph "d". Both phases of the pilot project shall end December 31, 2003. The phases of the pilot project shall be implemented as follows:

a. In the first phase, the department and the pilot project areas shall negotiate the specific projected funding amounts to be provided to each area. The department and the pilot project areas shall provide any data or other information necessary to accurately develop the projected amounts. The funding amount for the first phase shall be determined by December 30, 1999.

b. In the first phase, the mental health services funding sources for the pilot project areas shall include but are not limited to all of the following:

- (1) The state share of the costs of care in the state mental health institutes.
- (2) The mental health portion of any federal grant funding administered through the United States department of health and human services.
- (3) Federal social services block grant funding.
- (4) State case funding.
- (5) State funding for the purchase of local services for persons with mental illness where the client has no established county of legal settlement.
- (6) State supplementary assistance funding.
- (7) To the extent allowed by the federal government, the mental health portion of federal funding provided for vocational rehabilitation of individuals with disabilities.

c. In the first phase, the mental retardation and other developmental disabilities services funding sources for the pilot project areas shall include but are not limited to all of the following:

(1) State and federal medical assistance funding for home and community-based waiver services to persons with mental retardation.

(2) The state share of the costs of care in the state hospital-schools.

(3) State and federal medical assistance payments for intermediate care facilities for persons with mental retardation services.

(4) Federal social services block grant funding.

(5) State funding for the purchase of local services for persons with mental retardation and other developmental disabilities where the client has no established county of legal settlement.

(6) State supplementary assistance funding.

(7) To the extent allowed by the federal government, the mental retardation and other developmental disabilities portion of federal funding provided for vocational rehabilitation of persons with disabilities.

d. In the second phase, all other medical assistance funding for mental health services for the pilot project areas shall be incorporated into the annual projected funding amount. Implementation of the second phase shall be subject to enactment by the general assembly of an implementation authorization.

7. OVERSIGHT COMMITTEE.

a. An oversight committee shall be established to provide general oversight of the pilot project and the risk pool and to perform the duties outlined in this subsection. The oversight committee shall consist of the following members:

(1) At least one service consumer, one service provider, and one county supervisor from each of the three pilot project areas, designated by the governor.

(2) An individual designated by the governor.

(3) One individual designated by the division of medical services of the department of human services and one individual designated by the division of mental health and developmental disabilities of the department of human services.

(4) An individual designated by the legislative council. If the individual designated by the legislative council is a member of the general assembly, that member shall be a nonvoting member.

b. The oversight committee shall have the following duties and responsibilities:

(1) The oversight committee may make a determination that implementation by the department of human services of a significant funding provision such as the rehabilitation option for persons with chronic mental illness or a waiver under the medical assistance program or another good cause reason justifies delay of the implementation of the pilot project phases as provided in subsection 6. If such a determination is made, the department of human services and pilot project counties shall delay implementation of the pilot project phases until a date identified by the oversight committee.

(2) The oversight committee shall arrange for an independent evaluation of the pilot project in accordance with subsection 9.

(3) The oversight committee shall provide assistance to the pilot project counties, the department of human services, and other interested persons concerning implementation of the pilot project.

(4) The oversight committee shall perform functions for the risk pool in accordance with subsection 8.

8. RISK POOL. In order to augment assistance from the risk pool of the property tax relief fund for which the pilot project counties may be eligible under section 426B.5, the pilot project administrative areas shall create and commit funding to a pilot project risk pool. The pilot project risk pool shall be used to cover unexpected costs resulting from an unanticipated event such as a legal settlement requirement or need for an exceptionally costly set of services or other support. Funding shall be committed on the basis of a percentage of the pilot project counties overall budget for services under the counties' management plan with an annual maximum percentage for each area and an overall combined percentage maximum, as determined by the pilot project counties in consultation with the oversight

committee. Expenditure of this risk pool funding shall be subject to authorization by the oversight committee.

9. OUTCOMES AND EVALUATION.

a. In consultation with the oversight committee, the pilot project participants and the department shall agree on a set of outcomes and indicators to measure the effect of the pilot project upon the system of care in those counties. The department and pilot project areas shall annually report to the governor and general assembly by December 15 on the implementation status of the pilot project and the performance on the indicators. The report shall include any findings identified by the oversight committee.

b. The oversight committee shall arrange for an independent evaluation of the pilot project. The evaluation shall assess the quality of services as well as the cost-effectiveness of the pilot project. The evaluation shall include a focus on special populations such as persons who are homeless or who have multiple disabilities or service needs.

c. A final report concerning the pilot project shall be submitted by the department and the pilot project areas to the governor and general assembly. It is the intent of the general assembly to use that report to determine whether to continue the pilot project, revise it, terminate it, or implement the pilot project provisions or a similar approach statewide.

10. LAW — RULES — IMPLEMENTATION.

a. If a provision of state law or administrative rule is in conflict with a provision of this section, the provision of this section shall prevail. State law and administrative rules governing the funding sources specified in this section are not applicable to use of the funding by the pilot project counties.

b. The department shall amend the medical assistance state plan and apply for federal waivers as necessary to implement the provisions of this section.

c. The department shall amend its contract for managed behavioral health care under medical assistance as necessary to implement the second phase of the pilot project and for the medical assistance-eligible persons covered under that contract to instead be covered by the pilot project counties.

d. The pooling of funding sources and the provision of services under this pilot project and implementation of a risk pool as authorized in this section is not insurance and is not subject to regulation under chapters 505 through 523C.

e. The department of human services shall amend the state medical assistance plan, implement federal waivers, or take other actions as necessary for the pilot project areas to be able to draw federal funding for the start-up and other costs to implement the pilot project.

f. The department shall give consideration to implementing a rehabilitation option under the medical assistance program for persons with chronic mental illness.

g. The requirements of this section may be adapted as necessary to comply with federal law, regulation, or other requirements in order to assure federal financial participation in the pilot project.

DIVISION II
MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES
COMMISSION

Sec. 2. Section 225C.4, subsection 1, paragraph p, Code 1999, is amended to read as follows:

p. ~~Recommend and enforce to the commission~~ minimum accreditation standards for the maintenance and operation of community mental health centers, services, and programs under section 230A.16. The administrator's review and evaluation of the centers, services, and programs for compliance with the adopted standards shall be as provided in section 230A.17.

Sec. 3. Section 225C.4, subsection 1, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. pp. Recommend to the commission minimum standards for supported community living services. The administrator shall review and evaluate the services for compliance with the adopted standards.

Sec. 4. Section 225C.6, subsection 1, paragraph c, Code 1999, is amended to read as follows:

c. Adopt standards for community mental health centers, services, and programs as recommended under section 230A.16. The commission shall determine whether to grant, deny, or revoke the accreditation of the centers, services, and programs.

Sec. 5. Section 225C.6, subsection 1, paragraph l, Code 1999, is amended to read as follows:

l. Establish standards for the provision under medical assistance of individual case management services. The commission shall determine whether to grant, deny, or revoke the accreditation of the services.

Sec. 6. Section 225C.21, subsection 2, Code 1999, is amended to read as follows:

2. The ~~department~~ commission shall adopt rules pursuant to chapter 17A establishing minimum standards for ~~the programming of~~ supported community living services. The ~~department~~ commission shall ~~approve all~~ determine whether to grant, deny, or revoke approval for any supported community living services ~~which meet the minimum standards service.~~

DIVISION III STATE-COUNTY MANAGEMENT COMMITTEE

Sec. 7. Section 331.438, subsection 4, paragraph b, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The management committee shall consist of ~~not more than twelve~~ fifteen voting members as follows:

Sec. 8. Section 331.438, subsection 4, paragraph b, subparagraph (1), Code 1999, is amended to read as follows:

(1) ~~An equal number of not more than nine~~ Four members shall be appointed by the director of human services ~~and~~. Four members shall be appointed by the Iowa state association of counties and one additional member shall be jointly appointed by both entities. Members appointed by the Iowa state association of counties shall be selected from a pool nominated by the county supervisor affiliate of the association with four members from the affiliate. The affiliate shall select the nominees through a secret ballot process. In addition, two members shall be appointed by the community services affiliate of the Iowa state association of counties.

Sec. 9. Section 331.438, subsection 4, paragraph b, subparagraph (2), Code 1999, is amended to read as follows:

(2) The committee shall include ~~one member~~ two members nominated by service providers, one member nominated by service advocates, ~~and consumers~~ one member who is a service consumer, and one member nominated by the state's council of the association of federal, state, county, and municipal employees, with these members appointed by the governor.

Sec. 10. Section 331.438, subsection 4, paragraph b, subparagraph (4), Code 1999, is amended to read as follows:

(4) A member who is not a legislator shall have expenses and other costs paid by the state or the county entity that the member represents. The committee shall ~~establish terms for its members~~, elect officers, adopt operating procedures, and meet as deemed necessary by the committee. Terms of office for the appointed voting members of the committee are three

years and shall be staggered. A vacancy on the committee shall be filled in the same manner as the original appointment.

Sec. 11. SERVICE SYSTEM ISSUES. The state-county management committee shall create a task force to consider issues and options regarding statewide eligibility standards, identification of core or basic services to be made reasonably available statewide, statewide equity and other considerations associated with distributing state funding, implementation of funding decategorization, changes in the membership composition of the committee, legal settlement issues, improved utilization of available funding streams, and the allowed growth recommendation process. In considering the allowed growth recommendation process, the task force shall review the divergence between unmet needs in the service delivery system and county expenditure trends and shall make specific recommendations as to how allowed growth funding can best be distributed to address services that are not adequately funded and population groups that are not served or are underserved. The committee shall consider the task force report and recommendations in making the committee's report on these topics to the governor and general assembly, which shall be submitted on or before November 15, 1999. The legislative council is requested to designate a legislative interim committee to meet for two or more days to consider the report on behalf of the general assembly.

Sec. 12. STAGGERED TERMS. Effective July 1, 1999, the appointing authorities for the state-county management committee shall provide by mutual agreement for the staggering of the terms of voting members of the committee so that the terms of at least five members expire each year. Based on this mutual agreement, the terms of individuals who are voting members of the committee as of June 30, 1999, shall either expire June 30, 1999, or be for one, two, or three years beginning on July 1, 1999. The terms of the two members appointed by the community services affiliate of the Iowa state association of counties shall commence July 1, 1999. This section takes effect June 30, 1999.

DIVISION IV COUNTY MANAGEMENT PLAN PROVISIONS

Sec. 13. Section 331.439, subsection 1, paragraph b, Code 1999, is amended to read as follows:

b. The county developed and implemented a county management plan for the county's mental health, mental retardation, and developmental disabilities services in accordance with the provisions of this paragraph "b". The plan shall comply with the administrative rules adopted for this purpose by the council on human services and is subject to the approval of the director of human services in consultation with the state-county management committee created in section 331.438. The plan shall include a description of the county's service management provision for mental health, mental retardation, and developmental disabilities services. For mental retardation and developmental disabilities service management, the plan shall describe the county's development and implementation of a managed system of cost-effective individualized services and shall comply with the provisions of paragraph "d". The goal of this part of the plan shall be to assist the individuals served to be as independent, productive, and integrated into the community as possible. The service management provisions for mental health shall comply with the provisions of paragraph "c". A county is subject to all of the following provisions in regard to the county's management plan and planning process:

(1) The county shall have in effect an approved policies and procedures manual for the county's services fund. The county management plan shall be defined in the manual. The manual submitted by the county as part of the county's management plan for the fiscal year beginning July 1, 2000, as approved by the director of human services, shall remain in effect, subject to amendment. An amendment to the manual shall be submitted to the department of human services at least forty-five days prior to the date of implementation. Prior to

implementation of any amendment to the manual, the amendment must be approved by the director of human services in consultation with the state-county management committee.

(2) For informational purposes, the county shall submit a management plan review to the department of human services by April 1 of each year. The annual review shall incorporate an analysis of the data associated with the services managed during the preceding fiscal year by the county or by a managed care entity on behalf of the county.

(3) For informational purposes, every three years the county shall submit to the department of human services a three-year strategic plan. The strategic plan shall describe how the county will proceed to attain the goals and objectives contained in the strategic plan for the duration of the plan. The three-year strategic plan shall be submitted by April 1, 2000, and by April 1 of every third year thereafter.

Sec. 14. Section 331.439, subsection 1, paragraph c, subparagraph (1), Code 1999, is amended to read as follows:

(1) For mental health service management, the county may either directly implement a system of service management and contract with service providers, or contract with a private entity to manage the system, provided all requirements of this lettered paragraph are met by the private entity. The mental health service management shall incorporate a single entry point and clinical assessment process developed in accordance with the provisions of section 331.440. ~~The county shall submit this part of the plan to the department of human services for approval by April 1 for the succeeding year. Initially, this part of the plan shall be submitted to the department by April 1, 1996, and the county shall implement the approved plan by July 1, 1996.~~

Sec. 15. Section 331.439, subsection 1, paragraphs d and e, Code 1999, are amended to read as follows:

d. For mental retardation and developmental disabilities services management, the county must either develop and implement a managed system of care which addresses a full array of appropriate services and cost-effective delivery of services or contract with a state-approved managed care contractor or contractors. Any system or contract implemented under this paragraph shall incorporate a single entry point and clinical assessment process developed in accordance with the provisions of section 331.440. The elements of the managed system of care and the state-approved managed care contract or contracts shall be specified in rules developed by the department of human services in consultation with the state-county management committee and adopted by the council on human services. ~~Initially, this part of the plan shall be submitted to the department for approval on or before October 1, 1996, and shall be implemented on or before January 1, 1997. In fiscal years succeeding the fiscal year of initial implementation, this part of the plan shall be submitted to the department of human services for approval by April 1 for the succeeding fiscal year.~~

~~e. Changes to the approved plan are submitted at least sixty days prior to the proposed change and are not to be implemented prior to the director of human services' approval.~~

Sec. 16. EFFECTIVE DATE — APPLICABILITY. This division of this Act takes effect July 1, 2000, except that the management plan and planning process provisions under section 331.439, as amended by this division of this Act, take effect upon enactment and are applicable for purposes of preparation and submission of the management plan by April 1, 2000, for the fiscal year beginning July 1, 2000.

DIVISION V RESIDENTIAL CARE FACILITIES FOR PERSONS WITH MENTAL RETARDATION

Sec. 17. Section 135C.6, subsection 8, paragraphs a and b, Code 1999, are amended to read as follows:

a. A residential program which provides care to not more than four individuals and receives moneys appropriated to the department of human services under provisions of a federally approved home and community-based services waiver for persons with mental retardation or other medical assistance program under chapter 249A. In approving a residential program under this paragraph, the department of human services shall consider the geographic location of the program so as to avoid an overconcentration of such programs in an area. In order to be approved under this paragraph, a residential program shall not be required to involve the conversion of a licensed residential care facility for persons with mental retardation.

b. A total of ~~twenty~~ forty 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 "a" except that the program shall not serve more than five individuals. The department of human services shall allocate conversion authorizations to provide for ~~four~~ eight 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.~~

Approved May 20, 1999

CHAPTER 161

DESIGNATION OF STATE POET LAUREATE

H.F. 688

AN ACT providing for the designation of a state poet laureate.

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

Section 1. NEW SECTION. 303.88A STATE POET LAUREATE DESIGNATED — NOMINATING COMMITTEE.

1. A state poet laureate nominating committee is created. At the request of the governor, the executive director of humanities Iowa and the executive director of the Iowa arts council shall each appoint three persons who reside in this state to a poet laureate nominating committee. At its initial meeting held at the call of the executive directors of humanities Iowa and the Iowa arts council, the state poet laureate nominating committee shall elect a chairperson and vice chairperson from among its members and adopt rules of procedure. The members of the state poet laureate nominating committee shall be invited to serve without compensation for their services. The nominating committee is charged with considering the diversity of the people and poetry of Iowa.

2. If more than one meeting is required, the state poet laureate nominating committee shall meet at the call of the chairperson or as determined by the nominating committee and select a list of three nominees, along with biographical and professional information and supporting representative material, who are residents of Iowa and who, based on their

poetic accomplishments, deserve recognition as the state poet laureate. The list of nominees shall be transmitted to the governor. The governor may select the state poet laureate from the list of nominees for a two-year term of office. The state poet laureate is an honorary state office and the incumbent is entitled to no compensation as a result of the appointment.

Approved May 20, 1999

CHAPTER 162

RIGHTS OF DISSENTING SHAREHOLDERS OF BANKS

H.F. 445

AN ACT relating to the rights of a dissenting shareholder of a state bank.

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

Section 1. Section 524.1406, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 3. a. Notwithstanding any contrary provision in chapter 490, division XIII, in determining the fair value of the shareholder's shares under this section, due consideration shall be given to valuation issues acknowledged and authorized by the Internal Revenue Code, as defined in section 422.3, including discounts for minority interests and discounts for lack of marketability.

b. If, prior* to giving notice of a meeting at which a shareholder would be entitled to assert dissenter's rights, a bank may seek a declaratory judgment to establish the fair value for purposes of section 490.1301, subsection 4, of shares held by shareholders who would have a right to dissent. Another cause of action or a counterclaim shall not be joined with such a declaratory action. A declaratory judgment shall be filed in the county where the bank's principal place of business is located. The court shall appoint an attorney to represent minority shareholders. All shareholders of the bank shall be served with notice of the action and be advised of the name, address, and telephone number of the attorney appointed to represent minority shareholder interests. The bank may select an appraiser to give an opinion on fair value and the attorney shall select an appraiser to give an opinion on fair value. Any shareholder may participate individually and present evidence of the fair value of such shareholder's shares. All court costs, appraiser's fees, and the fees and expenses of the attorney shall be assessed against the bank. A judgment in the action shall not determine fair value for a share to be less than the stockholders' equity in the bank in its last statement of condition filed under section 524.220 divided by the number of shares outstanding. A final judgment in the action shall establish fair value for the purposes of chapter 490, division XIII and shall be disclosed to the shareholders in the notice to shareholders of the meeting to approve the transaction that gives rise to dissenters' rights. If the proposed transaction is approved by the shareholders, upon consummation of the proposed transaction the fair value so established shall be paid to all shareholders entitled to payment for their shares upon receipt of such shareholders' share certificates.

Approved May 21, 1999

* See chapter 208, §59 herein

CHAPTER 163**CONTRABAND IN PRISONS AND DETENTION FACILITIES***S.F. 101*

AN ACT relating to the offense of promoting or possessing contraband in prisons and detention facilities and establishing penalties.

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

Section 1. Section 719.7, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

719.7 PROMOTING OR POSSESSING CONTRABAND.

1. "Contraband" includes but is not limited to any of the following:

a. A controlled substance or a simulated or counterfeit controlled substance, hypodermic syringe, or intoxicating beverage.

b. A dangerous weapon, offensive weapon, pneumatic gun, stun gun, firearm ammunition, knife of any length or any other cutting device, explosive or incendiary material, instrument, device, or other material fashioned in such a manner as to be capable of inflicting death or injury.

c. Rope, ladder components, key or key pattern, metal file, instrument, device, or other material designed or intended to facilitate escape of an inmate.

2. The department of corrections may x-ray a person under the control of the department if there is reason to believe that the person is in possession of contraband. A licensed physician or x-ray technician under the supervision of a licensed physician must x-ray the person.

3. A person commits the offense of possessing contraband if the person, not authorized by law, does any of the following:

a. Knowingly introduces contraband into, or onto the grounds of a correctional institution or institution under the management of the department of corrections.

b. Knowingly conveys contraband to any person confined in a correctional institution or institution under the management of the department of corrections.

c. Knowingly makes, obtains, or possesses contraband while confined in a correctional institution or institution under the management of the department of corrections or while being transported or moved incidental to confinement.

4. A person who possesses contraband or fails to report an offense of possessing contraband commits the following:

a. A class "C" felony for the possession of contraband if the contraband is of the type described in subsection 1, paragraph "b".

b. A class "D" felony for the possession of contraband if the contraband is any other type of contraband.

c. An aggravated misdemeanor for failing to report a known violation or attempted violation of this section to an official or officer at a correctional institution or institution under the management of the department of corrections.

5. Nothing in this section is intended to limit the authority of the administrator of any correctional institution or institution under the management of the department of corrections to prescribe or enforce rules concerning the definition of contraband, and the transportation, making, or possession of substances, devices, instruments, materials, or other items in the institutions.

Sec. 2. Section 719.8, Code 1999, is amended to read as follows:

719.8 FURNISHING A CONTROLLED SUBSTANCE OR INTOXICATING BEVERAGE TO INMATES AT A DETENTION FACILITY.

A person not authorized by law who furnishes or knowingly makes available a controlled substance or intoxicating beverage to an inmate at a detention facility ~~or correctional~~

~~institution, or at an institution under the management of the Iowa department of corrections, or who introduces a controlled substance or intoxicating beverage into the premises of such an institution a facility, commits a class "D" felony.~~

Approved May 24, 1999

CHAPTER 164

GUARDIANS AD LITEM FOR CHILDREN IN JUVENILE COURT

S.F. 193

AN ACT relating to the duties of a guardian ad litem appointed to represent a child in juvenile court proceedings.

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

Section 1. Section 232.2, subsection 22, Code 1999, is amended to read as follows:

22. a. "Guardian ad litem" means a person appointed by the court to represent the interests of a child in any judicial proceeding to which the child is a party, and includes a court appointed special advocate, except that a court appointed special advocate shall not file motions or petitions pursuant to section 232.54, subsections 1 and 4, section 232.103, subsection 2, paragraph "c", and section 232.111.

b. Unless otherwise enlarged or circumscribed by a court or juvenile court having jurisdiction over the child or by operation of law, the duties of a guardian ad litem with respect to a child shall include the following:

a. (1) Conducting in-person interviews with the child, if the child's age is appropriate for the interview, and interviewing each parent, guardian, or other person having custody of the child, if authorized by counsel.

b. (2) Conducting interviews with the child, if the child's age is appropriate for the interview, prior to any court-ordered hearing.

(3) Visiting the home, residence, or both home and residence of the child and any prospective home or residence of the child, including each time placement is changed.

e. (4) Interviewing any person providing medical, mental health, social, educational, or other services to the child, before any hearing referred to in subparagraph (2).

d. (5) Obtaining first-hand knowledge, if possible, of the facts, circumstances, and parties involved in the matter in which the person is appointed guardian ad litem.

e. (6) Attending any hearings in the matter in which the person is appointed as the guardian ad litem.

(7) Attending, if necessary, any departmental staff meeting or case conference regarding the child, and if necessary, any meeting with medical or mental health providers, service providers, organizations, or educational institutions.

c. The order appointing the guardian ad litem shall specify the duties of and grant authorization to the guardian ad litem to interview any relevant person and inspect and copy any records relevant to the proceedings, if not prohibited by federal law. The order shall specify that the guardian ad litem may interview any person providing medical, mental health, social, educational, or other services to the child, and may inspect and copy any records relevant to the proceedings.

Approved May 24, 1999

CHAPTER 165**OPERATION AND REGULATION OF INSURANCE COMPANIES****S.F. 249**

AN ACT relating to the operation and regulation of insurance companies, including the treatment of certain confidential information by the commissioner, the operation of certain types of insurance companies, and the rights and duties of insurance companies under certain policies issued in this state.

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

Section 1. Section 505.17, Code 1999, is amended to read as follows:

505.17 CONFIDENTIAL INFORMATION.

Information, records, and documents utilized for the purpose of, or in the course of, investigation, regulation, or examination of an insurance company or insurance holding company, received by the division from some other governmental entity which treats such information, records, and documents as confidential, are confidential and shall not be disclosed by the division and are not subject to subpoena. Such information, records, and documents do not constitute a public record under chapter 22.

The disclosure of confidential information, administrative or judicial orders which contain confidential information, or information regarding other action of the division which is not a public record subject to disclosure, to other insurance and financial regulatory officials ~~from this or other states~~ may be permitted by the commissioner provided that those officials are subject to, or agree to comply with, standards of confidentiality comparable to those imposed on the commissioner.

Sec. 2. Section 508B.1, subsection 6, Code 1999, is amended to read as follows:

6. "Reorganized company" means the domestic stock ~~life insurance~~ company into which a mutual company has been converted, converted and merged, or converted and consolidated.

Sec. 3. Section 508B.6, Code 1999, is amended to read as follows:

508B.6 APPROVAL OF PLAN BY POLICYHOLDERS — NOTICE OF ELECTION — EFFECTIVE DATE.

~~After the plan has been approved by the commissioner as provided in section 508B.7, the~~ The plan of conversion shall be submitted to and shall not take effect until approved by two thirds of the policyholders of the mutual company voting on the plan. Notice of a meeting for the purpose of voting on the conversion plan shall be provided by mail to each policyholder entitled to vote in accordance with the articles of incorporation or bylaws of the mutual company. Each policyholder entitled to vote may cast one vote unless otherwise provided in the articles of incorporation or bylaws of the mutual company. Voting shall be by ballot, in person or by proxy. A quorum shall consist of a quorum as defined in the articles of incorporation or bylaws of the mutual company. A copy of the plan of conversion, or a summary of the plan of conversion, shall accompany the notice of meeting and election. The notice of meeting may contain the notice of any planned public hearing. An approved plan of conversion shall take effect on the date specified in the plan.

Sec. 4. Section 508B.12, Code 1999, is amended to read as follows:

508B.12 AMENDMENTS — WITHDRAWAL.

At any time before ~~approval of the plan of the~~ conversion, and if done pursuant to rules issued by the commissioner or as may otherwise be required by the commissioner, the board of directors of a mutual company may amend the conversion plan. An amendment to a conversion plan is subject to the prior approval of the commissioner. The board of directors of a mutual company may withdraw the plan of conversion at any time prior to the ~~approval of the plan of~~ conversion.

Sec. 5. Section 508B.13, Code 1999, is amended to read as follows:

508B.13 PROHIBITIONS ON CERTAIN OFFERS TO ACQUIRE SHARES.

Prior to and for a period of five years following the effective date of the conversion, and in the case of the plans of conversion specified in subsections 1 and 3 of section 508B.3, five years following the date of distribution of consideration to the policyholders in exchange for their membership interests, a person, other than the reorganized company, other than an employee benefit plan or employee benefit trust sponsored by the reorganized company, or as otherwise specifically provided for in the plan of conversion, shall not directly or indirectly acquire or offer to acquire the beneficial ownership of more than five percent of any class of voting security of the reorganized company, and a person, other than the reorganized company or other than an employee benefit plan or employee benefit trust sponsored by the reorganized company, who acquires five percent or more of any class of voting security of the reorganized company prior to the conversion or as specifically provided for in the plan of conversion, shall not directly or indirectly acquire or offer to acquire the beneficial ownership of additional voting securities of the reorganized company, unless the acquisition is ~~made pursuant to a plan approved by the commissioner, made pursuant to the plan of conversion, or made after the initial public offering from a broker or dealer of registered securities with the securities and exchange commission at the quoted price on the date of purchase as not being contrary to the interests of the policyholders of the reorganized company or its life insurance company subsidiary and by the board of directors of the reorganized company.~~ The commissioner and the board of directors may consider the factors set forth in section 490.1108. The provisions of section 521A.3, except subsection 4, paragraph "a", shall be applicable to a proposed acquisition subject to this section. An approved plan of conversion may include a stock option plan. As used in this section, "beneficial ownership" means, with respect to a security, the sole or shared power to vote or direct the voting of the security or the sole power to dispose or direct the disposition of the security.

Sec. 6. Section 508B.14, Code 1999, is amended to read as follows:

508B.14 LIMITATION OF ACTIONS — SECURITY FOR ATTORNEY FEES.

The commissioner's order approving or disapproving a plan of conversion shall be considered final agency action under chapter 17A.

An action challenging the validity of a conversion plan, or any part of a conversion plan, shall not be commenced more than one hundred eighty days following the date of approval by the commissioner.

The reorganized company or a defendant may petition the court in such an action to give security for the reasonable attorney fees which may be incurred by any party to the action. The amount of the security may be increased or decreased in the discretion of the court having jurisdiction if a showing is made that the security provided is or may become inadequate or excessive.

Sec. 7. Section 511.28, Code 1999, is amended to read as follows:

511.28 SERVICE OF PROCESS.

Any notice or process, with three copies of the notice or process, may be mailed to the commissioner at Des Moines, Iowa, in a certified mail letter addressed to the commissioner by the commissioner's official title. The commissioner shall acknowledge service on behalf of the defendant foreign insurance company by writing, giving the date of receipt of the notice or process, and shall return the notice or process in a certified mail letter to the clerk of the court in which the suit is pending, addressed to the clerk by the clerk's official title, and shall also mail a copy, with a copy of the commissioner's acknowledgment of service written thereon, in a certified mail letter addressed to the person or corporation named or designated by such company in the written instrument. Notice or process received prior to ~~12 noon~~ 10 a.m. shall be forwarded the same working day. Notice or process received after ~~12 noon~~ 10 a.m. shall be forwarded the next working day. A fee of fifteen dollars must accompany the request for notice or process.

Sec. 8. Section 513B.13, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 15. The board of the Iowa small employer health reinsurance program, on an ongoing basis, shall review the program and make recommendations as to the continued cost effectiveness of the program to the commissioner, which recommendations may include proposed modifications or suspension of operation of the program. In making such a review, the board shall consider such factors as the population reinsured by the program, the premiums and assessments paid to the program, the number and percentage of carriers electing to utilize the program, health care reform measures implemented in the state, as well as other factors deemed relevant by the board. The commissioner, upon finding that the program is not cost effective, may make modifications to the program or suspend the operation of the program by rule.

Sec. 9. Section 513C.7, subsection 1, paragraph a, Code 1999, is amended to read as follows:

a. The individual is covered or is eligible for coverage under a health benefit plan provided by the individual's employer or is covered as the spouse or dependent of another individual covered or eligible for coverage under a health benefit plan provided by that individual's employer.

Sec. 10. Section 513C.7, subsection 4, paragraph b, Code 1999, 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 sixty-three days prior to the effective date of the new coverage. For purposes of this section, periods of coverage under medical assistance provided pursuant to chapter 249A or Medicare coverage provided pursuant to Title XVIII of the federal Social Security Act shall not be counted with respect to the sixty-three day requirement.

Sec. 11. Section 514B.4, subsection 2, Code 1999, is amended to read as follows:

2. Has arrangements established in accordance with rules adopted by the commissioner for a continuous review of health care processes and outcomes. If a health maintenance organization is accredited by the national committee on quality assurance, or another accreditation entity approved by the commissioner, an external peer review under rules of the commissioner shall not be applicable. However, at the discretion of the commissioner, an on-site inspection of the health maintenance organization may be conducted.

Sec. 12. Section 515.26, Code 1999, is amended to read as follows:
515.26 DIRECTORS.

The affairs of a company organized as provided by this chapter shall be managed by a number of directors, of not less than five nor more than twenty-one, ~~all of whom, in case of a stock company, shall be stockholders, or, in~~ In the case of a mutual company, all such directors shall be policyholders, or before the company shall effect insurance, be subscribers for stock or for insurance as the case may be.

Sec. 13. Section 515.35, subsection 3, paragraph a, subparagraph (2), subparagraph subdivision (a), Code 1999, 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.

If the loan is fully collateralized by cash, the reinvestment of the cash may be made in either individual securities or a pooled fund comprised of individual securities. If such reinvestment is made in individual securities, such securities must mature in less than ninety days. If such reinvestment is made in a pooled fund, the average maturity of the securities comprising such pooled fund must be less than ninety days. Individual securities and securities comprising the pooled fund shall be investment grade.

Sec. 14. Section 515.74, Code 1999, is amended to read as follows:

515.74 SERVICE OF PROCESS.

Any notice or process, with three copies of the notice or process, may be mailed to the commissioner at Des Moines, Iowa, in a certified mail letter addressed to the commissioner by the commissioner's official title. The commissioner shall acknowledge service on behalf of the defendant foreign insurance company by writing, giving the date of receipt of the notice or process, and shall return the notice or process in a certified mail letter to the clerk of the court in which the suit is pending, addressed to the clerk by the clerk's official title, and shall also mail a copy, with a copy of the commissioner's acknowledgment of service written thereon, in a certified mail letter addressed to the person or corporation named or designated by such company in the written instrument. Notice or process received prior to ~~12 noon~~ 10 a.m. shall be forwarded the same working day. Notice or process received after ~~12 noon~~ 10 a.m. shall be forwarded the next working day. A fee of fifteen dollars must accompany the request for notice or process.

Sec. 15. Section 518.2, Code 1999, is amended to read as follows:

518.2 ARTICLES — APPROVAL.

~~Each such An~~ organization shall present to the commissioner of insurance for approval its articles of incorporation, which shall show its name, objects and purposes, the time and place of the annual meeting of the members, and the location of its principal place of business, and any subsequent amendments to its articles. The commissioner of insurance shall ~~then~~ submit the articles of incorporation and any subsequent amendments to the articles to the attorney general for examination, and if found by the attorney general to be in accordance with the provisions of this chapter and the Constitution and the laws of the state, the attorney general shall certify such fact ~~thereon~~ on the articles of incorporation and on any amendments to the articles and return ~~the same to said them to the commissioner, and no articles~~. Articles of incorporation and amendments to the articles shall not be approved by the commissioner or recorded unless accompanied by such certificate certified by the attorney general.

Sec. 16. Section 518.17, Code 1999, is amended to read as follows:

518.17 REINSURANCE.

~~Any A~~ county mutual insurance association may reinsure a part or all of its risks with any association operating under the provisions of this chapter, or with any other association or company licensed in this state and authorized to write the kinds of insurance enumerated in section 518.11.

~~The commissioner of insurance may require any county mutual insurance association to obtain reinsurance coverage as provided for in this section if it appears to the commissioner of insurance that the perils insured against and the classes of properties insured may seriously endanger the financial position of the association and the security of its members.~~

Reinsurance sufficient to protect the financial stability of the state mutual association is also required. Reinsurance coverage obtained by a county mutual insurance association shall not expose the association to a loss of more than fifteen percent from surplus in any calendar year. The commissioner of insurance may require additional reinsurance if necessary to protect the policyholders of the association.

Sec. 17. Section 518.25, Code 1999, is amended to read as follows:
518.25 SURPLUS.

An association organized under this chapter shall at all times maintain a surplus of not less than fifty thousand dollars or one-tenth of one percent of the gross property risk in force, whichever is greater. ~~Reinsurance sufficient to protect the financial stability of the company is also required. The insurance commissioner may require additional reinsurance if necessary to protect the policyholders of the company. An association authorized to transact business in this state before July 1, 1990, shall meet this requirement not later than July 1, 1993.~~

Sec. 18. NEW SECTION. 518A.1A PLAN OF ORGANIZATION.

An entity seeking to organize as or convert to a state mutual insurance association shall submit a plan of organization to the commissioner for approval.

Sec. 19. Section 518A.8, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

518A.8 ARTICLES — APPROVAL.

An organization shall present to the commissioner of insurance for approval its articles of incorporation, which shall show its name, objects, and purposes, the time and place of the annual meeting of the members, and the location of its principal place of business, and any subsequent amendments. The commissioner shall submit the articles of incorporation and any subsequent amendments to the articles to the attorney general for examination, and if found by the attorney general to be in accordance with the provisions of this chapter and the Constitution and the laws of this state, the attorney general shall certify such fact on the articles of incorporation and on any amendments to the articles and return them to the commissioner. Articles of incorporation and amendments to the articles shall not be approved by the commissioner or recorded unless certified by the attorney general.

Sec. 20. Section 518A.37, Code 1999, is amended to read as follows:
518A.37 SURPLUS.

An association organized under this chapter shall at all times maintain a surplus of not less than one hundred thousand dollars, ~~or one-tenth of one percent of the gross property risk in force, whichever is greater. Reinsurance sufficient to protect the financial stability of the company is also required. The insurance commissioner may require additional reinsurance if necessary to protect the policyholders of the company. An association authorized to transact business in this state before July 1, 1990, shall meet this requirement not later than July 1, 1992.~~

Sec. 21. Section 518A.44, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

518A.44 REINSURANCE.

A state mutual insurance association may reinsure a part or all of its risks with any association operating under the provisions of this chapter, or with any other association or company licensed in this state and authorized to write the kinds of insurance enumerated in section 518A.1.

Reinsurance sufficient to protect the financial stability of the state mutual association is required. Reinsurance coverage obtained by an association shall not expose the association to a loss of more than fifteen percent from surplus in any calendar year. The commissioner of insurance may require additional reinsurance if necessary to protect the policyholders of the association.

Sec. 22. Section 519.11, Code 1999, is amended to read as follows:
519.11 LIABILITY TO ASSESSMENTS.

The provisions as to maximum liability of members to assessments when assets are insufficient and to assessments when the corporation is insolvent, found in sections 518A.9;

~~518A.10, and 518A.14, and 518A.28~~, shall apply to all mutual insurance corporations organized under ~~the provisions of~~ this chapter.

Sec. 23. Sections 518A.10, 518A.13, 518A.17, and 518A.28, Code 1999, are repealed.

Approved May 24, 1999

CHAPTER 166

ENTITIES AND SUBJECT MATTER REGULATED BY INSURANCE DIVISION

S.F. 406

AN ACT relating to entities and subject matter under the regulatory authority of the insurance division, including securities, business opportunities, funeral merchandise, funeral services, cemeteries, cemetery merchandise and residential service contracts, providing for fees, and establishing penalties.

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

Section 1. Section 502.202, subsection 12, paragraph b, unnumbered paragraph 1, Code 1999, is amended to read as follows:

A mutual or cooperative organization, including a cooperative association organized in good faith under and for any of the purposes enumerated in chapters 497, 498, ~~and 499~~, and 501 that deals in commodities or supplies goods or services in transactions primarily with and for the benefit of its members, if:

Sec. 2. Section 502.302, subsection 3, Code 1999, is amended to read as follows:

3. Every applicant for initial or renewal registration as a broker-dealer or investment adviser shall pay a filing fee of two hundred dollars. Every applicant for initial or renewal registration as an agent or investment adviser representative shall pay a filing fee of thirty dollars. However, an investment adviser representative is not required to pay a filing fee, if the investment adviser is a sole proprietorship or the substantial equivalent and the investment adviser representative is the same individual as the investment adviser. A filing fee is not refundable. Every person acting as a federal covered adviser in this state, except with respect to federal covered advisers whose only clients are those described in section 502.301, subsection 3, paragraph "b", shall pay an initial and renewal notice filing fee of one hundred dollars.

Sec. 3. Section 502.304, subsection 5, Code 1999, is amended to read as follows:

5. Withdrawal from registration as a broker-dealer, agent, investment adviser, or investment adviser representative becomes effective thirty days after receipt of an application to withdraw or within such shorter period of time as the administrator may by order determine, unless a proceeding to deny, suspend, or revoke a registration is pending when the application is filed or a proceeding to deny, suspend, or revoke a registration, or to impose conditions upon the withdrawal is instituted within thirty days after the application is filed. If a proceeding is pending or instituted, withdrawal becomes effective at such time and upon such conditions as the administrator by order determines. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the administrator may nevertheless institute a revocation or suspension proceeding under subsection 1, ~~paragraph "b"~~, within one year after withdrawal became effective and enter a revocation or suspension order as of the last date on which registration was effective.

Sec. 4. Section 502.304, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 5A. A person who directly or indirectly controls a broker-dealer or agent is subject to the same sanctions applicable to an applicant or registrant under this section, unless the person proves that the person did not know, and was not grossly negligent in failing to know, of the existence of facts by reason of which the liability is alleged to exist.

Sec. 5. Section 502.305, Code 1999, is amended to read as follows:
 502.305 EXAMINATION OF INVESTMENT ADVISER REPRESENTATIVE AND EXEMPTION FROM EXAMINATION.

The administrator may adopt rules requiring the passage of an examination by an individual who is required to be registered under this chapter as an investment adviser representative. However, a person who is registered as an investment adviser representative between January 1, 1999, and December 31, ~~2000~~ 1999, shall not be required to pass an examination for as long as the person maintains a continuous registration.

Sec. 6. Section 502.503, subsection 1, Code 1999, is amended to read as follows:

1. Affiliates of a person liable under section ~~502.401~~, 502.501, 502.502, ~~or 502.502A~~, ~~or 502.604~~, partners, principal executive officers or directors of such person, persons occupying a similar status or performing similar functions for such person, persons (whether employees of such person or otherwise) who materially aid and abet in the act or transaction constituting the violation, and broker-dealers or agents who materially aid and abet in the act or transaction constituting the violation, are also liable jointly and severally with and to the same extent as such person, unless one of the following applies:

a. With respect to section 502.501, section 502.502, subsections 1 and 5, or section 502.502A, ~~any a person liable hereunder~~ under this subsection proves that the person did not know, and in the exercise of reasonable care could not have known, of the existence of the facts by reason of which the liability is alleged to exist; ~~and,~~

b. With respect to section ~~502.401~~, section 502.502, subsections 2 and 3, ~~and section 502.604~~ any a person liable hereunder under this subsection proves that the person did not know, and was not grossly negligent in failing to know, of the existence of the facts by reason of which the liability is alleged to exist.

Sec. 7. Section 502.504, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 7. This section shall not apply to actions filed by the administrator pursuant to section 502.604.

Sec. 8. Section 502.604, subsection 2, Code 1999, is amended to read as follows:

2. Bring an action in the district court to enjoin the act or practice and to enforce compliance with this chapter or a rule or order adopted or issued pursuant to this chapter. Upon a proper showing, the court may do all of the following:

a. Grant a permanent or temporary injunction, restraining order, or asset freeze, accounting, writ of attachment, writ of general or special execution, writ of mandamus shall be granted and a, or other equitable or ancillary relief.

b. Appoint a receiver or conservator may be appointed for the defendant or the defendant's assets. In addition, upon a proper showing by the administrator, the court may enter an order of

c. Order the administrator to take charge and control of a party's property, including but not limited to managing rents and profits, collecting debts, and acquiring and disposing of property.

d. Order the rescission, restitution, or disgorgement directed at any person who has engaged in an act constituting a violation of this chapter, or a rule or order adopted or issued pursuant to this chapter, and may order,

e. Order the payment of prejudgment and postjudgment interest.

PARAGRAPH DIVIDED. The administrator shall not be required to post a bond.

Sec. 9. Section 523A.5, subsection 2, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. "Prepaid contract" means a written contract or other agreement executed by a seller in which the seller promises to deliver merchandise or services upon the future death of a person named or implied in the agreement.

Sec. 10. Section 523A.6, Code 1999, is amended to read as follows:

523A.6 COMPLIANCE WITH OTHER LAWS.

The seller of a prepaid contract for the purchase of funeral services or funeral merchandise shall comply with chapter 555A ~~with respect to all contracts that are subject to regulation under this chapter.~~ A ~~failure person failing~~ to comply with chapter 555A is subject to the remedies and penalties provided in that chapter.

Sec. 11. Section 523B.2, subsection 10, paragraph a, subparagraph (9), Code 1999, is amended to read as follows:

(9) The seller does not have a minimum net worth of ~~twenty five~~ fifty thousand dollars, as determined in accordance with generally accepted accounting principles. A seller may submit a surety bond in lieu of the net worth requirement. The administrator may by rule or order increase the amount of the net worth or bond for the protection of purchasers and may require the seller to file reports of all sales in this state to determine the appropriate amount of the net worth requirement. The surety bond shall be for the period of the registration, issued by a surety company authorized to do business in this state and for the benefit of any purchaser.

Sec. 12. Section 523C.6, Code 1999, is amended to read as follows:

523C.6 NET WORTH REQUIREMENT.

A service company that has issued or renewed in the aggregate one thousand or less residential service contracts during the preceding calendar year shall maintain a minimum net worth of forty thousand dollars, and the minimum net worth to be maintained shall be increased by an additional twenty thousand dollars for each additional five hundred contracts or fraction thereof issued or renewed, up to a maximum required net worth of four hundred thousand dollars. At least twenty thousand dollars of net worth shall consist of paid-in capital.

~~For purposes of this chapter, "net worth" means the excess of all assets over all liabilities including required reserves computed in accordance with generally accepted accounting principles. At least twenty thousand dollars of net worth shall consist of paid-in capital.~~

Sec. 13. Section 523C.8, Code 1999, is amended to read as follows:

523C.8 REBATES AND COMMISSIONS.

1. ~~A~~ Except as provided in subsection 2, a service company shall not pay a commission or any other consideration to any person as an inducement or compensation for the issuance, purchase, or acquisition of a residential service contract. ~~However, this~~

2. This section does not prohibit any of the following:

a. ~~The~~ payment of an override commission or marketing fee to an employee or commission sales agent who is a marketing or sales representative of the service company or its parent company, subsidiary, or affiliate on the sale or marketing of a residential service contract, provided the employee or commission sales agent is not a real estate licensee sharing in or entitled to share in, or affiliated with, a company or organization which is entitled to share in any real estate commission generated by the underlying real property transaction. ~~This section also does not prohibit fees;~~

b. Fees, payments, or reimbursements for a bona fide ~~inspections~~ inspection, if an inspection of the property to be the subject of a residential service contract is required by a service company and if the inspection fee is reasonably related to the services performed.

3. The division may adopt rules identifying types of fees, payments, or reimbursements that do not constitute an inducement or compensation for the issuance, purchase, or acquisition of a residential service contract.

Sec. 14. Section 523E.1, subsection 6, Code 1999, is amended to read as follows:

6. This section does not apply to payments for merchandise delivered to the purchaser. Delivery includes storage in a warehouse ~~under the control of the seller or any other warehouse~~ or storage facility approved by the commissioner ~~when a receipt of ownership in the name of the purchaser is delivered to the purchaser, the merchandise is insured against loss, the merchandise is protected against damage, title has been transferred to the purchaser, the merchandise is appropriately identified and described in a manner that it can be distinguished from other similar items of merchandise unless this identification requirement with respect to bronze merchandise is waived by the commissioner by rule, the method of storage allows for visual audits of the merchandise, and the annual reporting requirements of section 523E.2, subsection 1, are satisfied.~~

Sec. 15. Section 523I.6, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A cemetery shall provide services necessary for the installation or burial of vaults or other similar merchandise sold by the cemetery. This subsection shall not require the cemetery to provide for opening or closing interment or entombment space, unless an agreement executed by the cemetery expressly provides otherwise.

Approved May 24, 1999

CHAPTER 167

PROPERTY TAX STATEMENT AND EQUALIZATION ORDER INFORMATION

S.F. 458

AN ACT relating to information required to be placed on property tax statements.

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

Section 1. Section 441.49, unnumbered paragraph 3, Code 1999, is amended to read as follows:

On or before October 15 the county auditor shall cause to be published in official newspapers of general circulation the final equalization order. The publication shall include, in type larger than the remainder of the publication, the following statement: "Assessed values are equalized by the department of revenue and finance every two years. Local taxing authorities determine the final tax levies and may reduce property tax rates to compensate for any increase in valuation due to equalization." Failure to publish the equalization order has no effect upon the validity of the orders.

Sec. 2. Section 445.5, subsection 1, paragraph i, Code 1999, is amended to read as follows:

i. The total amount of taxes levied by each taxing authority in the previous fiscal year and the current fiscal year, and the dollar amount difference between the two amounts, and that same difference expressed as a percentage increase or decrease.

Approved May 24, 1999

CHAPTER 168

STATE SALES, SERVICES, AND USE TAXES ON AIRCRAFT

H.F. 199

AN ACT relating to the taxation of aircraft under the state sales, services, and use taxes.

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

Section 1. Section 422.45, subsections 4 and 6, Code 1999, are amended to read as follows:

4. The gross receipts from sales of vehicles subject to registration or subject only to the issuance of a certificate of title and sales of aircraft subject to registration under section 328.20.

6. The gross receipts from "casual sales". ~~However, this exemption does not apply to aircraft.~~

Sec. 2. Section 423.2, Code 1999, is amended to read as follows:

423.2 IMPOSITION OF TAX.

An excise tax is imposed on the use in this state of tangible personal property, including aircraft subject to registration under section 328.20, purchased for use in this state, at the rate of five percent of the purchase price of the property. An excise tax is imposed on the use of leased vehicles at the rate of five percent of the amount otherwise subject to tax as calculated pursuant to section 423.7A. The excise tax is imposed upon every person using the property within this state until the tax has been paid directly to the county treasurer or the state department of transportation, to a retailer, or to the department. An excise tax is imposed on the use in this state of services enumerated in section 422.43 at the rate of five percent. This tax is applicable where services are rendered, furnished, or performed in this state or where the product or result of the service is used in this state. This tax is imposed on every person using the services or the product of the services in this state until the user has paid the tax either to an Iowa use tax permit holder or to the department.

Sec. 3. Section 423.4, subsection 4, Code 1999, is amended to read as follows:

4. Tangible personal property, the gross receipts from the sale of which are exempted from the retail sales tax by the terms of section 422.45, except subsection 4 and subsection 6 of section 422.45 as it relates to the sale of vehicles subject to registration or subject only to the issuance of a certificate of title and as it relates to aircraft subject to registration under section 328.20.

Sec. 4. Section 423.4, Code 1999, is amended by adding the following new subsections:
NEW SUBSECTION. 17. Aircraft for use in a scheduled interstate federal aviation administration certificated air carrier operation.

NEW SUBSECTION. 18. Aircraft; tangible personal property permanently affixed or attached as a component part of the aircraft, including but not limited to repair or replacement materials or parts; and all services used for aircraft repair, remodeling, and maintenance services when such services are performed on aircraft, aircraft engines, or aircraft component materials or parts. For the purposes of this exemption, "aircraft" means aircraft used in a scheduled interstate federal aviation administration certified air carrier operation.

NEW SUBSECTION. 19. Tangible personal property permanently affixed or attached as a component part of the aircraft, including but not limited to repair or replacement materials or parts; and all services used for aircraft repair, remodeling, and maintenance services when such services are performed on aircraft, aircraft engines, or aircraft component materials or parts. For the purposes of this exemption, "aircraft" means aircraft used in non-scheduled interstate federal aviation administration certified air carrier operation operating under 14 C.F.R. ch. 1, pt. 135.

NEW SUBSECTION. 20. Aircraft sold to an aircraft dealer who in turn rents or leases the aircraft if all of the following apply:

- a. The aircraft is kept in the inventory of the dealer for sale at all times.
- b. The dealer reserves the right to immediately take the aircraft from the renter or lessee when a buyer is found.
- c. The renter or lessee is aware that the dealer will immediately take the aircraft when a buyer is found.

If an aircraft exempt under this subsection is used for any purpose other than leasing or renting, or the conditions in paragraphs "a", "b", and "c" are not continuously met, the dealer 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.

Approved May 24, 1999

CHAPTER 169

PRODUCTION OF AGRICULTURAL COMMODITIES

H.F. 322

AN ACT relating to agricultural production, providing penalties, and providing an effective date.

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

Section 1. Section 9H.1, subsection 12, Code 1999, is amended to read as follows:

12. "Feedlot" means a lot, yard, corral, building, or other area in which hogs or cattle fed for slaughter are confined. The term includes areas which are used for the raising of crops or other vegetation and upon which hogs or cattle fed for slaughter are allowed to graze or feed.

Sec. 2. **NEW SECTION.** 8E.1 DEFINITIONS.

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

1. "Active contractor" means a person who owns a commodity that is produced by a contract producer at the contract producer's contract operation pursuant to a production contract executed pursuant to section 8E.2.
2. "Commodity" means livestock, raw milk, or a crop.
3. "Contract crop field" means farmland where a crop is produced according to a production contract executed pursuant to section 8E.2 by a contract producer who holds a legal interest in the farmland.
4. "Contract livestock facility" means an animal feeding operation as defined in section 455B.161, in which livestock or raw milk is produced according to a production contract executed pursuant to section 8E.2 by a contract producer who holds a legal interest in the animal feeding operation. "Contract livestock facility" includes a confinement feeding operation as defined in section 455B.161, an open feedlot, or an area which is used for the raising of crops or other vegetation and upon which livestock is fed for slaughter or is allowed to graze or feed.
5. "Contract operation" means a contract livestock facility or contract crop field.
6. "Contract producer" means a person who holds a legal interest in a contract operation and who produces a commodity at the contract producer's contract operation under a production contract executed pursuant to section 8E.2.
7. "Contractor" means an active contractor or a passive contractor.

8. a. "Crop" means a plant used for food, animal feed, fiber, or oil, if the plant is classified as a forage or cereal plant, including but not limited to alfalfa, barley, buckwheat, corn, flax, forage, millet, oats, popcorn, rye, sorghum, soybeans, sunflowers, wheat, and grasses used for forage or silage.

b. A "crop" does not include trees or nuts or fruit grown on trees; sod; shrubs; greenhouse plants; or plants or plant parts produced for precommercial, experimental, or research purposes.

9. "Farmland" means agricultural land that is suitable for use in farming as defined in section 9H.1.

10. "Livestock" means beef cattle, dairy cattle, sheep, or swine.

11. "Open feedlot" means an unroofed or partially roofed animal feeding operation in which no crop, vegetation, or forage growth or residue cover is maintained during the period that animals are confined in the operation.

12. "Passive contractor" means a person who furnishes management services to a contract producer, and who does not own a commodity that is produced by the contract producer at the contract producer's contract operation according to a production contract which is executed pursuant to section 8E.2.

13. "Produce" means to do any of the following:

a. Provide feed or services relating to the care and feeding of livestock. If the livestock is dairy cattle, "produce" includes milking the dairy cattle and storing raw milk at the contract producer's contract livestock facility.

b. Provide for planting, raising, harvesting, and storing a crop. "Produce" includes preparing the soil for planting and nurturing the crop by the application of fertilizers or soil conditioners as defined in section 200.3 or pesticides as defined in section 206.2.

14. "Production contract" means an oral or written agreement executed pursuant to section 8E.2 that provides for the production of a commodity or the provision of management services relating to the production of a commodity by a contract producer.

Sec. 3. NEW SECTION. 8E.2 PRODUCTION CONTRACTS GOVERNED BY THIS CHAPTER.

1. This chapter applies to a production contract that relates to the production of a commodity owned by an active contractor and produced by a contract producer at the contract producer's contract operation, if one of the following applies:

a. The contract is executed by an active contractor and a contract producer for the production of the commodity.

b. The contract is executed by an active contractor and a passive contractor for the provision of management services to the contract producer in the production of the commodity.

c. The contract is executed by a passive contractor and a contract producer, if all of the following apply:

(1) The contract provides for management services furnished by the passive contractor to the contract producer in the production of the commodity.

(2) The passive contractor has a contractual relationship with the active contractor involving the production of the commodity.

2. A production contract is executed when it is signed or orally agreed to by each party or by a person who is authorized by a party to act on the party's behalf.

Sec. 4. NEW SECTION. 8E.3 PRODUCTION CONTRACTS — CONFIDENTIALITY PROHIBITED.

1. A contractor shall not on or after the effective date of this Act enforce a provision in a production contract if the provision provides that information contained in the production contract is confidential.

2. A provision which is part of a production contract is void, if the provision states that information contained in the production contract is confidential. The confidentiality provision is void whether the confidentiality provision is express or implied; oral or written;

required or conditional; contained in the production contract, another production contract, or in a related document, policy, or agreement. This section does not affect other provisions of a production contract or a related document, policy, or agreement which can be given effect without the voided provision. This section does not require a party to a production contract to divulge the information in the production contract to another person.

Sec. 5. NEW SECTION. 8E.4 ENFORCEMENT.

1. The attorney general's office is the primary agency responsible for enforcing this chapter.

2. In enforcing the provisions of this chapter, the attorney general may do all of the following:

a. Apply to the district court for an injunction to do any of the following:

- (1) Restrain a contractor from engaging in conduct or practices in violation of this chapter.
- (2) Require a contractor to comply with a provision of this chapter.

b. Apply to district court for the issuance of a subpoena to obtain a production contract for purposes of enforcing this chapter.

c. Bring an action in district court to enforce penalties provided in section 8E.5, including the assessment and collection of civil penalties.

Sec. 6. NEW SECTION. 8E.5 PENALTIES.

A contractor who executes a production contract that includes a confidentiality provision in a production contract in violation of section 8E.3 is guilty of a fraudulent practice as provided in section 714.8.

Sec. 7. Section 579A.1, subsections 2, 3, and 4, Code 1999, are amended to read as follows:

2. "Custom cattle feedlot" means a feedlot where cattle owned by a person are ~~subject to care and feeding performed~~ provided feed and care by another person.

3. "Custom cattle feedlot operator" means the owner of a custom cattle feedlot or ~~a person managing the custom cattle feedlot, if the person is authorized by the owner to file and enforce a lien under this chapter~~ the owner's personal representative.

4. "Feedlot" means ~~the same as defined in section 172D.1~~ a lot, yard, corral, building, or other area in which cattle are confined and fed and maintained for forty-five days or more in any twelve-month period.

Sec. 8. Section 579A.1, Code 1999, is amended by adding the following new subsection: NEW SUBSECTION. 4A. "Personal representative" means a person who is authorized by the owner of a custom cattle feedlot to act on behalf of the owner, including by executing an agreement, managing a custom cattle feedlot, or filing and enforcing liens under this chapter.

Sec. 9. Section 579A.2, subsection 1, Code 1999, is amended to read as follows:

1. A custom cattle feedlot operator shall have a lien upon the cattle and the identifiable cash proceeds from the sale of the cattle for the amount of the contract price for the feed and care of the ~~livestock cattle~~ cattle at the custom cattle feedlot ~~agreed upon pursuant to a written or oral agreement~~ by the custom cattle feedlot operator and the person who owns the cattle, which may be enforced as provided in section 579A.3.

Sec. 10. Section 579A.2, subsection 2, paragraph e, Code 1999, is amended to read as follows:

e. The printed name and signature of the person filing the form.

Sec. 11. Section 579A.2, subsection 3, Code 1999, is amended to read as follows:

3. Except as provided in chapter 581, a lien created under this section until preserved and a lien preserved under this section is superior to and shall have priority over a conflicting lien or security interest in the cattle, including a lien or security interest that was perfected prior to the creation of the lien provided under this section.

Sec. 12. NEW SECTION. 579A.4 WAIVERS UNENFORCEABLE.

A waiver of a right created by this chapter, including but not limited to, a waiver of the right to file a lien pursuant to this chapter is void and unenforceable. This section does not affect other provisions of a contract, including a production contract or a related document, policy, or agreement which can be given effect without the voided provision.

Sec. 13. NEW SECTION. 579A.5 ALTERNATE LIEN PROCEDURE.

A person who is a custom cattle feedlot operator may file and enforce a lien as a contract producer under this chapter or chapter 579B, but not both.

Sec. 14. NEW SECTION. 579B.1 DEFINITIONS.

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

1. "Commodity" means livestock, raw milk, or a crop.
2. "Contract crop field" means farmland where a crop is produced according to a production contract executed pursuant to section 579B.2 by a contract producer who owns or leases the farmland.
3. "Contract livestock facility" means an animal feeding operation as defined in section 455B.161, in which livestock or raw milk is produced according to a production contract executed pursuant to section 579B.2 by a contract producer who owns or leases the animal feeding operation. "Contract livestock facility" includes a confinement feeding operation as defined in section 455B.161, an open feedlot, or an area which is used for the raising of crops or other vegetation and upon which livestock is fed for slaughter or is allowed to graze or feed.
4. "Contract operation" means a contract livestock facility or contract crop field.
5. "Contract producer" means a person who owns or leases a contract operation and who produces a commodity under a production contract executed pursuant to section 579B.2.
6. "Contractor" means a person who owns a commodity at the time that the commodity is under the authority of the contract producer as provided in section 579B.3 pursuant to a production contract executed pursuant to section 579B.2.
 7. a. "Crop" means a plant used for food, animal feed, fiber, or oil, if the plant is classified as a forage or cereal plant, including but not limited to alfalfa, barley, buckwheat, corn, flax, forage, millet, oats, popcorn, rye, sorghum, soybeans, sunflowers, wheat, and grasses used for forage or silage.
 - b. A "crop" does not include trees or nuts or fruit grown on trees; sod; shrubs; greenhouse plants; or plants or plant parts produced for precommercial, experimental, or research purposes.
 8. "Farmland" means agricultural land suitable for use in farming as defined in section 9H.1.
 9. "Livestock" means beef cattle, dairy cattle, sheep, or swine.
 10. "Open feedlot" means the same as defined in section 8E.1.
 11. "Personal representative" means a person who is authorized by a contract producer to act on behalf of the contract producer, including by executing an agreement, managing a contract operation, or filing and enforcing a lien as provided in this chapter.
 12. "Processor" means a person engaged in the business of manufacturing goods from commodities, including by slaughtering or processing livestock, processing raw milk, or processing crops.
 13. "Produce" means to do any of the following:
 - a. Provide feed or services relating to the care and feeding of livestock. If the livestock is dairy cattle, "produce" includes milking the dairy cattle and storing raw milk at the contract producer's contract livestock facility.
 - b. Provide for planting, raising, harvesting, and storing crop. "Produce" includes preparing the soil for planting and nurturing the crop by the application of fertilizers or soil conditioners as defined in section 200.3 or pesticides as defined in section 206.2.

14. "Production contract" means an oral or written agreement executed pursuant to section 579B.2 that provides for the production of a commodity by a contract producer.

Sec. 15. NEW SECTION. 579B.2 LIEN DEPENDS UPON PRODUCTION CONTRACTS.

1. A lien established under section 579B.3 depends upon the execution of a production contract that provides for producing a commodity owned by a contractor by a contract producer at the contract producer's contract operation.

2. A production contract is executed when it is signed or orally agreed to by each party to the contract or by a person authorized by a party to act on the party's behalf, including the contract producer's personal representative.

3. This chapter applies to any production contract that is in force on or after the effective date of this Act, regardless of the date that the production contract is executed.

Sec. 16. NEW SECTION. 579B.3 ESTABLISHMENT OF LIEN — PRIORITY.

A contract producer who is a party to a production contract executed pursuant to section 579B.2 shall have a lien as provided in this section. The amount of the lien shall be the amount owed to the contract producer pursuant to the terms of the production contract, which may be enforced as provided in section 579B.5.

1. a. If the production contract is for the production of livestock or raw milk, all of the following shall apply:

(1) For livestock, the lien shall apply to all of the following:

(a) If the livestock is not sold or slaughtered by the contractor, the lien shall be on the livestock.

(b) If the livestock is sold by the contractor, the lien shall be on cash proceeds from the sale. For purposes of this subparagraph, cash held by the contractor shall be deemed to be cash proceeds from the sale regardless of whether it is identifiable cash proceeds.

(c) If the livestock is slaughtered by the contractor, the lien shall be on any property of the contractor that may be subject to a security interest as provided in section 554.9102.

(2) For raw milk, the lien shall apply to all of the following:

(a) If the raw milk is not sold or processed by the contractor, the lien shall be on the raw milk.

(b) If the raw milk is sold by the contractor, the lien shall be on cash proceeds from the sale. For purposes of this subparagraph, cash held by the contractor shall be deemed to be cash proceeds from the sale regardless of whether it is identifiable cash proceeds.

(c) If the raw milk is processed by the contractor, the lien shall be on any property of the contractor that may be subject to a security interest as provided in section 554.9102.

b. The lien on livestock or raw milk is created at the time the livestock arrives at the contract livestock facility and continues for one year after the livestock is no longer under the authority of the contract producer. For purposes of this section, livestock is no longer under the authority of the contract producer when the livestock leaves the contract livestock facility.

2. a. If the production contract is for the production of crops, all of the following shall apply:

(1) If the crop is not sold or processed by the contractor, the lien shall be on the crop.

(2) If the crop is sold by the contractor, the lien shall be on cash proceeds from the sale. For purposes of this subparagraph, cash held by the contractor shall be deemed to be cash proceeds from the sale regardless of whether it is identifiable cash proceeds.

(3) If the crop is processed by the contractor, the lien shall be on any property of the contractor that may be subject to a security interest as provided in section 554.9102.

b. The lien on a crop is created at the time the crop is planted and continues for one year after the crop is no longer under the authority of the contract producer. For purposes of this section, a crop is no longer under the authority of the contract producer when the crop or a warehouse receipt issued by a warehouse operator licensed under chapter 203C for grain from the crop is no longer under the custody or control of the contract producer.

Sec. 17. NEW SECTION. 579B.4 PRESERVING THE LIEN — FILING REQUIREMENTS.

1. In order to preserve a lien created pursuant to section 579B.3, a contract producer must file in the office of the secretary of state a lien statement on a form prescribed by the secretary of state. If the lien arises out of producing livestock or raw milk, the contract producer must file the lien within forty-five days after the day that the livestock first arrives at the contract livestock facility. If the lien arises out of producing a crop, the contract producer must file the lien within forty-five days after the day that the crop is first planted. The secretary of state shall charge a fee of not more than ten dollars for filing the statement. The secretary of state may adopt rules pursuant to chapter 17A for the electronic filing of the statements.

2. The statement must include all of the following:

- a. An estimate of the amount owed pursuant to the production contract.
- b. The date when the livestock arrives at the contract livestock facility or the date when the crop was planted.
- c. The estimated duration of the period when the commodity will be under the authority of the contract producer.
- d. The name of the party to the production contract whose commodity is produced pursuant to the production contract.
- e. The description of the location of the contract operation, by county and township.
- f. The printed name and signature of the person filing the form.

3. Except as provided in chapter 581, a lien created under this section until preserved and a lien preserved under this section is superior to and shall have priority over a conflicting lien or security interest in the commodity, including a lien or security interest that was perfected prior to the creation of the lien under this chapter.

Sec. 18. NEW SECTION. 579B.5 ENFORCEMENT.

Before a commodity leaves the authority of the contract producer as provided in section 579B.3, the contract producer may foreclose a lien created in that section in the manner provided for the foreclosure of secured transactions as provided in sections 554.9504, 554.9506, and 554.9507. After the commodity is no longer under the authority of the contract producer, the contract producer may enforce the lien in the manner provided in chapter 554, article 9, part 5.

Sec. 19. NEW SECTION. 579B.6 WAIVERS UNENFORCEABLE.

A waiver of a right created by this chapter, including but not limited to a waiver of the right to file a lien pursuant to this chapter, is void and unenforceable. This section does not affect other provisions of a contract, including a production contract or a related document, policy, or agreement which can be given effect without the voided provision.

Sec. 20. NEW SECTION. 579B.7 ALTERNATE LIEN PROCEDURE.

A person who is a custom cattle feedlot operator as defined in section 579A.1 may file and enforce a lien as a contract producer under this chapter or chapter 579A, but not both.

Sec. 21. Section 714.8, Code 1999, is amended by adding the following new subsection: NEW SUBSECTION. 17. A contractor who enforces a provision in a production contract that provides that information contained in the production contract is confidential as provided in section 8E.3.

Sec. 22. SEVERABILITY. If any provision of this Act or the application of this Act to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act which shall be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Sec. 23. DIRECTIONS TO CODE EDITOR. The Code editor may codify the provisions of chapter 8E as enacted in this Act into another chapter or combine the provisions of chapter 8E as enacted in this Act with the provisions of chapter 172C as enacted in 1999

Iowa Acts, Senate File 436, into one chapter with multiple subchapters, if Senate File 436 is enacted by the 1999 Session of the Seventy-eighth General Assembly.*

Sec. 24. **EFFECTIVE DATE.** This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 24, 1999

CHAPTER 170

SALES AND USE TAXES ON ARGON AND SIMILAR GASES

H.F. 418

AN ACT exempting the sale of argon and similar gases used in the manufacturing process from the sales and use taxes, providing limited refunds, and including effective and retroactive applicability date provisions.

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

Section 1. Section 422.45, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 55. The gross receipts from the sale of argon and other similar gases to be used in the manufacturing process.

Sec. 2. **REFUNDS.** Refunds of taxes, interest, or penalties which arise from claims resulting from the enactment of section 422.45, subsection 55, in this Act, for sales occurring between January 1, 1991, and the effective date of this Act, 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, 1999, notwithstanding any other provision of law. If the amount of claims totals more than twenty-five thousand dollars in the aggregate, the department of revenue and finance shall prorate the twenty-five thousand dollars among all claimants in relation to the amounts of the claimants' valid claims.

Sec. 3. **EFFECTIVE DATE AND RETROACTIVE APPLICABILITY PROVISION.** This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 1991.

Approved May 24, 1999

* See chapter 88 herein

CHAPTER 171**EMINENT DOMAIN AND CONDEMNATION PROCEEDINGS***H.F. 476*

AN ACT relating to the exercise of the power of eminent domain and to condemnation proceedings and providing for the Act's applicability.

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

Section 1. NEW SECTION. 6A.21 CONDEMNATION OF AGRICULTURAL LAND — DEFINITIONS.

1. Except as otherwise provided, for purposes of this chapter and chapter 6B:

a. "Agricultural land" means real property owned by a person in tracts of ten acres or more and not laid off into lots of less than ten acres or divided by streets and alleys into parcels of less than ten acres, and that has been used for the production of agricultural commodities during three out of the past five years. Such use of property includes, but is not limited to, the raising, harvesting, handling, drying, or storage of crops used for feed, food, seed, or fiber; the care or feeding of livestock; the handling or transportation of crops or livestock; the storage, treatment, or disposal of livestock manure; and the application of fertilizers, soil conditioners, pesticides, and herbicides on crops. Agricultural land includes land on which is located farm residences or outbuildings used for agricultural purposes and land on which is located facilities, structures, or equipment for agricultural purposes. Agricultural land includes land taken out of agricultural production for purposes of environmental protection or preservation.

b. "Private development purposes" means the construction of, or improvement related to, recreational trails, recreational development paid for primarily with private funds, housing and residential development, or commercial or industrial enterprise development.

c. "Public use" or "public purpose" or "public improvement" does not include the authority to condemn agricultural land for private development purposes unless the owner of the agricultural land consents to the condemnation.

2. The limitation on the definition of public use, public purpose, or public improvement does not apply to a slum area or blighted area as defined in section 403.17, or to agricultural land acquired for industry as that term is defined in section 260E.2, or to the establishment, relocation, or improvement of a road pursuant to chapter 306, or to the establishment of a railway under the supervision of the department of transportation as provided in section 327C.2, or to an airport as defined in section 328.1, or to land acquired in order to replace or mitigate land used in a road project when federal law requires replacement or mitigation. This limitation also does not apply to utilities or persons under the jurisdiction of the Iowa utilities board in the department of commerce or to any other utility conferred the right by statute to condemn private property or to otherwise exercise the power of eminent domain.

Sec. 2. NEW SECTION. 6B.2A NOTICE OF PROPOSED PUBLIC IMPROVEMENT.

1. An acquiring agency shall provide written notification to each owner of record of private property that may be the subject of condemnation. The authority under this chapter is not conferred and condemnation proceedings shall not begin unless a good faith effort is made to serve the notice as provided in this section on the owner of record of the property subject to condemnation. The notice shall be mailed by ordinary mail to the owner of record's last known address no less than thirty days before adoption of the ordinance, resolution, motion, or other declaration of intent to proceed with the public improvement and the acquisition or condemnation, if necessary, of the property. If the location of the public improvement is changed or expanded after the decision has been made to proceed with the public improvement, a notice shall be mailed by ordinary mail no less than thirty days before the adoption of the ordinance, resolution, motion, or other declaration of intent to proceed with a change in the location of the public improvement to the owner of record of

the land to be acquired or condemned, if necessary, in the new location of the public improvement affected by the change. The notice shall include the statement of individual rights required under section 6B.2B. The notice shall, at a minimum, include the following information:

- a. The general nature of the public improvement.
- b. The acquiring agency's intended use of the private property for the public improvement.
- c. The process to be followed by the acquiring agency in making the decision to proceed with the public improvement and the acquisition or condemnation, if necessary, of the property.
- d. The time, place, and manner at which an opportunity is provided for public input into the decision to proceed with the public improvement and the acquisition or condemnation, if necessary, of the property.
- e. The current status in the planning process for the public improvement, including meetings held and decisions made.

2. The authority to condemn is not conferred until the appropriate authority approves the public improvement, including the approval of any permits required by state or federal law which permits are necessary for commencement of the project. This subsection does not apply to land condemned for public improvements undertaken pursuant to section 306.19.

3. If, after making a good faith effort, an acquiring agency is unable to ascertain the owner of record's last known address, or the identity of the owner of record is uncertain, or the mail is returned as undeliverable or is refused, the acquiring agency shall cause a notice to be published once in a newspaper of general circulation in the county or city where the private property is located.

Sec. 3. NEW SECTION. 6B.2B ACQUISITION NEGOTIATION STATEMENT OF RIGHTS.

1. The acquiring agency shall make a good faith effort to negotiate with the owner to purchase the private property before filing an application for condemnation or otherwise proceed with the condemnation process.

2. The acquiring agency shall provide the owner of record of the private property with a statement of their individual rights to be included with the notice required under section 6B.2A. The attorney general shall adopt rules pursuant to chapter 17A prescribing a statement of rights which may be used in substantial form by any person required to provide the statement by this section.

Sec. 4. Section 6B.3, Code 1999, is amended to read as follows:

6B.3 APPLICATION — RECORDING — NOTICE — TIME FOR APPRAISEMENT — NEW PROCEEDINGS.

1. ~~Such~~ The proceedings shall be instituted by a written application filed with the chief judge of the judicial district of the county in which the land sought to be condemned is located. ~~Said~~ The application shall set forth:

1 ~~a.~~ A description of all the property in the county, affected or sought to be condemned, by its congressional numbers, in tracts not exceeding one-sixteenth of a section, or, if the land consists of lots, by the numbers of the lot and block, and plat designation.

2 ~~b.~~ A plat showing the location of the right-of-way or other property sought to be condemned with reference to such description.

3 ~~c.~~ The names of all record owners of the different tracts of land sought to be condemned, or otherwise affected by such proceedings, and of all record holders of liens and encumbrances on such lands; also the place of residence of all such persons so far as known to the applicant.

4 ~~d.~~ The purpose for which condemnation is sought. For purposes of section 6B.4A, if condemnation of agricultural land is sought by a city or county, or an agency of a city or county, for location of an industry as that term is defined in section 260E.2, the application shall so state. However, the city or county shall not be required to disclose information on an industrial prospect with which the city or county is currently negotiating.

5 e. A request for the appointment of a commission to appraise the damages.

6 f. If the damages are to be paid by the state and the land to be condemned is within an agricultural area as provided in chapter 352, a statement disclosing whether any of that land is classified as class I or class II land under the United States department of agriculture natural resources conservation service land capability classification system contained in the agriculture handbook number 210, 1961 edition and, if so classified, stating that the class I or class II land is reasonably necessary for the work of internal improvement for which condemnation is sought.

g. A showing of the minimum amount of land necessary to achieve the public purpose and the amount of land to be acquired by condemnation for the public improvement. Any land to be acquired by condemnation beyond the necessary minimum to complete the project shall be presumed not to be necessary for a public use or public purpose unless the applicant can show that a substantial need exists for the additional property to achieve the public use or public purpose, or that the land in question is of little or no value or utility to the owner, or that the owner consents to the condemnation.

h. A statement indicating the efforts made by the applicant to negotiate in good faith with the owner to acquire the private property sought to be condemned.

2. The applicant shall mail a copy of the application by certified mail to the owner at the owner's last known address and to any mortgagee of record at the mortgagee's last known address and to any other record lienholder or encumbrancer of the land at the lienholder's or encumbrancer's last known address. If service of notice by certified mail cannot be made in the manner prescribed in this section, the applicant shall cause a notice to be published once in a newspaper of general circulation in the county. If service of notice is made by publication, an affidavit shall be filed with the county recorder along with the application. The affidavit shall state the reason why service of notice by certified mail could not be made, the name of the publication, and the date of the publication. Service of notice by publication shall be deemed complete on the day of publication.

7 3. The applicant shall promptly certify that its application for condemnation has been approved by the chief judge and shall file the original approved application with the county recorder in the manner required under section 6B.37. The county recorder shall file and index the application in the record of deeds and preserve the application as required by sections 6B.38 and 558.55. The filing and indexing constitute constructive notice to all parties that a proceeding to condemn the property is pending and that the applicant has the right to acquire the property from all owners, lienholders, and encumbrancers whose interests are of record at the time of the filing. After filing and indexing, the county recorder shall file a copy of the application with the office of secretary of state.

PARAGRAPH DIVIDED. When indexed, the proceeding is considered pending so as to charge all persons not having an interest in the property with notice of its pendency, and while pending no interest can be acquired by the third parties in the property against the rights of the applicant. If the appraisal of damages is not made within one hundred twenty days, the proceedings instituted under this section are terminated and all rights and interests of the applicant arising out of the application for condemnation terminate. The applicant may reinstitute a new condemnation proceeding at any time. The reinstated proceedings are entirely new proceedings and not a revival of the terminated proceeding.

Sec. 5. Section 6B.4, unnumbered paragraph 2, Code 1999, is amended to read as follows:

The chief judge of the judicial district shall select by lot six persons from the list, two persons who are owner-operators of agricultural property when the property to be condemned is agricultural property; two persons who are owners of city property when the property to be condemned is other than agricultural property; and two persons from each of the remaining two representative groups, who shall constitute a compensation commission to assess the damages to all property to be taken by the applicant and located in the county, and shall name a chairperson from the persons selected. ~~No~~ A person shall not be selected

~~as a member of the compensation commission selected shall possess if the person possesses~~ any interest in the proceeding which would cause ~~such the~~ person to render a biased decision. The clerk of the district court shall send, by ordinary mail, a list of those persons selected to the applicant and to the owner of the property at the owner's last known address. The list shall be provided prior to the mailing, by any party, of a notice of assessment under section 6B.8. If the clerk of the district court is unable to locate an address for the owner of the property, the list shall be published once in a newspaper of general circulation in the county. The applicant shall reimburse the clerk of the district court for the cost of mailing and publication.

Sec. 6. Section 6B.4, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A compensation commission appointed pursuant to this section is a governmental body as defined in section 21.2 and its meetings shall be conducted in compliance with chapter 21. Notice published by the sheriff pursuant to section 6B.11 shall constitute public notice of the meeting pursuant to section 21.4.

Sec. 7. NEW SECTION. 6B.4A REVIEW OF APPLICATIONS BY COMPENSATION COMMISSION.

1. If a city or county, or an agency of a city or county, has filed an application for condemnation of agricultural land for industry, the application is subject to review by the compensation commission pursuant to this section.

2. At any time before the thirty-day notice of assessment expires pursuant to section 6B.8, a landowner may apply to the compensation commission for review of the condemnation application to determine whether the use of condemnation is necessary for the placement of an industry in the community. When reviewing an application, the commission shall consider all of the following:

- a. The feasibility of acquiring the agricultural land by methods other than condemnation.
- b. The public cost and public benefit from locating the industry on the agricultural land.
- c. The ability to adapt the industry development plans to avoid the use of condemnation.
- d. The existence of a specific industry to be located on the agricultural land.
- e. The amount of agricultural land requested to be condemned compared to the total amount of agricultural land needed for the project.

3. The commission shall approve or deny the application for condemnation within thirty days of receiving a request to review the condemnation application. A majority vote of the commission members is necessary to approve or deny a condemnation application. The sheriff shall notify the landowner and condemner of the commission's determination by certified mail.

4. A determination made by the compensation commission pursuant to this section shall be final unless appealed from. An appeal must be filed with the district court within thirty days of mailing the commission's determination to the condemner and the landowner. At the time of appeal, the appellant shall give written notice that the appeal has been taken to the adverse party, or the adverse party's agent or attorney. Notice of an appeal shall be served in the same manner as an original notice. The appeal shall be docketed in the name of the person appealing and all other interested parties to the action shall be defendants.

5. This section does not apply to condemnation of agricultural land if the industry is an eligible business under section 15.329 and the department of economic development enters into an agreement under section 15.330 with the industry.

6. For purposes of this section, "industry" means the same as defined in section 260E.2.

Sec. 8. Section 6B.7, Code 1999, is amended to read as follows:

6B.7 COMMISSIONERS TO QUALIFY.

Before proceeding with the assessment all commissioners shall qualify by filing with the sheriff a written oath that they will to the best of their ability faithfully and impartially assess ~~said~~ damages and make a written report containing the information used by the

commission in assessing the damages to the sheriff. The applicant or the owner may challenge one commissioner without stating cause. A challenge to the appointment of a commissioner must be made to the chief judge of the judicial district no less than seventy-two hours before the condemnation jury is set to meet. A commissioner shall be appointed to fill a vacancy resulting from a challenge no less than twenty-four hours before the jury is set to meet.

Sec. 9. Section 6B.8, Code 1999, is amended to read as follows:

6B.8 NOTICE OF ASSESSMENT.

The applicant, or the owner or any lienholder or encumbrancer of any land described in the application, may, at any time after the appointment of the commissioners, have the damages to the lands of any such owner assessed by giving the other party, if a resident of this state, ~~ten~~ thirty days' notice, in writing. ~~Such~~ The notice shall specify the day and the hour when the commissioners will view the premises, and shall be personally served in the same manner as original notices. If a city or county, or an agency of a city or county, is seeking to condemn agricultural land for an industry as that term is defined in section 260E.2, the notice shall inform the landowner that the landowner may request that the compensation commission review the application as provided in section 6B.4A.

Service of the notice to a person not a resident of this state shall be by certified mail to the person's last known address. At the same time, the applicant shall cause a notice to be published once in a newspaper of general circulation in the county prior to the day fixed for the appraisal, which day shall be at least thirty days after publication. Service of notice in this manner shall be deemed complete on the day of publication.

Sec. 10. Section 6B.11, Code 1999, is amended to read as follows:

6B.11 FILING OF NOTICES AND RETURN OF SERVICE.

Notices, immediately after the service thereof, shall, with proper return of service endorsed thereon or attached thereto, be filed with the sheriff. The sheriff shall at once cause the commissioners to be notified of the day and hour when they will be required to proceed with the appraisal. The notice to the commissioners shall also be published by the sheriff pursuant to section 331.305.

Sec. 11. Section 6B.12, Code 1999, is amended to read as follows:

6B.12 NOTICE TO NONRESIDENTS WHEN RESIDENCE UNKNOWN.

~~If the owner of such lands or any person interested therein is a nonresident of this state, or if~~ If the person's residence is unknown after a good faith effort is made to find the person's last known address, no demand for the land for the purposes sought shall be necessary, but the notice aforesaid required in section 6B.8 shall be published in some a newspaper of general circulation in the county and of general circulation therein, once each week for at least four successive weeks prior to the day fixed for the appraisal, which day shall be at least thirty days after the first publication of the notice.

Sec. 12. Section 6B.14, unnumbered paragraph 3, Code 1999, is amended to read as follows:

~~In addition to all other damages provided by law, except moving expenses paid or required to be paid under relocation assistance programs, an~~ An owner or tenant occupying land which is proposed to be acquired by condemnation shall be awarded a sum sufficient to remove such owner's or tenant's personal property from the land to be acquired, which sum shall represent reasonable costs of moving ~~said~~ the personal property from the ~~said~~ land to be acquired to a point no greater than ~~twenty-five~~ fifty miles ~~therefrom~~; but in any event, ~~said~~ damages awarded under this section for moving shall not exceed five ~~hundred~~ thousand dollars for each owner or tenant occupying land ~~so~~ proposed to be condemned. An owner or tenant may apply for an award pursuant to this section only if all other damages provided by law have been awarded and such amount awarded is insufficient to pay the owner's or tenant's reasonable costs of moving.

Sec. 13. Section 6B.21, Code 1999, is amended to read as follows:

6B.21 APPEALS — HOW DOCKETED AND TRIED.

The appeal shall be docketed in the name of the person appealing and all other interested parties to the action shall be defendants. In the event the condemner and the condemnee appeal, the appeal shall be docketed in the name of the appellant which filed the application for condemnation and all other parties to the action shall be defendants. The appeal shall be tried as in an action by ordinary proceedings. ~~The appraisal of damages by the compensation commission is admissible in the action.~~

Sec. 14. Section 6B.26, Code 1999, is amended to read as follows:

6B.26 DISPOSSESSION OF OWNER.

A landowner shall not be dispossessed, under condemnation proceedings, of the landowner's residence, dwelling house, ~~outhouse~~ outbuildings if the residence or dwelling house is also acquired, orchard, or garden, until the damages thereto have been finally determined and paid. However, if the property described in this section is condemned for highway purposes by the state department of transportation, the condemning authority may take possession of the property either after the damages have been finally determined and paid or one hundred eighty days after the compensation commission has determined and filed its award, in which event all of the appraisal of damages shall be paid to the property owner before the dispossession can take place. This section shall not apply to condemnation proceedings for drainage or levee improvements, or for public school purposes. For the purposes of this section, "outbuildings" means structures and improvements located in proximity to the landowner's residence.

Sec. 15. Section 6B.33, Code 1999, is amended to read as follows:

6B.33 COSTS AND ATTORNEY FEES.

The applicant shall pay all costs of the assessment made by the commissioners and reasonable attorney fees and costs incurred by the condemnee as determined by the commissioners if the award of the commissioners exceeds one hundred ten percent of the final offer of the applicant prior to condemnation. The applicant shall file with the sheriff an affidavit setting forth the most recent offer made to the person whose property is sought to be condemned. Members of such commissions shall receive a per diem of fifty dollars and actual and necessary expenses incurred in the performance of their official duties. The applicant shall reimburse the county sheriff for the per diem and expense amounts paid by the sheriff to the members. The applicant shall reimburse the owner for the expenses the owner incurred for recording fees, penalty costs for full or partial prepayment of any preexisting recorded mortgage entered into in good faith encumbering the property, and for similar expenses incidental to conveying the property to the applicant. The applicant shall also pay all costs occasioned by the appeal, including reasonable attorney fees to be taxed by the court, unless on the trial thereof the same or a less amount of damages is awarded than was allowed by the tribunal from which the appeal was taken.

Sec. 16. Section 6B.38, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The county recorder shall file a copy of the sheriff's statement required by section 6B.35, subsection 5, with the office of the secretary of state.

Sec. 17. Section 6B.42, Code 1999, is amended to read as follows:

6B.42 EMINENT DOMAIN — PAYMENT TO DISPLACED PERSONS.

1. a. The acquiring agency shall provide to the person, in addition to any other sums of money in payment of just compensation, the payments and assistance required by law, in accordance with chapter 316.

b. A person aggrieved by a determination made as to eligibility for relocation assistance, a payment, or the amount of the payment, upon application, may have the matter reviewed by the appropriate acquiring agency.

c. An acquiring agency subject to this section that proposes to displace a person shall inform the person of the person's right to receive relocation assistance and payments, and of an aggrieved person's right to appeal a determination as to assistance and payments.

~~1- 2. a.~~ A utility or railroad subject to section 327C.2, or chapters 476, 478, 479, ~~and 479A, and 479B~~, authorized by law to acquire property by condemnation, which acquires the property of a person or displaces a person for a program or project which has received or will receive federal financial assistance as defined in section 316.1, shall provide to the person, in addition to any other sums of money in payment of just compensation, the payments and assistance required by law, in accordance with chapter 316.

~~2- b.~~ A person aggrieved by a determination made by a utility as to eligibility for relocation assistance, a payment, or the amount of the payment, upon application, may have the matter reviewed by the utilities division of the department of commerce.

~~3- c.~~ A person aggrieved by a determination made by a railroad as to eligibility for relocation assistance, a payment, or the amount of the payment, upon application, may have the matter reviewed by the state department of transportation.

4. d. A utility or railroad subject to this section that proposes to displace a person shall inform the person of the person's right to receive relocation assistance and payments, and of an aggrieved person's right to appeal to the utilities division of the department of commerce or the state department of transportation.

Sec. 18. Section 6B.45, Code 1999, is amended to read as follows:

~~6B.45 CONDEMNATION FOR ROAD OR STREET—MAILING COPY OF APPRAISAL.~~

When any real property or interest ~~therein~~ in real property is to be purchased, or in lieu thereof to be condemned for highway, street or road purposes, the ~~purchasing state acquiring agency, county or city or their~~ its agent shall submit to the person, corporation, or entity whose property or interest ~~therein~~ in the property is to be taken, by ordinary mail, at least ten days prior to the date of contact, a copy of the appraisal in its entirety upon such real property or interest ~~therein~~ in such real property prepared for the acquiring agency or its agent, which shall include, at least a minimum, an itemization of the appraised value of the real property or interest ~~therein~~ in the property, any buildings ~~thereon~~ on the property, all other improvements including fences, severance damages, and loss of access. The appraisal sent to the condemnee shall be that appraisal upon which the condemnor will rely to establish an amount which the condemnor believes to be just compensation for the real property. All other appraisals made on the property as a result of the condemnation proceeding shall be made available to the condemnee upon request. In lieu of an appraisal, a utility or person under the jurisdiction of the utilities board of the department of commerce, or any other utility conferred the right by statute to condemn private property, shall provide in writing by certified mail to the owner of record thirty days prior to negotiations, the methods and factors used in arriving at an offered price for voluntary easements including the range of cash amount of each component.

Sec. 19. Section 6B.54, unnumbered paragraph 1, Code 1999, is amended to read as follows:

~~If a~~ For any project or displacing activity that has received or will receive federal financial assistance as defined in section 316.1, for any state-funded projects, or for any other public improvement for which condemnation is sought, an acquiring agency shall ~~be guided by, at a minimum, satisfy~~ the following policies:

Sec. 20. Section 6B.54, subsections 2, 3, 8, and 9, Code 1999, are amended to read as follows:

2. Real property shall be appraised as required by section 6B.45 before the initiation of negotiations, and the owner or the owner's designated representative shall be given an opportunity to accompany at least one appraiser of the acquiring agency during an inspection of the property, except that ~~the state department of transportation an acquiring agency~~

may prescribe a procedure to waive the appraisal in cases involving the acquisition of property with a low fair market value. In lieu of an appraisal, a utility or person under the jurisdiction of the utilities board of the department of commerce, or any other utility conferred the right by statute to condemn private property, shall provide in writing by certified mail to the owner of record thirty days before negotiations, the methods and factors used in arriving at an offered price for voluntary easements including the range of cash amount of each component.

3. Before the initiation of negotiations for real property, the acquiring agency shall establish an amount which it believes to be just compensation for the real property, and shall make a prompt offer to acquire the property for the full amount established by the agency. In no event shall the amount be less than the ~~agency's approved lowest~~ appraisal of the fair market value of the property. In the case of a utility or person under the jurisdiction of the utilities board of the department of commerce, or any other utility conferred the right by statute to condemn private property, the amount shall not be less than the amount indicated by the methods and factors used in arriving at an offered price for a voluntary easement.

8. If the acquisition of only a portion of property would leave the owner with an uneconomical remnant, the ~~head of the acquiring agency concerned~~ shall offer to acquire that remnant. For the purposes of this chapter, an "uneconomical remnant" is a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property, where the ~~head of the acquiring agency concerned~~ determines that the parcel has little or no value or utility to the owner.

9. A person whose real property is being acquired in accordance with this chapter, after the person has been fully informed of the person's right to receive just compensation for the property, may donate the property, any part of the property, any interest in the property, or any compensation paid for it to ~~any agency~~ as the person may determine.

Sec. 21. Section 6B.55, unnumbered paragraph 1, Code 1999, is amended to read as follows:

~~If a~~ For any program or project that has received or will receive federal financial assistance as defined in section 316.1, for any state-funded projects, or for any other public improvement for which condemnation is sought, an acquiring agency shall ~~be guided by at a minimum~~ satisfy the following policies:

Sec. 22. NEW SECTION. 6B.57 PROCEDURAL COMPLIANCE.

If a city makes a good faith effort to serve, send, or provide the notices or documents required under this chapter to the owner of private property that is or may be the subject of condemnation, but fails to provide the notice or documents to the owner, such failure shall not constitute grounds for invalidation of the condemnation proceeding if the chief judge of the judicial district determines that such failure can be corrected by delaying the condemnation proceedings to allow compliance with the requirement and such failure does not unreasonably prejudice the owner.

Sec. 23. NEW SECTION. 6B.58 ACQUIRING AGENCY — DEFINITION.

For purposes of this chapter, an "acquiring agency" means the state of Iowa or any person or entity conferred the right by statute to condemn private property or to otherwise exercise the power of eminent domain.

Sec. 24. NEW SECTION. 6B.59 SALE OF ACQUIRED PROPERTY — REIMBURSEMENT TO LANDOWNER.

If an acquiring agency acquires property by condemnation, or by otherwise exercising the power of eminent domain, and that property is later sold by the acquiring agency for more than the acquisition price paid to the landowner, the acquiring agency shall pay to the landowner from whom the property was acquired the difference between the price at which it was acquired and the price at which it was sold by the acquiring agency less the cost of

any improvements made to or benefiting the land by the acquiring agency. This section does not apply to property acquired by the Iowa department of transportation.

Sec. 25. NEW SECTION. 9.2A RECORDS RELATING TO CONDEMNATION.

The secretary of state shall receive and preserve in the secretary's office all papers transmitted to the secretary in relation to condemnation and shall keep an alphabetical list of acquiring agencies in a book provided for that purpose, in which shall be entered the name of the acquiring agency, the county in which the real property is located, and the date the condemnation application was filed.

Sec. 26. Section 306.19, subsection 3, Code 1999, is amended to read as follows:

3. None of the foregoing requirements shall prohibit the property owner and the agency from entering into a mutually acceptable agreement for the replacement, relocation, construction, or maintenance of any alternate driveway on the owner's property. Compensation for any property rights taken in the establishment of any alternative temporary or permanent access shall be paid as in any other purchase or condemnation of property.

Sec. 27. Section 306.19, subsection 4, Code 1999, is amended to read as follows:

4. ~~Compensation for any property rights taken in the establishment of any alternative temporary or permanent access shall be paid as in any other purchase or condemnation of property.~~ Proceedings for the condemnation of land for any highway shall be under the provisions of chapter 6A and chapter 6B. Provided that, in the condemnation of right-of-way for secondary roads that is contiguous to existing road right-of-way for the maintenance, safety improvement, or upgrade of the existing secondary road, the board of supervisors may proceed as provided in sections 306.28 to 306.37.

Sec. 28. Section 306.27, Code 1999, is amended to read as follows:

306.27 CHANGES FOR SAFETY, ECONOMY, AND UTILITY.

The state department of transportation as to primary roads and the boards of supervisors as to secondary roads on their own motion may change the course of any part of any road or stream, watercourse, or dry run and may pond water in order to avoid the construction and maintenance of bridges, or to avoid grades, or railroad crossings, or to straighten a road, or to cut off dangerous corners, turns or intersections on the highway, or to widen a road above statutory width, or for the purpose of preventing the encroachment of a stream, watercourse, or dry run upon the highway. The department and the board of supervisors shall conduct ~~its~~ their proceedings in the manner and form prescribed in chapter 6B, and except that the board of supervisors shall may use the form prescribed in sections 306.28 to 306.37 or as provided in chapter 6B for the condemnation of right-of-way that is contiguous to existing road right-of-way and necessary for the maintenance, safety improvement, or upgrade of the existing secondary road. Changes are subject to chapter 455B.

Sec. 29. Section 306.28, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

306.28 APPRAISERS.

If the board is unable, by agreement with the owner, to acquire the necessary right of way to effect such change, a compensation commission shall be selected pursuant to section 6B.4, to appraise the damages consequent on the taking of the right of way.

Sec. 30. Section 306.29, unnumbered paragraph 2, Code 1999, is amended to read as follows:

To whom it may concern: Notice is given that the board of supervisors of county, Iowa, propose to condemn for road purposes the following described real estate in said county: (Here describe the right of way, and the tract or tracts from which such right of way will be taken.) The damages caused by said condemnation will be assessed by ~~three appraisers~~ a compensation commission appointed as provided by law for the purpose of appraising the damages. ~~Notice is hereby given that the owner or owners of said real estate~~

~~may, on or before the ... day of, appoint one of said appraisers and that in case such right be not exercised, or if exercised and the said appointee fails to appear and qualify, the said three appraisers will be otherwise appointed as provided by law.~~ All parties interested are further notified that ~~said three appraisers~~ the compensation commission will, when duly appointed, proceed to appraise ~~said the~~ damages, will report ~~said the~~ appraisal to the ~~said~~ board of supervisors and that ~~said latter the~~ board will pass thereon as provided by law, and that at all such times and places you may be present ~~if you be so minded~~. You are further notified that at ~~said the~~ hearing before the ~~said~~ supervisors you may file objections to the use of ~~said the~~ land for road purposes and that all such objections not so made will be deemed waived.

.....
 County Auditor.

Sec. 31. Section 306.31, Code 1999, is amended to read as follows:
 306.31 QUALIFICATION AND ASSESSMENT.

~~Upon the appointment of three appraisers, the county auditor shall cause them to appear before the auditor and to take oath that they will faithfully and impartially assess the damages claimed. Said The~~ appraisers shall forthwith proceed to the assessment of ~~said~~ damages and shall make written report ~~thereof of the damages~~ to the board of supervisors.

Sec. 32. Section 316.1, subsection 5, paragraphs a and b, Code 1999, are amended to read as follows:

a. A person who moves from real property or moves the person's personal property from real property in ~~either any~~ of the following circumstances:

(1) As a direct result of a written notice of intent to acquire, the initiation of negotiations for, or the acquisition of, the real property in whole or in part for a program or project undertaken with federal financial assistance.

(2) The person moved or moved the person's personal property from real property on which the person is either a residential tenant or conducts a small business, a farm operation, or a business as defined in subsection 2, paragraph "d", as a direct result of rehabilitation or demolition for a program or project undertaken with federal financial assistance in a case in which the head of the displacing agency determines that the displacement is permanent.

(3) As a direct result of a written notice of intent to acquire by condemnation, the initiation of negotiations for, or the acquisition of, the real property in whole or in part by the state of Iowa or by an entity or person conferred the right to condemn private property.

b. For purposes of section 316.4, subsections 1 and 2, and section 316.7, a person who moves from real property, or moves the person's personal property from real property in ~~either any~~ of the following circumstances:

(1) As a direct result of a written notice of intent to acquire, the initiation of negotiations for, or the acquisition of, other real property in whole or in part if the person conducts a business or farm operation on the other real property for a program or project undertaken with federal financial assistance.

(2) As a direct result of rehabilitation or demolition of other real property on which the person conducts a business or a farm operation for a program or project undertaken with federal financial assistance in a case in which the head of the displacing agency determines that the displacement is permanent.

(3) As a direct result of a written notice of intent to acquire by condemnation, the initiation of negotiations for, or the acquisition of, other real property in whole or in part by the state of Iowa or by an entity or person conferred the right to condemn private property if the person conducts a business or farm operation on the other real property.

Sec. 33. Section 331.304, subsection 8, Code 1999, is amended to read as follows:

8. The power to take private property for public use shall only be exercised by counties for public purposes which are reasonable and necessary as an incident to the powers and duties

conferred upon counties, and in accordance with chapters 6A and 6B. ~~Sections 306.19 and 306.28 to 306.37 are~~ Section 306.19 and 306.28 to 306.37 are also applicable to condemnation of right of way for secondary roads. Sections 306.27 through 306.37 are applicable to the condemnation of right of way that is contiguous to existing road right of way and necessary for the maintenance, safety improvement, or upgrade of the existing secondary road.

Sec. 34. Section 331.602, subsection 24, Code 1999, is amended to read as follows:

24. Record papers, statements, and certificates relating to the condemnation of property as provided in section 6B.38, and carry out duties related to the filing of certain condemnation documents with the office of secretary of state.

Sec. 35. Section 403.5, subsection 4, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A municipality shall not condemn agricultural land included within an economic development area unless the owner of the agricultural land consents to condemnation or unless the agricultural land is to be acquired for industry as that term is defined in section 260E.2. This paragraph shall not apply to land necessary or useful for the operation of a city utility as defined in section 362.2, for the operation of a city franchise conferred the authority to condemn private property under section 364.2, or a combined utility system as defined in section 384.80.

Sec. 36. Section 403.7, unnumbered paragraph 1, Code 1999, is amended to read as follows:

A municipality shall have the right to acquire by condemnation any interest in real property, including a fee simple title thereto, which it may deem necessary for or in connection with an urban renewal project under this chapter. However, a municipality shall not condemn agricultural land included within an economic development area unless the owner of the agricultural land consents to condemnation or unless the agricultural land is to be acquired for industry as that term is defined in section 260E.2. A municipality may exercise the power of eminent domain in the manner provided in chapter 6B, and Acts amendatory to that chapter or supplementary to that chapter, or it may exercise the power of eminent domain in the manner now or which may be hereafter provided by any other statutory provisions for the exercise of the power of eminent domain. Property already devoted to a public use may be acquired in like manner. However, real property belonging to the state, or any political subdivision of this state, shall not be acquired without its consent, and real property or any right or interest in the property owned by any public utility company, pipeline company, railway or transportation company vested with the right of eminent domain under the laws of this state, shall not be acquired without the consent of the company, or without first securing, after due notice to the company and after hearing, a certificate authorizing condemnation of the property from the board, commission or body having the authority to grant a certificate authorizing condemnation. In a condemnation proceeding, if a municipality proposes to take a part of a lot or parcel of real property, the municipality shall also take the remaining part of the lot or parcel if requested by the owner.

Sec. 37. Section 403.17, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. "Agricultural land" means real property owned by a person in tracts of ten acres or more and not laid off into lots of less than ten acres or divided by streets and alleys into parcels of less than ten acres, and that has been used for the production of agricultural commodities during three out of the past five years. Such use of property includes, but is not limited to, the raising, harvesting, handling, drying, or storage of crops used for feed, food, seed, or fiber; the care or feeding of livestock; the handling or transportation of crops or livestock; the storage, treatment, or disposal of livestock manure; and the application of fertilizers, soil conditioners, pesticides, and herbicides on crops. Agricultural land includes land on which is located farm residences or outbuildings used for agricultural purposes and land on which is located facilities, structures, or equipment for agricultural

purposes. Agricultural land includes land taken out of agricultural production for purposes of environmental protection or preservation.

Sec. 38. Section 403.17, subsection 9, Code 1999, is amended to read as follows:

9. "Economic development area" means an area of a municipality designated by the local governing body as appropriate for commercial and industrial enterprises, public improvements related to housing and residential development, or construction of housing and residential development for low and moderate income families, including single or multifamily housing. If an urban renewal plan for an urban renewal area is based upon a finding that the area is an economic development area and that no part contains slum or blighted conditions, then the division of revenue provided in section 403.19 and stated in the plan shall be limited to twenty years from the calendar year following the calendar year in which the city first certifies to the county auditor the amount of any loans, advances, indebtedness, or bonds which qualify for payment from the division of revenue provided in section 403.19. Such designated area shall not include agricultural land, including land which is part of a century farm, unless the owner of the agricultural land or century farm agrees to include the agricultural land or century farm in the urban renewal area. For the purposes of this subsection, "century farm" means a farm in which at least forty acres of such farm have been held in continuous ownership by the same family for one hundred years or more.

Sec. 39. Section 543D.3, unnumbered paragraph 2, Code 1999, is amended to read as follows:

A person who is not a certified real estate appraiser under this chapter may appraise real estate for compensation if certification is not required by this chapter or by federal or state law, rule, or policy. However, an employee of the state department of transportation whose duties include appraisals of property pursuant to chapter 6B must be a certified real estate appraiser under this chapter.

Sec. 40. Section 543D.5, subsection 2, paragraph a, Code 1999, is amended to read as follows:

a. Require compliance with federal law and appraisal standards adopted by federal authorities as they apply to federally covered transactions. This paragraph does not require that an appraiser invoke a jurisdictional exception to the uniform standards of professional appraisal practice in order to comply with federal law and appraisal standards adopted by federal authorities as they apply to federally covered transactions, unless federal law requires that the exception be invoked.

Sec. 41. APPLICABILITY. Sections 1, 35, 36, and 37 of this Act, enacting section 6A.21, amending sections 403.5 and 403.7, and enacting section 403.17, subsection 2A, apply to urban renewal areas established before, on, or after the effective date of this Act and to amendments to such urban renewal areas.

Section 38 of this Act, amending section 403.17, subsection 9, applies to urban renewal areas established on or after the effective date of this Act. Section 38 of this Act also applies to agricultural land included in an urban renewal area established before the effective date of this Act if the agricultural land is included in the urban renewal area by virtue of an amendment to the urban renewal plan, which amendment is adopted on or after the effective date of this Act.

Sec. 42. EFFECTIVE DATE. This Act applies to state highway construction projects approved for commencement by the transportation commission on or after July 1, 1999. This Act applies to all other condemnation proceedings in which the application for condemnation is filed on or after July 1, 1999.

Approved May 24, 1999

CHAPTER 172**ECONOMIC DEVELOPMENT TAX CREDITS — MISCELLANEOUS PROVISIONS***H.F. 733*

AN ACT relating to economic development tax credits by amending the new investment tax credit under the new jobs and income program, amending the incentives and assistance under the enterprise zone program, and requesting an enterprise zone interim study committee.

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

Section 1. Section 15.333, Code 1999, is amended to read as follows:

15.333 INVESTMENT TAX CREDIT.

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

2. For purposes of this section, the purchase price of real property and any buildings and structures located on the real property will be considered a new investment in the location or expansion of an eligible business. However, if within five years of purchase, the eligible business sells, disposes of, razes, or otherwise renders unusable all or a part of the land, buildings, or other existing structures for which tax credit was claimed under this section, the income tax liability of the eligible business for the year in which all or part of the property is sold, disposed of, razed, or otherwise rendered unusable shall be increased by one of the following amounts:

a. One hundred percent of the tax credit claimed under this section if the property ceases to be eligible for the tax credit within one full year after being placed in service.

b. Eighty percent of the tax credit claimed under this section if the property ceases to be eligible for the tax credit within two full years after being placed in service.

c. Sixty percent of the tax credit claimed under this section if the property ceases to be eligible for the tax credit within three full years after being placed in service.

d. Forty percent of the tax credit claimed under this section if the property ceases to be eligible for the tax credit within four full years after being placed in service.

e. Twenty percent of the tax credit claimed under this section if the property ceases to be eligible for the tax credit within five full years after being placed in service.

Sec. 2. Section 15E.196, Code 1999, is amended by adding the following new subsection: **NEW SUBSECTION. 6.** Insurance premium tax credit, as provided in section 15.333A.

Sec. 3. The legislative council is requested to establish an enterprise zone interim study committee to consider all of the following issues regarding the enterprise zone program established in division XVIII of chapter 15E:

1. Eligibility criteria under the enterprise zone program.
2. The movement of existing businesses into enterprise zones.
3. The establishment of additional enterprise zones.
4. The current overall performance and effectiveness of the enterprise zone program.

Approved May 24, 1999

CHAPTER 173

STATE SALES, SERVICES, AND USE TAX EXEMPTION FOR INTERNET ACCESS

H.F. 748

AN ACT exempting internet from the state sales, services, and use taxes.

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

Section 1. Section 422.45, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 55. The gross receipts from charges paid to a provider for access to on-line computer services. For purposes of this subsection, "on-line computer service" means a service that provides or enables computer access by multiple users to the internet.

Approved May 24, 1999

CHAPTER 174

PROPERTY ASSESSMENTS AND TAXES — OMITTED PROPERTY AND ERRONEOUS PAYMENTS

H.F. 755

AN ACT relating to the time limit when property omitted from assessment may be assessed and when a taxpayer may receive a refund for erroneous property taxes paid and including an effective date provision.

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

Section 1. Section 440.1, Code 1999, 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 an assessment has, for any reason, been omitted, the director shall proceed to assess the property for each of the omitted years at any time within two years from the date at which such assessment should have been made. The omitted assessment ~~shall only~~ may apply to not more than the assessment year in which the omitted assessment is made and the ~~four~~ four prior assessment ~~years~~ year. Chapter 429 shall apply to assessments of omitted property.

Sec. 2. Section 440.5, Code 1999, is amended to read as follows:

440.5 PROCEDURE — PENALTY.

If it is made to appear that ~~said the~~ property is assessable by the director of revenue and finance as omitted property, the director shall proceed in the manner in which the director would have proceeded had the assessment not been omitted, except that the director shall find the value of ~~such the~~ omitted property for each year during which it has been omitted but for not more than the two previous assessment years and shall add ten percent to each yearly value as a penalty.

Sec. 3. Section 443.12, Code 1999, is amended to read as follows:

443.12 CORRECTIONS BY TREASURER.

When property subject to taxation is withheld, overlooked, or from any other cause is not listed and assessed, the county treasurer shall, when apprised thereof, at any time within ~~five~~ two years from the date at which such assessment should have been made, demand of the person, firm, corporation, or other party by whom the same should have been listed, or to whom it should have been assessed, or of the administrator thereof, the amount the property should have been taxed in each year the same was so withheld or overlooked and not listed and assessed, together with six percent interest thereon from the time the taxes would have become due and payable had such property been listed and assessed.

Sec. 4. Section 443.15, Code 1999, is amended to read as follows:

443.15 TIME LIMIT.

~~Such The~~ assessment shall be made within ~~four~~ two years after the tax list shall have been delivered to the treasurer for collection, and not afterwards, if the property is then owned by the person who should have paid the tax.

Sec. 5. Section 443.17, Code 1999, is amended to read as follows:

443.17 PRESUMPTION OF ~~FIVE-YEAR~~ TWO-YEAR OWNERSHIP.

In any action or proceeding, now pending or hereafter brought, to recover taxes upon property not listed or assessed for taxation during the lifetime of any decedent, it shall be presumed that any property, any evidence of ownership of property, and any evidence of a promise to pay, owned by a decedent at the date of the decedent's death, had been acquired and owned by such decedent more than ~~five~~ two years before the date of the decedent's death; and the burden of proving that any such property had been acquired by such decedent less than ~~five~~ two years before the date of the decedent's death shall be upon the heirs, legatees, and legal representatives of any such decedent.

Sec. 6. Section 445.60, Code 1999, is amended to read as follows:

445.60 REFUNDING ERRONEOUS TAX.

The board of supervisors shall direct the county treasurer to refund to the taxpayer any tax or portion of a tax found to have been erroneously or illegally paid, with all interest, fees, and costs actually paid. A refund shall not be ordered or made unless a claim for refund is presented to the board within ~~one year~~ two years of the date the tax was due, or if appealed to the board of review, the state board of tax review, or district court, within ~~one year~~ two years of the final decision.

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

Approved May 24, 1999

CHAPTER 175

REAL ESTATE TRANSFER TAX — PAYMENT AND ALLOCATION

H.F. 757

AN ACT relating to the payment and allocation of the real estate transfer tax.

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

Section 1. Section 428A.1, unnumbered paragraph 2, Code 1999, is amended to read as follows:

When each deed, instrument, or writing by which any real property in this state is granted, assigned, transferred, or otherwise conveyed is presented for recording to the county recorder, a declaration of value signed by at least one of the sellers or one of the buyers or their agents shall be submitted to the county recorder. However, if the deed, instrument, or writing contains multiple parcels some of which are located in more than one county, separate declarations of value shall be submitted on the parcels located in each county and submitted to the county recorder of that county when paying the tax as provided in section 428A.5. A declaration of value is not required for those instruments described in section 428A.2, subsections 2 to 5, 7 to 13, and 16 to 21, or described in section 428A.2, subsection 6, except in the case of a federal agency or instrumentality, or if a transfer is the result of acquisition of lands, whether by contract or condemnation, for public purposes through an exercise of the power of eminent domain.

Sec. 2. Section 428A.5, Code 1999, is amended to read as follows:

428A.5 EVIDENCE OF PAYMENT.

The amount of tax imposed by this chapter shall be paid to the county recorder in the county where the real property is located and the amount received and the initials of the county recorder shall appear on the face of the document or instrument. The department of revenue and finance shall provide each county recorder with a device to be used by the recorder to evidence this information on the document or instrument.

Approved May 24, 1999

CHAPTER 176

URBAN RENEWAL

H.F. 776

AN ACT relating to urban renewal.

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

Section 1. NEW SECTION. 403.23 ANNUAL REPORTING.

1. On or before September 30 of each year, the municipality shall submit an annual financial report containing the information required in section 403.15, subsection 5, to the department of management and to the county auditor of the county in which the municipality is located. In addition to the information contained in the report, the municipality shall provide the following information to the department and to the county auditor:

- a. A listing and description of each project within an urban renewal area.
- b. A description of the original purpose for establishing the urban renewal area.

- c. The establishment date of the urban renewal area and the expiration date of the urban renewal area, if applicable or otherwise, the term of the indebtedness.
- d. The designation under which the urban renewal area was established.
- e. The base year valuation of the urban renewal area.
- f. The amount of incremental valuation in the urban renewal area.
- g. A description of the use for the incremental funding.
- h. The number of businesses that have located in each urban renewal area.
- i. The number of urban renewal projects that have been completed in each urban renewal area.
- j. The type and term length of financing for urban renewal projects.
- k. The amount of loans, advances, indebtedness, or bonds which qualified for payment from the special fund for each urban renewal project in the preceding fiscal year.
 - 1. The total of the amount specified in paragraph "k" for each urban renewal area located in the municipality.
 - 2. At the request of the legislative fiscal bureau, the department of management shall provide the reports and additional information to the legislative fiscal bureau. The department of management, in consultation with the legislative fiscal bureau, shall determine reporting criteria for reports filed with the department pursuant to this section.

Approved May 24, 1999

CHAPTER 177

LINKED INVESTMENT PROGRAMS

H.F. 779

AN ACT providing for economic development programs, including linked investment loan programs, and providing an effective date.

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

Section 1. Section 12.32, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 4. "Qualified linked investment" means a linked investment in which a certificate of deposit is placed by the treasurer of state with an eligible lending institution under the traditional livestock producers linked investment program established under section 12.43A.

Sec. 2. Section 12.34, Code 1999, is amended to read as follows:

12.34 LINKED INVESTMENTS — LIMITATIONS — RULES — MATURITY AND RENEWAL OF CERTIFICATES.

1. The treasurer of state may invest up to the lesser of ~~sixty-eight~~ one hundred 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 as provided in this division. The moneys invested pursuant to this section shall be used as follows:

a. The treasurer of state may invest up to sixty-eight million dollars to support programs provided in this division other than the traditional livestock producers linked investment loan program as provided in section 12.43A and the value-added agricultural linked investment loan program as provided in section 12.43B.

b. The treasurer of state shall invest the remaining amount as follows:

(1) At least twenty million dollars shall be invested in order to support the traditional livestock producers linked investment loan program as provided in section 12.43A.

(2) At least twenty million dollars shall be invested in order to support the value-added agricultural linked investment loan program as provided in section 12.43B.

2. a. The treasurer of state shall adopt rules pursuant to chapter 17A to administer this division.

b. The treasurer of state in cooperation with the board of directors of the agricultural development authority as established in section 175.3 shall adopt rules for the administration of the traditional livestock producers linked investment loan program as provided in section 12.43A. The treasurer of state in cooperation with the agricultural products advisory council established in section 15.203 shall adopt rules for the administration of the value-added agricultural linked investment loan program as provided in section 15.204.

3. ~~Certificates~~ A certificate of deposit, which is placed by the treasurer of state with an eligible lending institution on or after July 1, 1996, pursuant to this division may be renewed at the option of the treasurer. The following shall apply to the certificate of deposit:

a. For a linked investment other than a qualified linked investment, the initial certificate of deposit for a given borrower shall have a maturity of one year, and the certificate of deposit may be renewed for eight additional one-year periods on an annual basis for a total term not to exceed five years.

b. For a qualified linked investment, the initial certificate of deposit for a given borrower shall have a maturity of one year. The certificate of deposit may be renewed on an annual basis for a total term not to exceed three years.

Sec. 3. Section 12.41, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 1A. The gross income earned by the borrower's business of producing, processing, or marketing horticultural or nontraditional crops is not more than three hundred thousand dollars for the borrower's last tax year.

Sec. 4. NEW SECTION. 12.43A TRADITIONAL LIVESTOCK PRODUCER'S LINKED INVESTMENT LOAN PROGRAM.

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

a. "Farm operation" means the same as defined in section 352.2.

b. "Livestock" means cattle or swine.

c. "Livestock operation" means an animal feeding operation as defined in section 455B.161 in which livestock is provided care and feeding, or any other area which is used for raising crops or other vegetation and upon which livestock is fed or allowed to graze.

d. "Traditional livestock producer" means a person who is the owner and operator of livestock subject to care and feeding at a livestock operation in which the person holds a legal interest. The person may own the livestock or own the livestock jointly with another person. As the owner operator, the person must make daily management decisions and perform physical work which significantly contributes to the care and feeding of the livestock.

2. The treasurer of state shall adopt rules as provided in section 12.34 to implement a traditional livestock producers linked investment loan program. The purpose of the program is to increase the availability of lower cost loans to traditional livestock producers.

3. In order to qualify for a loan in accordance with an investment agreement under this division, all of the following requirements must be satisfied:

a. In order to be an eligible borrower, all of the following must apply:

(1) The borrower must be a traditional livestock producer.

(2) The borrower must be a resident of this state who is at least eighteen years of age.

(3) The borrower must not be any of the following:

(a) 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.

(b) 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. The livestock operation must be located in this state.

c. The gross income earned by the borrower's farm operation must be more than fifty thousand dollars but not more than three hundred thousand dollars for the borrower's last tax year.

d. At least fifty percent of the gross income earned by the borrower's farm operation during the last tax year must derive from livestock owned and sold by the borrower.

4. An investment agreement shall not be for a loan of more than one hundred thousand dollars.

5. A borrower is not eligible to receive a loan as part of a linked investment loan package under this program, if the borrower has received three loans pursuant to a linked investment loan package under this program approved by the treasurer of state within the last ten years. For purposes of this subsection, a loan provided as part of a renewed certificate of deposit shall be deemed to be a new loan.

Sec. 5. NEW SECTION. 12.43B VALUE-ADDED AGRICULTURAL LINKED INVESTMENT LOAN PROGRAM.

1. The treasurer of state shall establish and administer, and adopt rules as necessary to establish and administer, a value-added agricultural linked investment loan program. The purpose of the program is to provide capital in the form of low-interest loans in order to do any of the following:

a. Stimulate existing businesses or encourage the establishment of new businesses that add value through the processing of agricultural commodities.

b. Encourage the production of agricultural commodities, if a shortage in production exists.

2. A borrower shall be eligible to participate in the value-added agricultural linked investment loan program, to the extent that the borrower meets eligibility requirements established by the treasurer of state as provided in section 12.34.

3. A borrower shall not receive a loan of more than two hundred fifty thousand dollars under this program.

Sec. 6. NEW SECTION. 15.204 VALUE-ADDED AGRICULTURAL LINKED INVESTMENT LOAN PROGRAM.

The agricultural products advisory council established in section 15.203, in cooperation with the department of economic development and the department of agriculture and land stewardship, shall recommend to the treasurer of state eligibility requirements for borrowers to participate in the value-added agricultural linked investment loan program established in section 12.43B. The treasurer of state shall establish the eligibility requirements by rule adopted pursuant to section 12.34.

Sec. 7. CURRENT INVESTMENT AGREEMENTS. The treasurer of state shall not renew a certificate of deposit in an eligible lending institution, if the total term for the certificate of deposit exceeds the requirements of section 12.34, subsection 3, as amended by this Act. However, nothing in this Act shall affect the terms or conditions of an investment agreement executed by the treasurer of state with an eligible lending institution that is in effect on the effective date of this Act.

Sec. 8. AGENCY REVIEW OF LINKED INVESTMENT FOR TOMORROW ACT PROGRAMS.

1. The department of economic development and the department of agriculture and land stewardship shall include a review of the linked investments for tomorrow Act.

a. The department of economic development shall conduct a review of the rural small business transfer linked investment loan program as provided in section 12.40, the focused

small business linked investments program as provided in section 12.43, and the value-added agricultural linked investment loan program as provided in section 12.43B.

b. The department of agriculture and land stewardship shall conduct a review of the horticultural and nontraditional crops linked investment loan program as provided in section 12.41, and the traditional livestock producers linked investment loan program as provided in section 12.43A.

2. In conducting the reviews, each department shall investigate the economic conditions that could justify the program under review and the need for the continuation or modification of the program. The departments shall jointly review the allocation of moneys to the programs.

3. The departments shall submit a combined report to the department of management which shall forward the report to the treasurer of state and to the general assembly on or before February 1, 2000. The report shall include findings and any recommendations. The report shall include a recommendation regarding the allocation of moneys to the programs.

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

Approved May 24, 1999

CHAPTER 178

SCHOOL FINANCE — STATE AID — GIFTED AND TALENTED CHILDREN PROGRAM PLANS

S.F. 459

AN ACT relating to state school aid for budget years beginning on or after July 1, 1999, and making appropriations and including effective and applicability date provisions.

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

Section 1. Section 257.1, subsection 2, unnumbered paragraph 2, Code 1999, is amended to read as follows:

For the budget year commencing July 1, ~~1996~~ 1999, and for each succeeding budget year the regular program foundation base per pupil is ~~*eighty-seven and five-tenths eighty-eight*~~ *eighty-eight* percent of the regular program state cost per pupil, ~~except that the regular program foundation base per pupil for the portion of weighted enrollment that is additional enrollment because of special education is seventy-nine percent of the regular program state cost per pupil.~~ For the budget year commencing July 1, ~~1991~~ 1999*, and for each succeeding budget year the special education support services foundation base is ~~*seventy-nine eighty-eight*~~ *eighty-eight* percent of the special education support services state cost per pupil. The combined foundation base is the sum of the regular program foundation base and the special education support services foundation base.

Sec. 2. Section 257.8, Code 1999, is amended by adding the following new subsections:

NEW SUBSECTION. 2A. Notwithstanding the calculation in subsection 2, the department of management shall calculate the regular program allowable growth for the budget year beginning July 1, 1999, **for a school district which has requested and received approval to fund a gifted and talented program pursuant to section 257.46, Code 1999, for the budget year beginning July 1, 1999,** by multiplying the state percent of growth for the budget year

* Item veto; see message at end of the Act

by the regular program state cost per pupil for the base year, and add to the resulting product thirty-eight dollars. For purposes of determining the amount of a budget adjustment as defined in section 257.14, for a school district which calculated allowable growth for the budget year beginning July 1, 1999, pursuant to this subsection, thirty-eight dollars shall be subtracted from the school district's regular program cost per pupil for the budget year beginning July 1, 1999, prior to determining the amount of the adjustment.

***NEW SUBSECTION.** 2B. a. A school district which has not requested and received approval to fund a gifted and talented program pursuant to section 257.46, Code 1999, for the budget year beginning July 1, 1999, shall calculate the regular program allowable growth for the budget year beginning July 1, 1999, pursuant to subsection 2.

b. The board of directors of a school district which has not requested and received approval to fund a gifted and talented program pursuant to section 257.46, Code 1999, for the budget year beginning July 1, 1999, but seeks funding for such a program under subsection 2A for the budget year beginning July 1, 2000, may adopt a resolution requesting such funding and submit the resolution and a proposed gifted and talented program plan and budget to the department of education by October 1, 1999. The department shall review the request and, if it approves the request for funding, the department shall forward the approved request to the department of management.

c. A school district determining allowable growth pursuant to section 257.8, subsection 2, may apply to the school budget review committee for modified allowable growth pursuant to section 257.31, subsection 5, for the school budget year beginning July 1, 1999, and succeeding budget years.*

NEW SUBSECTION. 2C. a. A school district which calculated allowable growth for the budget year beginning July 1, 1999, pursuant to the provisions of subsection 2A, shall calculate allowable growth pursuant to the provisions of subsection 2 for the school budget year beginning July 1, 2000, and succeeding budget years, utilizing a regular program state cost per pupil figure which incorporates the thirty-eight dollar increase in regular program allowable growth calculated for the budget year beginning July 1, 1999.

b. A school district which calculated allowable growth for the budget year beginning July 1, 1999, pursuant to the provisions of subsection 2B, shall calculate allowable growth pursuant to the provisions of subsection 2 for the school budget year beginning July 1, 2000, and succeeding budget years, utilizing a regular program state cost per pupil figure which does not incorporate the thirty-eight dollar increase in regular program allowable growth calculated for the budget year beginning July 1, 1999. However, if such school district receives approval for additional funding from the department for the gifted and talented program for the budget year beginning July 1, 2000, under subsection 2B, paragraph "b", the school district shall receive allowable growth for the budget year beginning July 1, 2000, and subsequent budget years in the manner provided for school districts under paragraph "a" of this subsection.

NEW SUBSECTION. 4. For budget years beginning July 1, 2000, and subsequent budget years, references to the terms "allowable growth", "regular program state cost per pupil", and "regular program district cost per pupil" shall mean those terms as calculated for those school districts that calculated **or did not calculate** regular program allowable growth for the school budget year beginning July 1, 1999, with the additional thirty-eight dollars*, as applicable*.

Sec. 3. Section 257.10, subsection 5, Code 1999, is amended to read as follows:

5. **COMBINED DISTRICT COST PER PUPIL.** The combined district cost per pupil for a school district is the sum of the regular program district cost per pupil and the special education support services district cost per pupil. Combined district cost per pupil does not include additional allowable growth added for school districts that have a negative balance of funds raised for special education instruction programs, additional allowable growth granted by the school budget review committee for a single school year, or additional

* Item veto; see message at end of the Act

allowable growth added for programs for dropout prevention ~~and for programs for gifted and talented children.~~

**Sec. 4. NEW SECTION. 257.14A ON-TIME FUNDING FOR SPECIAL EDUCATION.*

Commencing with the budget year beginning July 1, 2000, if a school district's additional enrollment because of special education determined by the district on December 1 in the budget year is greater than its additional enrollment because of special education determined by the district on December 1 in the base year, the school district is entitled to on-time funding from the state in an amount equal to its district cost per pupil for the budget year multiplied by the district's increase in additional enrollment because of special education. The additional funding shall be miscellaneous income.

For the purpose of this section, a school district's additional enrollment because of special education is determined by multiplying the weighting for each category of child under section 256B.9 times the number of children in each category totaled for all categories minus the total number of children in all categories.

If a district receives additional funding under this section for a budget year, the department of management shall determine the amount of the additional funding which would have been generated by local property tax revenues in proportion to the amount of funding actually received pursuant to this section, if the additional enrollment because of special education in the budget year had been used for that budget year in determining combined district cost, shall reduce, but not by more than the amount of the additional funding, the district's total state school aids available under this chapter for the next following budget year by the amount so determined, and shall increase the district's additional property tax levy for the next following budget year by the amount necessary to compensate for the reduction in state aid, so that the local property tax for the next following year will be increased only by the amount which would have been increased in the budget year if the additional enrollment because of special education in the budget year could have been used to establish the levy.

*There is appropriated for the fiscal year beginning July 1, 2000, and each succeeding fiscal year, from the general fund of the state to the department of education, the amount required to pay on-time funding authorized under this section, up to a maximum of thirteen million dollars annually, which shall be paid to school districts in the same manner as other state aids are paid under section 257.16. If the amount appropriated is insufficient to provide the full amount of on-time funding, the payments to school districts shall be prorated such that each school district shall receive an amount of on-time funding equal to the percentage that the on-time funding to be provided to the school district bears to the total amount of on-time funding to be provided to all school districts.**

Sec. 5. Section 257.42, unnumbered paragraphs 1, 4, and 5, Code 1999, are amended to read as follows:

Boards of school districts, individually or jointly with the boards of other school districts, ~~requesting to use additional allowable growth for gifted and talented children programs, may~~ shall annually submit program plans for gifted and talented children programs and budget costs, ~~including requests for additional allowable growth for funding the programs,~~ to the department of education and to the applicable gifted and talented children advisory council, if an advisory council has been established, as provided in this chapter.

The department of education shall adopt rules under chapter 17A relating to the administration of sections 257.42 through 257.49. The rules shall prescribe the format of program plans submitted under section 257.43 and shall require that programs fulfill specified objectives. The department shall encourage and assist school districts to provide programs for gifted and talented children ~~whether or not additional allowable growth is requested under this chapter.~~

The department may request that the staff of the auditor of state conduct an independent program audit to verify that the gifted and talented programs ~~funded by additional allowable growth~~ conform to a district's program plans.

* Item veto; see message at end of the Act

Sec. 6. Section 257.43, Code 1999, is amended to read as follows:

257.43 PROGRAM PLANS.

The program plans submitted by school districts shall be part of the school improvement plan submitted pursuant to section 256.7, subsection 21, paragraph "a", and shall include all of the following:

1. Program goals, objectives, and activities to meet the needs of gifted and talented children.
2. Student identification criteria and procedures.
3. Staff in-service education design.
4. Staff utilization plans.
5. Evaluation criteria and procedures and performance measures.
6. Program budget.
7. Qualifications required of personnel administering the program.
8. Other factors the department requires.

Sec. 7. Section 257.45, subsection 1, Code 1999, is amended to read as follows:

1. ~~The board of directors of a school district requesting to use additional allowable growth for gifted and talented children programs shall submit applications for approval for the programs to the department not later than November 1 preceding the fiscal year during which the program will be offered. The board shall also submit a copy of the program plans to the gifted and talented children advisory council, if an advisory council has been established. The department shall review the program plans and shall prior to January 15 either grant approval for the program or return the request for approval with comments of the department included. Any unapproved request for a program may be resubmitted with modifications to the department not later than a date established by the department. Not later than February 15 the department shall notify the department of management and the school budget review committee of the names of the school districts for which gifted and talented children programs using additional allowable growth for funding have been approved and the approved budget of each program listed separately for each school district having an approved program.~~

Sec. 8. Section 257.46, Code 1999, is amended to read as follows:

257.46 FUNDING.

1. ~~The budget of an approved gifted and talented children program for a school district, after subtracting funds received from other sources for that purpose, shall be funded annually on a basis of one-fourth or more from the district cost of the school district and up to three-fourths by an increase in allowable growth as defined in section 257.8. The approved budget for a gifted and talented children program shall not exceed an amount equal to one and twenty-four hundredths percent of the district cost per pupil of the district for the base year multiplied by the budget enrollment of the district for the budget year. Annually, the department of management shall establish a modified allowable growth for each such district equal to the difference between the approved budget for the gifted and talented children program for that district and the sum of the amount funded from the district cost of the school district plus funds received from other sources.~~

2. The remaining portion of the budget shall be funded by the thirty-eight dollar increase in allowable growth for the school budget year beginning July 1, 1999, increased by the growth of the regular program district cost each year*, or by modified allowable growth received from the school budget review committee, pursuant to the applicable provisions of section 257.8*. School districts shall annually report the amount expended for a gifted and talented program to the department of education. The proportion of a school district's budget which corresponds to the thirty-eight dollar increase in allowable growth for the school budget year beginning July 1, 1999, *if applicable, or the modified allowable growth,* added to the amount in subsection 1, shall be utilized exclusively for a school district's talented and gifted program.

* Item veto; see message at end of the Act

3. If any portion of the gifted and talented program budget remains unexpended at the end of the budget year, ~~the part of the remainder equal to the proportion of the original budget which was funded by an increase in allowable growth, as defined in section 257.8,~~ shall be carried over to the subsequent budget year and added to the gifted and talented program budget for that year.

Sec. 9. 1989 Iowa Acts, chapter 135, section 135, is repealed effective July 1, 1999. Legislative review of the provisions of chapter 257 shall occur every five years, with the first such review to begin no later than July 1, 2004.

Sec. 10. APPLICABILITY DATE. This Act, being deemed of immediate importance, takes effect upon enactment for the computation of state school aid for school budget years beginning on or after July 1, 1999.

Approved May 24, 1999, with exceptions noted.

THOMAS J. VILSACK, Governor

Dear Mr. Secretary:

I hereby transmit Senate File 459, an Act relating to state school aid for budget years beginning on or after July 1, 1999, and making appropriations and including effective and applicability date provisions.

This bill is the major property tax relief bill approved during this legislative session. I applaud the Legislature's focus on property tax relief. While I had initially recommended that the state focus its property tax relief on the mental health system, I am willing to compromise with the Legislature and accept this version, which targets property tax relief through the school aid formula.

Unfortunately, the Legislature's tax cut and tax expenditure decisions did not extend the spirit of cooperation I sought to develop by showing flexibility on the sources of property tax relief. The measures that the Legislature presented to me would, under regular budget and revenue assumptions, lead to a general fund budget deficit in the fiscal year beginning July 1, 2000. That is unacceptable, and I am forced to closely scrutinize bills such as this one to ensure that the budget stays balanced and critical services like education and health care can be provided to the citizens of Iowa.

It is notable that this bill also includes changes to the way that we fund school programs for talented and gifted students. I support those efforts and have approved that portion of the bill. It is ironic, however, that the tax cut and tax expenditure decisions made by the Legislature, if approved, could jeopardize the funding for efforts such as this in future years.

Nearly sixty percent of our state's budget goes to educate our children and those pursuing higher education. It must be our highest priority. If we gamble that the state budget will do better than predicted, we risk having to make severe cuts compromising our ability to educate our children. That is a risk that I am unwilling to take.

As a result, I have been forced to make hard choices. Although property tax relief is a high priority, I cannot accept the level provided in this bill. To do so would threaten our children's health and education, nursing home care for senior citizens, and our public safety. That is a risk that I am unwilling to take.

For these reasons, Senate File 459 is, therefore, approved on this date with the following exceptions, which I hereby disapprove.

* Item veto; see message at end of the Act

I am unable to approve three designated portions of Section 1. These items would raise the regular program foundation base per pupil to eighty-eight percent of the regular program state cost per pupil and raise the special education support services foundation base to the same level. I have, however, approved raising the regular program foundation base per pupil for the portion of weighted enrollment that is additional enrollment because of special education to eighty-seven and five tenths percent. This will provide \$22 million a year in additional property tax relief for Iowa's taxpayers.

I am unable to approve five designated portions of Section 2. All school districts are required to have programs for talented and gifted students. This bill would provide that school districts that did not request approval to levy additional property taxes to fund their talented and gifted program would not receive the additional thirty-eight dollar increase in regular program allowable growth. I believe all school districts should have the opportunity to benefit from this change in the school aid formula. The effect of my item vetoes is to provide this assistance for all districts.

I am unable to approve the item designated as Section 4 in its entirety. This would give school districts their budget authority based upon the greater of the special education weighted enrollment in the budget year or base year. This "on-time funding" only partially resolves the issue of negative special education fund balances. While \$13 million is provided to pay for special education enrollment increases, last year school districts with negative balances spent \$19.9 million more than the special education weighting plan generated to cover the actual expenditures for students served. The complexity of special education services and funding needs to be addressed in a more comprehensive manner that includes support for students, especially during the early grades, who need additional help and are at-risk of failing.

I am unable to approve two designated portions of Section 8. These vetoes conform to earlier actions taken in vetoes of Section 2.

I am unable to approve the item designated as Section 9 in its entirety. This would remove the requirement that the legislature rewrite the school aid formula and would replace it with 5-year review of the formula with the first review not required until July 1, 2004. The school aid formula changes for talented and gifted programs contained in this bill are a perfect example of why we need to regularly rewrite the formula. There are a variety of pressing issues facing schools, including school building maintenance and construction, dealing with districts with both advancing and declining enrollments, and supplemental weighting. These issues cannot wait to be resolved until the year 2004.

For the above reasons, I hereby respectfully approve Senate File 459 with the exceptions noted above.

Sincerely,
THOMAS J. VILSACK, *Governor*

CHAPTER 179
ACCELERATED CAREER EDUCATION PROGRAM
S.F. 465

AN ACT authorizing the establishment of an accelerated career education program, providing a tax credit from withholding, relating to the transfer of job training withholding to the workforce development fund account, and providing an effective date.

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

Section 1. NEW SECTION. 260G.1 TITLE.

This chapter shall be known and may be cited as the "Accelerated Career Education Program Act".

Sec. 2. NEW SECTION. 260G.2 DEFINITIONS.

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

1. "Accelerated career education program" means the* a program established pursuant to section 260G.3.
2. "Agreement" means a program agreement referred to in section 260G.3 between an employer and a community college.
3. "Board of directors" means the board of directors of a community college.
4. "Community college" means a community college established under chapter 260C or a consortium of two or more community colleges.
5. "Employee" means a person employed in a program job.
6. "Employer" means a business or consortium of businesses engaged in interstate or intrastate commerce for the purpose of manufacturing, processing, or assembling products, construction, conducting research and development, or providing services in interstate or intrastate commerce, but excludes retail services.
7. "Highly skilled job" means a job with a broadly based, high performance skill profile including advanced computation and communication skills, technology skills, and workplace behavior skills, and for which an applied technical education is required.
8. "Participant" means an individual who is enrolled in an accelerated career education program at a community college.
9. "Participant position" means the individual student enrollment position available in an accelerated career education program.
10. "Program capital costs" includes, but is not limited to, costs related to any or all of the following:
 - a. Classroom and laboratory renovation.
 - b. New classroom and laboratory construction.
 - c. Site acquisition or preparation.
 - d. Instructional equipment and technology.
11. "Program costs" means all necessary and incidental costs of providing program services.
12. "Program job" means a highly skilled job available from an employer pursuant to a program agreement.
- **13. "Program job credit" means the credit as provided in section 260G.5.**
14. "Program job position" means a job position which is planned or available for an employee by the employer pursuant to a program agreement.
15. "Program services" includes, but is not limited to, all of the following provided they are pursuant to a program agreement:
 - a. Program needs assessment and development.
 - b. Job task analysis.
 - c. Curriculum development and revision.

* According to enrolled Act

** Item veto; see message at end of the Act

- d. Instruction.
- e. Instructional materials and supplies.
- f. Computer software and upgrades.
- g. Instructional support.
- h. Administrative and student services.
- i. Related school to career training programs.
- j. Skill or career interest assessment services and testing.
- k. Contracted services.

Sec. 3. NEW SECTION. 260G.3 PROGRAM AGREEMENTS.

1. A community college may enter into an agreement with an employer in the community college's merged area to establish an accelerated career education program. The program shall be developed by an employer, a community college, and any employee of an employer who represents a program job. If a bargaining agreement is in place, a representative of the employee bargaining unit shall also take part in the development of the program.

2. An agreement may include reasonable and necessary provisions to implement the accelerated career education program. **If an agreement is entered into, the community college and the employer shall notify the department of revenue and finance as soon as possible.** The community college shall also file a copy of the agreement with the department of economic development **as required in section 260G.6**. The agreement shall provide for program costs, including deferred costs, which may be paid from any of the following sources:

a. Program job credits which the employer receives based on the number of program job positions agreed to by the employer to be available under an agreement.

b. Cash or in-kind contributions by the employer toward the program cost. At a minimum, the employer contribution shall be twenty percent of the program costs.

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

d. Guarantee by the employer of payments to be received under paragraph*s "a" and* "b".

3. An agreement shall include a provision which specifies the type and amount of funding sources which shall be used to pay for program costs.

4. An agreement shall describe program services and schedules for implementation.

5. The term of an agreement shall not exceed five years from the date of the agreement. However, the agreement may be renewed.

6. As part of the agreement, the employer shall agree to interview graduating participants for full-time positions with the employer and to provide future hiring preferences to graduates of the accelerated career education program provided for in the agreement.

7. As part of an agreement, if an employer has more than four sponsored participants in the program, the employer shall agree to offer a program job position of full-time employment to at least twenty-five percent of those participants who successfully complete the program.

8. An agreement shall provide for a wage level of no less than two hundred percent of the federal poverty level for a family of two as defined by the most recently revised poverty income guidelines as published by the United States department of health and human services at the time the agreement is entered into. The wage level shall be recertified for each year provided in the agreement on the anniversary of the effective date of the agreement.

9. An agreement shall allow an employer to decline to satisfy any provisions in the agreement relating to subsections 6 and 7 if an employer experiences an economic downturn. For purposes of this subsection, "economic downturn" may include a layoff of existing employees, reduced employment levels, increased inventories, or reduced sales, if specified in the agreement.

10. Participants shall agree to interview with the employer following completion of the accelerated career education program.

11. An agreement shall provide for employer default procedures.

* Item veto; see message at end of the Act

Sec. 4. NEW SECTION. 260G.4 PROGRAM ELIGIBILITY AND DESIGNATION.

1. Any of the following community college programs are eligible for designation and approval as an accelerated career education program by the board of directors:

a. A credit career, vocational, or technical education program resulting in the conferring of a certificate, diploma, associate of science degree, or associate of applied science degree, which increases program capacity to enroll added participants.

b. A credit equivalent career, vocational, or technical educational program consisting of not less than five hundred forty contact hours of classroom and laboratory instruction and resulting in the conferring of a certificate or other recognized, competency-based credential, which increases program capacity to enroll added participants.

2. Program costs shall be calculated or recalculated on an annual basis based on the required program services and for a specific number of participant positions.

*Sec. 5. NEW SECTION. 260G.5 PROGRAM JOB CREDITS FROM WITHHOLDING.

In order to develop and retain program jobs within the state, an agreement entered into under section 260G.3 may include a provision for program job credits based on program jobs identified in the agreement. If a program provides that part of the program costs are to be met by receipt of program job credits, the method to be used shall be as follows:

1. Program job credits shall be based upon the program job positions identified and agreed to in the agreement.

2. Eligibility for program job credits shall be based on certification of program job positions and program job wages by the employer at the time established in the agreement. An amount up to twelve percent of the gross program job wage as certified by the employer in the agreement shall be credited from the total payment made by an employer pursuant to section 422.16. The employer shall receive a credit against all withholding taxes due by the employer regardless of whether or not the withholding by the employer of current program job wages is less than twelve percent. The employer shall remit the amount of the credit quarterly in the same manner as withholding payments are reported to the department of revenue and finance, to the community college to be allocated to and when collected paid into a special fund of the community college to pay, in part, the program costs. When the program costs have been paid, the employer credits shall cease and any moneys received after the program costs have been paid shall be remitted to the treasurer of state to be deposited in the general fund of the state.

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

4. A community college shall certify to the department of revenue and finance that the amount of the program job credit is in accordance with an agreement and shall provide other information the department may require.

5. Employees from an employer participating in an agreement shall receive full credit for the amount withheld as provided in section 422.16.*

*Sec. 6. NEW SECTION. 260G.6 MAXIMUM STATEWIDE PROGRAM JOB CREDIT.

1. The total amount of program job credits from all employers which shall be allocated for all accelerated career education programs in the state in any one fiscal year shall not exceed the sum of five million dollars in the fiscal year beginning July 1, 1999, ten million dollars in the fiscal year beginning July 1, 2000, and ten million dollars in the fiscal year beginning July 1, 2001, and every fiscal year thereafter. Any increase in program job credits above the ten-million-dollar limitation per fiscal year shall be developed, based on recommendations in a study which shall be conducted by the department of economic development of the needs and performance of approved programs in the fiscal years beginning July 1, 1999, and July 1, 2000. The study's findings and recommendations shall be submitted to the general assembly by the department by December 31, 2001. The study shall include but not be limited to an examination of the quality of the programs, the number of program participant placements,

* Item veto; see message at end of the Act

the wages and benefits in program jobs, the level of employer contributions, the size of participating employers, and employer locations. A community college shall file a copy of each agreement with the department of economic development. The department shall maintain an annual record of the proposed program job credits under each agreement for each fiscal year. Upon receiving a copy of an agreement, the department shall allocate any available amount of program job credits to the community college according to the agreement sufficient for the fiscal year and for the term of the agreement. When the total available program job credits are allocated for a fiscal year, the department shall notify all community colleges that the maximum amount has been allocated and that further program job credits will not be available for the remainder of the fiscal year. Once program job credits have been allocated to a community college, the full allocation shall be received by the community college throughout the fiscal year and for the term of the agreement even if the statewide program job credit maximum amount is subsequently allocated and used.

2. For the fiscal years beginning July 1, 1999, and July 1, 2000, the department of economic development shall allocate one hundred thirty-five thousand dollars of the first two million twenty-five thousand dollars of program job credits authorized and available for that fiscal year to each community college. This allocation shall be used by each community college to provide funding for approved programs. For the fiscal year beginning July 1, 2001, and for every fiscal year thereafter, the department of economic development shall divide equally among the community colleges thirty percent of the program job credits available for that fiscal year for allocation to each community college to be used to provide funding for approved programs. If any portion of the allocation to a community college under this subsection has not been committed by April 1 of the fiscal year for which the allocation is made, the uncommitted portion is available for use by other community colleges. Once a community college has committed its allocation for any fiscal year under this subsection, the community college may receive additional program job credit allocations from those program job credits authorized and still available for that fiscal year.*

**Sec. 7. NEW SECTION. 260G.7 FACILITATOR.*

The department of economic development shall administer the statewide allocations of program job credits to accelerated career education programs. The department shall collect data related to the programs and prepare an annual report regarding the activities of the programs during the previous fiscal year. The report shall be submitted to the governor and the general assembly by December 31 of each year.*

Sec. 8. NEW SECTION. 260G.8 CUSTOMER TRACKING SYSTEM.

All participants in an accelerated career education program shall be included in the customer tracking system implemented by the department of workforce development pursuant to section 84A.5 following program completion.

Sec. 9. NEW SECTION. 260G.9 PROGRAM CAPITAL FUNDS ALLOCATION.

If moneys are appropriated by the general assembly to support program capital costs, the moneys shall be allocated according to rules adopted by the department pursuant to chapter 17A. In order to receive such moneys a program agreement approved by the community college board of directors must be in place, program capital cost requests shall be approved by the Iowa economic development board created in section 15.103, program capital cost requests shall be approved or denied not later than sixty days following receipt of the request by the department, and employer contributions toward program capital costs shall be certified and agreed to in the agreement.

**Sec. 10. Section 15.342A, Code 1999, is amended to read as follows:*

15.342A WORKFORCE DEVELOPMENT FUND ACCOUNT.

A workforce development fund account is established in the office of the treasurer of state under the control of the department. The account shall receive funds pursuant to section 422.16A up to a maximum of ~~ten~~ nine million dollars per year.*

* Item veto; see message at end of the Act

**Sec. 11. Section 422.16A, Code 1999, is amended to read as follows:*

422.16A JOB TRAINING WITHHOLDING — CERTIFICATION AND TRANSFER.

*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 section 15A.8 or repaid in whole or in part by the supplemental new jobs credit from withholding under section 15A.7 or section 15.331, 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~~ nine million dollars.**

Sec. 12. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 24, 1999, with exceptions noted.

THOMAS J. VILSACK, Governor

Dear Mr. Secretary:

I hereby transmit Senate File 465, an Act authorizing the establishment of an accelerated career education program, providing a tax credit from withholding, relating to the transfer of job training withholding to the workforce development fund account, and providing an effective date.

This bill is a significant attempt to address issues of workforce development and worker training in our state. Those are important and laudable goals, and I support those efforts. Given the state's low unemployment rate, it is imperative that we fully develop the skills of our present workforce if we hope to increase state personal income and productivity.

At the same time, we should work to achieve these goals as much as possible within the framework of existing state efforts. At the start of the legislative session, when this accelerated career education (ACE) concept was proposed, I suggested that our ultimate goal should be to create a flexible system for workforce development and training that would build on present job training efforts.

For many years, our community colleges have been an important source for job project training through the 260E chapter of the Iowa Code. Given our state's current low unemployment and tight labor markets, the need for this particular effort is reduced. I believe that the state can best utilize what will always be limited tax dollars by seeking as much as possible to combine these sorts of resources and tailor them to the specific needs of the Iowa economy, businesses, and workforce.

I am concerned that the present new program will become another separate and distinct workforce component rather than a complementary part of an integrated approach to improving and growing Iowa's workforce. Given that this new effort comes with a significant price tag — \$56 million over the next five years — I believe it makes sense to pursue all opportunities for incorporating this effort into existing workforce development services. I am confident that we can work together in the future to do so.

* Item veto; see message at end of the Act

At the urging of the Legislature, we have already begun a process to review all state programs and suggest ways to improve efficiency and create cost savings. While we review past programs for opportunities to become more efficient, I think we should do a similar examination of new initiatives. I believe that ACE will benefit from that sort of scrutiny.

I will approve, in House File 772, \$15,000,000 in infrastructure funding to begin the process of implementing the ACE program. This will be a significant first step. It will provide the community colleges the resources they need to begin designing and equipping these programs. At the same time, it will provide the opportunity to further explore ways to incorporate this initiative into the whole of state workforce development efforts.

For these reasons, Senate File 465 is, therefore, approved on this date with the following exceptions, which I hereby disapprove.

I am unable to approve the item designated as Section 2, subsection 13 in its entirety. This defines program job credits, which I have also item vetoed.

I am unable to approve designated portions of Section 3, subsection 2. This provides for reporting of program costs to be paid from program job credits. I have item vetoed the program job credits below.

I am unable to approve the item designated as Section 3, subsection 2(a) in its entirety. This provides for program costs to be paid from program job credits. I have item vetoed the program job credits below. There are other funding methods still available for the program within the bill.

I am unable to approve the items designated as Sections 5, 6, and 7 in their entirety. This allows costs of a training program to be covered by diversion from the state general fund of withholding taxes paid by the present employees of an employer involved in the ACE program equal to twelve percent of the annual wage paid to a person in the type of position for which a graduate from the program would be qualified. The program job credits allocated to the community colleges from withholding would total up to \$5,000,000 in fiscal year 2000, and \$10,000,000 in each succeeding fiscal year. The department of economic development would also allocate \$135,000 from the program job credits in fiscal years 2000 and 2001 to each community college. In subsequent fiscal years, thirty percent of the program job credits would be divided equally among the community colleges. While laudable in intent, these provisions should be better integrated with existing programs before being enacted.

I find both the level of resources expended and the method for allocation in these sections troubling. I am concerned that the tax and budget decisions made by the Legislature are projected, under normal revenue and expenditure assumptions, to lead to general fund budget deficits in the fiscal year beginning July 1, 2000. When nearly sixty percent of the state budget goes to education, it is conceivable that budget deficits will lead to cuts to the very programs that this bill seeks to augment. Further, I am concerned that the allocation formula does not take into account the different needs or abilities of community colleges to access this program.

I am unable to approve the items designated as Sections 10 and 11 in their entirety. These would reduce the funds contained in a workforce development account from the present \$10,000,000 to \$9,000,000. The Legislature predicated this change on additional funds being available through the program job credits.

For the above reasons, I hereby respectfully approve Senate File 465 with the exceptions noted above.

Sincerely,
THOMAS J. VILSACK, Governor

CHAPTER 180

VETERANS BENEFITS AND INTERESTS

S.F. 462

AN ACT relating to veterans benefits, veterans preference, veterans claims, special veterans motor vehicle registration plates, reimbursement for military service tax exemption, and providing a penalty and applicability date.

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

DIVISION I VETERANS BENEFITS

Section 1. Section 19A.9, subsection 21, unnumbered paragraph 1, Code 1999, is amended to read as follows:

For veterans preference through a provision that ~~honorably separated veterans who served on active duty in the armed forces of the United States in any war, campaign or expedition for which a campaign badge or service medal has been authorized by the government of the United States as defined in section 35.1~~ shall have five points added to the grade or score attained in qualifying examinations for appointment to jobs.

Sec. 2. NEW SECTION. 35.1 DEFINITIONS.

As used in this chapter and chapters 35A through 35D:

1. "Commission" means the commission of veterans affairs created in section 35A.2.
2. a. "Veteran" means a resident of this state who served in the armed forces of the United States at any time during the following dates and who was discharged under honorable conditions:

- (1) World War I from April 6, 1917, through November 11, 1918.
- (2) Occupation of Germany from November 12, 1918, through July 11, 1923.
- (3) American expeditionary forces in Siberia from November 12, 1918, through April 30, 1920.
- (4) Second Haitian suppression of insurrections from 1919 through 1920.
- (5) Second Nicaragua campaign with marines or navy in Nicaragua or on combatant ships from 1926 through 1933.
- (6) Yangtze service with navy and marines in Shanghai or in the Yangtze valley from 1926 through 1927 and 1930 through 1932.
- (7) China service with navy and marines from 1937 through 1939.
- (8) World War II from December 7, 1941, through December 31, 1946.
- (9) Korean conflict from June 25, 1950, through January 31, 1955.
- (10) Vietnam conflict from February 28, 1961, through May 7, 1975.
- (11) Lebanon or Grenada service from August 24, 1982, through July 31, 1984.
- (12) Panama service from December 20, 1989, through January 31, 1990.
- (13) Persian Gulf conflict from August 2, 1990, through the date the president or the Congress of the United States declares a cessation of hostilities. However, if the United States Congress enacts a date different from August 2, 1990, as the beginning of the Persian Gulf conflict for purposes of determining whether a veteran is entitled to receive military benefits as a veteran of the Persian Gulf conflict, that date shall be substituted for August 2, 1990.

b. "Veteran" includes the following persons:

- (1) Former members of the reserve forces of the United States who served at least twenty years in the reserve forces after January 28, 1973, and who were discharged under honorable conditions. However, a member of the reserve forces of the United States who completed a minimum aggregate of ninety days of active federal service, other than training, and was discharged under honorable conditions, or was retired under Title X of the United States Code shall be included as a veteran.

(2) Former members of the Iowa national guard who served at least twenty years in the Iowa national guard after January 28, 1973, and who were discharged under honorable conditions. However, a member of the Iowa national guard who was activated for federal duty, other than training, for a minimum aggregate of ninety days, and was discharged under honorable conditions or was retired under Title X of the United States Code shall be included as a veteran.

(3) Former members of the active, oceangoing merchant marines who served during World War II at any time between December 7, 1941, and December 31, 1946, both dates inclusive, who were discharged under honorable conditions.

(4) Former members of the women's air force service pilots and other persons who have been conferred veterans status based on their civilian duties during World War II in accordance with federal Pub. L. No. 95-202, 38 U.S.C. § 106.

Sec. 3. Section 35.8, Code 1999, is amended to read as follows:

35.8 MONEY COMPRISING FUND.

A war orphans educational aid fund is created as a separate fund in the state treasury under the control of the commission of veterans affairs. Any money hereafter appropriated for the purpose of aiding in the education of orphaned children of honorably discharged persons who served in the military or naval forces of the United States in World War I or World War II veterans, as provided by this chapter defined in section 35.1, shall be known as deposited in the war orphans educational aid fund.

Sec. 4. Section 35.9, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The commission of veterans affairs may expend not more than six hundred dollars per year for any one child who has lived in the state of Iowa for two years preceding application for aid, and who is the child of a person who died ~~during World War I between the dates of April 6, 1917, and June 2, 1921, or during World War II between the dates of September 16, 1940, and December 31, 1946, both dates inclusive, or the Korean Conflict between June 25, 1950, and January 31, 1955, both dates inclusive, or the Vietnam Conflict between August 5, 1964, and May 7, 1975, both dates inclusive, or the Persian Gulf Conflict at any time between August 2, 1990, and the date the president or the Congress of the United States declares a permanent cessation of hostilities, both dates inclusive, while serving in the~~ during active federal military or naval forces service while serving in the armed forces or during active federal military service in the Iowa national guard or other military component of the United States, ~~to include members of the reserve components performing service or duties required or authorized under chapter 39, United States Code and Title 32, United States Code, sections 502 through 505, and active state service required or authorized under chapter 29A, or as a result of such service,~~ to defray the expenses of tuition, matriculation, laboratory and similar fees, books and supplies, board, lodging, and any other reasonably necessary expense for ~~such the~~ child or children incident to attendance in this state at an educational or training institution of college grade, or in a business or vocational training school with standards approved by the commission of veterans affairs. ~~However, if Congress enacts a date different from August 2, 1990, as the beginning of the Persian Gulf Conflict for purposes of determining whether a veteran is entitled to receive military benefits as a veteran of the Persian Gulf Conflict, that date shall be substituted for August 2, 1990.~~

Sec. 5. Section 35A.8, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 4. a. The executive director shall provide for the administration of the bonus authorized in this subsection. The commission shall adopt rules, pursuant to chapter 17A, as necessary to administer this subsection including, but not limited to, application procedures, investigation, approval or disapproval, and payment of claims.

b. (1) Each person who served on active duty in the active, oceangoing merchant marine service of the United States, at any time between December 7, 1941, and December 31, 1946, both dates inclusive, and who served for a period of not less than one hundred twenty days

on or before December 31, 1946, and who at the time of entering into the merchant marine service was a legal resident of the state of Iowa, and who had maintained the person's residence in this state for a period of at least six months immediately before entering the merchant marine service, and was honorably discharged or separated from the merchant marine service, is entitled to receive from moneys appropriated for that purpose the sum of twelve dollars and fifty cents for each month that the person was on active duty in the merchant marine service, all before December 31, 1946, not to exceed a total sum of five hundred dollars. Compensation for a fraction of a month shall not be considered unless the fraction is sixteen days or more, in which case the fraction shall be computed as a full month.

(2) A person is not entitled to compensation pursuant to this subsection if the person received a bonus or compensation similar to that provided in this subsection from another state.

(3) A person is not entitled to compensation pursuant to this subsection if the person was on active duty in the merchant marine service after December 7, 1941, and the person refused on conscientious, political, religious, or other grounds, to be subject to military discipline.

(4) The surviving unremarried widow or widower, child or children, mother, father, or person standing in loco parentis, in the order named and none other, of any deceased person, shall be paid the compensation that the deceased person would be entitled to pursuant to this subsection, if living, but if any person has died or shall die, or is disabled, from service-connected causes incurred during the period and in the area from which the person is entitled to receive compensation pursuant to this subsection, the person or the first survivor as designated by this subsection and in the order named, shall be paid five hundred dollars, regardless of the length of service.

c. A person who knowingly makes a false statement relating to a material fact in supporting an application under this subsection is guilty of a serious misdemeanor. A person convicted pursuant to this subsection shall forfeit all benefits to which the person may have been entitled under this subsection.

d. All payments and allowances made under this subsection shall be exempt from taxation and from levy and sale on execution.

e. The bonus compensation authorized under this subsection shall be paid from moneys appropriated for that purpose.

Sec. 6. Section 35B.3, Code 1999, is amended to read as follows:

35B.3 COUNTY COMMISSION OF VETERAN AFFAIRS.

The county commission of veteran affairs shall consist of either three or five persons, as determined by the board of supervisors, all of whom shall be ~~honorably discharged persons who served in the military or naval forces of the United States in any war, including World War I at any time between April 6, 1917, and November 11, 1918, both dates inclusive; World War II at any time between December 7, 1941, and December 31, 1946, both dates inclusive; the Korean Conflict at any time between June 25, 1950, and January 31, 1955, both dates inclusive; the Vietnam Conflict at any time between December 22, 1961, and May 7, 1975, both dates inclusive; and the Persian Gulf Conflict at any time between August 2, 1990, and the date the president or the Congress of the United States declares a permanent cessation of hostilities, both dates inclusive. However, if Congress enacts a date different from August 2, 1990, as the beginning of the Persian Gulf Conflict for purposes of determining whether a veteran is entitled to receive military benefits as a veteran of the Persian Gulf Conflict, that date shall be substituted for August 2, 1990~~ veterans as defined in section 35.1. If possible, each member of the commission shall be a veteran of a different ~~war or conflict, so as to divide membership among the persons who served in World War I, World War II, the Korean Conflict, the Vietnam Conflict, and the Persian Gulf Conflict; however, military action.~~ However, this qualification does not preclude membership to a veteran who served in more than one of the ~~wars or conflicts~~ military actions.

Sec. 7. Section 35B.10, unnumbered paragraph 1, Code 1999, is amended to read as follows:

All claims certified by the commission shall be reviewed by the board of supervisors and the county auditor shall issue warrants in payment of the claims. All applications, investigation reports and case records are privileged communications and shall be held confidential, subject to use and inspection only by persons authorized by law in connection with their official duties relating to financial audits and the administration of this chapter. However, the county commission of veteran affairs shall prepare and file in the office of the county auditor on or before the thirtieth day of each January, April, July and October a report showing the ~~names and addresses~~ case numbers of all recipients receiving assistance under this chapter, together with the amount paid to each during the preceding quarter. Each report so filed shall be securely fixed in a record book to be used only for such reports made under this chapter.

Sec. 8. Section 35B.13, Code 1999, is amended to read as follows:

35B.13 BURIAL — EXPENSES.

The commission is responsible for the interment in a suitable cemetery of the body of any ~~honorably discharged person who served in the military or naval forces of the United States during any war, including World War I at any time between April 6, 1917, and November 11, 1918, both dates inclusive; World War II at any time between December 7, 1941, and December 31, 1946, both dates inclusive; the Korean Conflict at any time between June 25, 1950, and January 31, 1955, both dates inclusive; the Vietnam Conflict at any time between December 22, 1961, and May 7, 1975, both dates inclusive; and the Persian Gulf Conflict at any time between August 2, 1990, and the date the president or the Congress of the United States declares a permanent cessation of hostilities, both dates inclusive; veteran, as defined in section 35.1,~~ or the spouse, surviving spouse, or child of the person, if the person has died without leaving sufficient means to defray the funeral expenses. ~~However, if Congress enacts a date different from August 2, 1990, as the beginning of the Persian Gulf Conflict for purposes of determining whether a veteran is entitled to receive military benefits as a veteran of the Persian Gulf Conflict, that date shall be substituted for August 2, 1990.~~ The commission may pay the expenses in a sum not exceeding an amount established by the board of supervisors.

Sec. 9. Section 35B.14, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The board of supervisors of each county may appropriate moneys for the food, clothing, shelter, utilities, medical benefits, and funeral expenses of ~~honorably discharged, indigent persons who served in the military or naval forces of the United States in any war including World War I at any time between April 6, 1917, and November 11, 1918, both dates inclusive; World War II at any time between December 7, 1941, and December 31, 1946, both dates inclusive; the Korean Conflict at any time between June 25, 1950, and January 31, 1955, both dates inclusive; the Vietnam Conflict at any time between December 22, 1961, and May 7, 1975, both dates inclusive; and the Persian Gulf Conflict at any time between August 2, 1990, and the date the president or the Congress of the United States declares a permanent cessation of hostilities, both dates inclusive; veterans, as defined in section 35.1,~~ and their indigent spouses, surviving spouses, and minor children not over eighteen years of age, having a legal residence in the county. ~~However, if Congress enacts a date different from August 2, 1990, as the beginning of the Persian Gulf Conflict for purposes of determining whether a veteran is entitled to receive military benefits as a veteran of the Persian Gulf Conflict, that date shall be substituted for August 2, 1990.~~

Sec. 10. Section 35B.16, Code 1999, is amended to read as follows:

35B.16 MARKERS FOR GRAVES.

The county commission of veteran affairs may furnish a suitable and appropriate metal marker for the grave of each ~~honorably discharged person, who served in the military or~~

naval forces of the United States during any war, including World War I at any time between April 6, 1917, and November 11, 1918, both dates inclusive; World War II at any time between December 7, 1941, and December 31, 1946, both dates inclusive; the Korean Conflict at any time between June 25, 1950, and January 31, 1955, both dates inclusive; the Vietnam Conflict at any time between December 22, 1961, and May 7, 1975, both dates inclusive; and the Persian Gulf Conflict at any time between August 2, 1990, and the date the president or the Congress of the United States declares a permanent cessation of hostilities, both dates inclusive; and veteran, as defined in section 35.1, who is buried within the limits of the county, to. The marker shall be placed at the individual's grave to permanently mark and designate the grave for memorial purposes. The expenses shall be paid from any funds raised as provided in this chapter. If Congress enacts a date different from August 2, 1990, as the beginning of the Persian Gulf Conflict for purposes of determining whether a veteran is entitled to receive military benefits as a veteran of the Persian Gulf Conflict, that date shall be substituted for August 2, 1990.

Sec. 11. Section 35C.3, Code 1999, is amended to read as follows:

35C.3 DUTY TO INVESTIGATE AND APPOINT.

When any preferred person ~~shall apply~~ applies for appointment or employment under this chapter, the officer, board, or person whose duty it is or may be to appoint or employ ~~some a~~ a person to fill ~~such the~~ the position or place shall, before appointing or employing ~~anyone a~~ a person to fill ~~such the~~ the position or place, make an investigation as to the qualifications of ~~said the~~ the applicant for ~~such the~~ the place or position, and if the applicant is of good moral character and can perform the duties of ~~said the~~ the position ~~so~~ applied for, ~~as hereinbefore provided, said the~~ the officer, board, or person shall appoint ~~said the~~ the applicant to ~~such the~~ the position, place, or employment. ~~Said The~~ The appointing officer, board, or person shall set forth in writing and file for public inspection; the specific grounds upon which it is ~~held that the~~ held ~~the~~ person appointed is entitled to ~~said appointment, or in the case such appointment is refused, the specific grounds for the refusal thereof~~ refused to appoint the person. Within ten days after an appointment is refused, the appointing officer, board, or person shall notify the unsuccessful applicant in writing of the specific grounds for refusal.

Sec. 12. NEW SECTION. 35C.5A ARBITRATION.

In addition to the remedies provided in sections 35C.4 and 35C.5, a person belonging to a class of persons qualifying for a preference may submit any refusal to allow a preference, or any reduction of the person's salary as described in section 35C.4, to arbitration within sixty days after written notification of the refusal or reduction. Within ten days after any submission, an arbitrator shall be selected by a committee that includes one member chosen by the person refused preference, one member chosen by the appointing officer, board, or person, and one member who shall be a disinterested party selected by the other two members of the committee. A list of qualified arbitrators may be obtained from the American arbitration association or other recognized arbitration organization or association. The decision of the arbitrator shall be final and binding on the parties.

Sec. 13. Section 37.10, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Each commissioner shall be ~~an honorably discharged soldier, sailor, marine, airman, or coast guard member~~ a veteran, as defined in section 35.1, and be a resident of the county in which the memorial hall or monument is located.

Sec. 14. Section 282.6, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Every school shall be free of tuition to all actual residents between the ages of five and twenty-one years and to resident ~~honorably discharged soldiers, sailors, and marines~~ veterans as defined in section 35.1, as many months after becoming twenty-one years of age as they have spent in the ~~military or naval service~~ armed forces of the United States before they

became twenty-one, provided, however, fees may be charged covering instructional costs for a summer school or drivers education program. The board of education may, in a hardship case, exempt a student from payment of the above fees. Every person, however, who shall attend any school after graduation from a four-year course in an approved high school or its equivalent shall be charged a sufficient tuition fee to cover the cost of the instruction received by such the person.

Sec. 15. Section 321.34, Code 1999, is amended by adding the following new subsection: NEW SUBSECTION. 15. LEGION OF MERIT 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 has been awarded the legion of merit may, upon written application to the department and presentation of satisfactory proof of the award of the legion of merit as established by the Congress of the United States, order special registration plates with a legion of merit processed emblem. The emblem shall be designed by the department in cooperation with the adjutant general and shall signify that the owner was awarded the legion of merit. 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 registration fee 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 or apply for and 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. 16. Section 331.608, subsection 8, Code 1999, is amended to read as follows:

8. As used in this section, "veteran" means a ~~man or woman~~ veteran as defined in section 35.1 who enlisted or was inducted from the county, resided at any time in the county, or is buried in the county ~~and who served as a member of a branch of the armed forces of the United States of America, as a member of the merchant marine during the time of war, during the Korean Conflict beginning June 25, 1950, and ending January 31, 1955, both dates inclusive, or during the Vietnam Conflict beginning August 5, 1964, and ending June 30, 1973, both dates inclusive, or as a member of the armed forces of a country allied with the United States of America or the armed forces of Iowa or another state or territory.~~

Sec. 17. Section 400.10, Code 1999, is amended to read as follows:

400.10 PREFERENCES.

In all examinations and appointments under this chapter, other than promotions and appointments of chief of the police department and chief of the fire department, ~~honorably discharged veterans from the military or naval forces of the United States in any war in which the United States has been engaged, including the Korean Conflict at any time between June 25, 1950, and January 31, 1955, both dates inclusive, the Vietnam Conflict beginning August 5, 1964, and ending May 7, 1975, both dates inclusive, and the Persian Gulf Conflict beginning August 2, 1990, and ending on the date specified by the president or the Congress of the United States as the date of permanent cessation of hostilities, both dates inclusive, and as defined in section 35.1,~~ who are citizens and residents of this state, shall have five points added to the veteran's grade or score attained in qualifying examinations for appointment to positions and five additional points added to the grade or score if the veteran has a service-connected disability or is receiving compensation, disability benefits or pension under laws administered by the veterans administration. ~~However, if the Congress of the United States enacts a date different from August 2, 1990, as the beginning of the Persian Gulf Conflict to determine the eligibility of a veteran for military benefits as a veteran of the Persian Gulf Conflict, the date enacted by the Congress of the United States~~

~~shall be substituted for August 2, 1990.~~ An honorably discharged veteran who has been awarded the Purple Heart for disabilities incurred in action shall be considered to have a service-connected disability. However, the points shall be given only upon passing the exam and shall not be the determining factor in passing.

~~For the purposes of this section World War II shall be from December 7, 1941, to December 31, 1946, both dates inclusive.~~

Sec. 18. Section 427.3, subsections 1, 2, and 3, Code 1999, are amended to read as follows:

1. The property, not to exceed two thousand seven hundred seventy-eight dollars in taxable value of any ~~honorably discharged soldier, sailor, marine, or nurse~~ veteran, as defined in section 35.1, of the first World War.

2. The property, not to exceed one thousand eight hundred fifty-two dollars in taxable value of an honorably separated, retired, furloughed to a reserve, placed on inactive status, or discharged ~~soldier, sailor, marine, or nurse of the second World War from December 7, 1941, to December 31, 1946, army of occupation in Germany from November 12, 1918, to July 11, 1923, American expeditionary forces in Siberia from November 12, 1918, to April 30, 1920, second Nicaraguan campaign with the navy or marines in Nicaragua or on combatant ships 1926-1933, second Haitian suppression of insurrections 1919-1920, navy and marine operations in China 1937-1939 and Yangtze service with navy and marines in Shanghai or in the Yangtze Valley 1926-1927 and 1930-1932 or of the Korean Conflict at any time between June 25, 1950, and January 31, 1955, both dates inclusive, or those who served on active duty during the Vietnam Conflict beginning December 22, 1961, and ending May 7, 1975, both dates inclusive, or those who served on active duty during the Persian Gulf Conflict at any time between August 2, 1990, and the date the president or the Congress of the United States declares a permanent cessation of hostilities, both dates inclusive~~ veteran, as defined in section 35.1. However, if Congress enacts a date different from August 2, 1990, as the beginning of the Persian Gulf Conflict for purposes of determining whether a veteran is entitled to receive military benefits as a veteran of the Persian Gulf Conflict, that date shall be substituted for August 2, 1990. For the purposes of this section, "active duty" means full-time duty in the armed forces of the United States, excluding active duty for training purposes only and excluding any period a person was assigned by the armed forces to a civilian institution for a course of education or training which was substantially the same as established courses offered to civilians, or as a cadet or midshipman, however enrolled, at one of the service academies.

3. Where the word "~~soldier~~ veteran" appears in this chapter, it includes, without limitation, the members of the United States air force and the United States merchant marine.

Sec. 19. Section 427.4, Code 1999, is amended to read as follows:

427.4 EXEMPTIONS TO RELATIVES.

In case any person in the foregoing classifications does not claim ~~any such~~ the exemption from taxation, it shall be allowed in the name of ~~such the~~ person to the same extent on the property of any one of the following persons in the order named:

1. The spouse, or surviving spouse remaining unmarried, of ~~any such soldier, sailor, marine, or nurse~~ a veteran, as defined in section 35.1, where they are living together or were living together at the time of the death of ~~such person~~ the veteran.

2. The parent whose spouse is deceased and who remains unmarried, of ~~any such soldier, sailor, marine, or nurse~~ a veteran, as defined in section 35.1, whether living or deceased, where ~~such the~~ parent is, or was at the time of death of the ~~soldier, sailor, marine, or nurse~~ veteran, dependent on ~~such person~~ the veteran for support.

3. The minor child, or children owning property as tenants in common, of ~~any such a~~ deceased soldier, sailor, marine, or nurse veteran, as defined in section 35.1.

No more than one tax exemption shall be allowed under this section or section 427.3 in the name of ~~any honorably discharged soldier, sailor, marine, or nurse~~ a veteran, as defined in section 35.1.

Sec. 20. Section 483A.24, subsection 13, Code 1999, is amended to read as follows:

13. Upon payment of the fee of thirty dollars for a lifetime hunting and fishing combined license, the department shall issue a hunting and fishing combined license to a resident of Iowa who is a veteran, as defined in section 35.1, who was disabled ~~during the period of a veteran's service listed in this subsection~~ or who was a prisoner of war during that veteran's military service. The department shall prepare an application to be used by a person requesting a hunting and fishing combined license under this subsection. The commission of veterans affairs shall assist the department in verifying the status or claims of applicants under this subsection. As used in this subsection, "veteran" means ~~a person who is a resident of Iowa and who served in the armed forces of the United States of America at any time during World War I between the dates of April 6, 1917, and July 2, 1921, World War II between the dates of December 7, 1941, and December 31, 1946, the Korean Conflict between the dates of June 27, 1950, and January 31, 1955, the Vietnam Conflict between August 5, 1964, and May 7, 1975, or the Persian Gulf Conflict between August 2, 1990, and the date the president or the Congress of the United States declares a permanent cessation of hostilities, all dates inclusive, and~~ "disabled" means entitled to compensation under the United States Code, Title 38, chapter 11.

Sec. 21. Section 35.7, Code 1999, is repealed.

DIVISION II MILITARY SERVICE PROPERTY TAX CREDIT AND EXEMPTION

Sec. 22. Section 25B.7, subsection 2, paragraph c, Code 1999, is amended to read as follows:

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~~ ninety-two cents per thousand dollars of assessed value of the exempt property.

Sec. 23. Section 426A.2, Code 1999, is amended to read as follows:

426A.2 MILITARY SERVICE TAX CREDIT.

The moneys shall be apportioned each year so as to replace all or a portion of the tax which would be due on property eligible for military service tax exemption in the state, if the property were subject to taxation, the amount of the credit to be not more than six dollars and ~~seventy five~~ ninety-two cents per thousand dollars of assessed value of property which would be subject to the tax, except for the military service tax exemption.

Sec. 24. Division II of this Act applies to the military service property tax exemption claims allowed on or after January 1, 2000.

Approved May 25, 1999

CHAPTER 181**ACQUIRED IMMUNE DEFICIENCY SYNDROME — MISCELLANEOUS PROVISIONS****S.F. 248**

AN ACT relating to acquired immune deficiency syndrome, providing penalties, and providing for a repeal.

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

Section 1. Section 80.9, subsection 2, paragraph d, Code 1999, is amended to read as follows:

d. To collect and classify, and keep at all times available, complete information useful for the detection of crime, and the identification and apprehension of criminals. Such information shall be available for all peace officers within the state, under such regulations as the commissioner may prescribe. The provisions of chapter ~~141~~ 141A do not apply to the entry of human immunodeficiency virus-related information by criminal or juvenile justice agencies, as defined in section 692.1, into the Iowa criminal justice information system or the national crime information center system. The provisions of chapter ~~141~~ 141A also do not apply to the transmission of the same information from either or both information systems to criminal or juvenile justice agencies. The provisions of chapter ~~141~~ 141A also do not apply to the transmission of the same information from either or both information systems to employees of state correctional institutions subject to the jurisdiction of the department of corrections, employees of secure facilities for juveniles subject to the jurisdiction of the department of human services, and employees of city and county jails, if those employees have direct physical supervision over inmates of those facilities or institutions. Human immunodeficiency virus-related information shall not be transmitted over the police radio broadcasting system under chapter 693 or any other radio-based communications system. An employee of an agency receiving human immunodeficiency virus-related information under this section who communicates the information to another employee who does not have direct physical supervision over inmates, other than to a supervisor of an employee who has direct physical supervision over inmates for the purpose of conveying the information to such an employee, or who communicates the information to any person not employed by the agency or uses the information outside the agency is guilty of a class "D" felony. The commissioner shall adopt rules regarding the transmission of human immunodeficiency virus-related information including provisions for maintaining confidentiality of the information. The rules shall include a requirement that persons receiving information from the Iowa criminal justice information system or the national crime information center system receive training regarding confidentiality standards applicable to the information received from the system. The commissioner shall develop and establish, in cooperation with the department of corrections and the Iowa department of public health, training programs and program criteria for persons receiving human immunodeficiency virus-related information through the Iowa criminal justice information system or the national crime information center system.

Sec. 2. Section 139B.1, subsection 1, paragraph a, Code 1999, is amended to read as follows:

a. "Contagious or infectious disease" means hepatitis in any form, meningococcal disease, tuberculosis, and any other disease with the exception of AIDS or HIV infection as defined in section ~~141.21~~ 141A.1, determined to be life-threatening to a person exposed to the disease as established by rules adopted by the department based upon a determination by the state epidemiologist and in accordance with guidelines of the centers for disease prevention and control* of the United States department of health and human services.

* Centers for disease control and prevention probably intended

Sec. 3. Section 139C.1, subsection 6, Code 1999, is amended to read as follows:

6. "HIV" means HIV as defined in section ~~141-21~~ 141A.1.

Sec. 4. Section 139C.2, subsection 7, Code 1999, is amended to read as follows:

7. Information relating to the HIV status of a health care provider is confidential and subject to the provisions of section ~~141-23~~ 141A.9. A person who intentionally or recklessly makes an unauthorized disclosure of such information is subject to a civil penalty of one thousand dollars. The attorney general or the attorney general's designee may maintain a civil action to enforce this section. Proceedings maintained under this section shall provide for the anonymity of the individual and all documentation shall be maintained in a confidential manner. Information relating to the HBV status of a health care provider is confidential and shall not be accessible to the public. Information regulated by this section, however, may be disclosed to members of the expert review panel established by the department or a panel established by hospital protocol under this section. The information may also be disclosed to the appropriate examining board by filing a report as required by this section. The examining board shall consider the report a complaint subject to the confidentiality provisions of section 272C.6. A licensee, upon the filing of a formal charge or notice of hearing by the examining board based on such a complaint, may seek a protective order from the board.

Sec. 5. NEW SECTION. 141A.1 DEFINITIONS.

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

1. "AIDS" means acquired immune deficiency syndrome as defined by the centers for disease control and prevention of the United States department of health and human services.

2. "AIDS-related conditions" means the human immunodeficiency virus, or any other condition resulting from the human immunodeficiency virus infection.

3. "Blinded epidemiological studies" means studies in which specimens which were collected for other purposes are selected according to established criteria, are permanently stripped of personal identifiers, and are then tested.

4. "Blood bank" means a facility for the collection, processing, or storage of human blood or blood derivatives, including blood plasma, or from which or by means of which human blood or blood derivatives are distributed or otherwise made available.

5. "Care provider" means any emergency care provider, health care provider, or any other person providing health care services of any kind.

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

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

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

(2) A health care provider.

(3) A fire fighter.

(4) A peace officer.

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

8. "Good faith" means objectively reasonable and not in violation of clearly established statutory rights or other rights of a person which a reasonable person would know or should have known.

9. "Health care provider" means a person licensed or certified under chapter 148, 148C, 150, 150A, 152, or 153 to provide professional health care service to a person during the person's medical care, treatment, or confinement.

10. "Health facility" means a hospital, health care facility, clinic, blood bank, blood center, sperm bank, laboratory organ transplant center and procurement agency, or other health care institution.

11. "HIV" means the human immunodeficiency virus identified as the causative agent of AIDS.

12. "HIV-related test" means a diagnostic test conducted by a laboratory approved pursuant to the federal Clinical Laboratory Improvements Act for determining the presence of HIV.

13. "Infectious bodily fluids" means bodily fluids capable of transmitting HIV infection as determined by the centers for disease control and prevention of the United States department of health and human services and adopted by rule of the department.

14. "Legal guardian" means a person appointed by a court pursuant to chapter 633 or an attorney in fact as defined in section 144B.1. In the case of a minor, "legal guardian" also means a parent or other person responsible for the care of the minor.

15. "Nonblinded epidemiological studies" means studies in which specimens are collected for the express purpose of testing for the HIV infection and persons included in the nonblinded study are selected according to established criteria.

16. "Release of test results" means a written authorization for disclosure of HIV-related test results which is signed and dated, and which specifies to whom disclosure is authorized and the time period during which the release is to be effective.

17. "Sample" means a human specimen obtained for the purpose of conducting an HIV-related test.

18. "Significant exposure" means the risk of contracting HIV infection by means of exposure to a person's infectious bodily fluids in a manner capable of transmitting HIV infection as determined by the centers for disease control and prevention of the United States department of health and human services and adopted by rule of the department.

Sec. 6. NEW SECTION. 141A.2 LEAD AGENCY.

1. The department is designated as the lead agency in the coordination and implementation of the state comprehensive AIDS-related conditions prevention and intervention plan.

2. The department shall adopt rules pursuant to chapter 17A to implement and enforce this chapter. The rules may include procedures for taking appropriate action with regard to health facilities or health care providers which violate this chapter or the rules adopted pursuant to this chapter.

3. The department shall adopt rules pursuant to chapter 17A which require that if a health care provider attending a person prior to the person's death determines that the person suffered from or was suspected of suffering from a contagious or infectious disease, the health care provider shall place with the remains written notification of the condition for the information of any person handling the body of the deceased person subsequent to the person's death. For purposes of this subsection, "contagious or infectious disease" means hepatitis in any form, meningococcal disease, tuberculosis, and any other disease including AIDS or HIV infection, determined to be life-threatening to a person exposed to the disease as established by rules adopted by the department based upon a determination by the state epidemiologist and in accordance with guidelines of the centers for disease control and prevention of the United States department of health and human services.

4. The department, in cooperation with the department of public safety, and persons who represent those who attend dead bodies shall establish for all care providers, including paramedics, ambulance personnel, physicians, nurses, hospital personnel, first responders, peace officers, and fire fighters, who provide care services to a person, and for all persons who attend dead bodies, protocol and procedures for the use of universal precautions to prevent the transmission of contagious and infectious diseases.

5. The department shall coordinate efforts with local health officers to investigate sources of HIV infection and use every appropriate means to prevent the spread of the infection.

6. The department, with the approval of the state board of health, may conduct epidemiological blinded and nonblinded studies to determine the incidence and prevalence of the HIV infection. Initiation of any new epidemiological studies shall be contingent upon the

receipt of funding sufficient to cover all the costs associated with the studies. The informed consent, reporting, and counseling requirements of this chapter shall not apply to blinded studies.

Sec. 7. NEW SECTION. 141A.3 DUTIES OF THE DEPARTMENT.

1. All federal and state moneys appropriated to the department for AIDS-related activities shall be allocated in accordance with a prioritized schedule developed by rule of the department, and grants shall be awarded to the maximum extent feasible to community-based organizations.

2. The department shall do all of the following:

a. Provide consultation to agencies and organizations regarding appropriate policies for testing, education, confidentiality, and infection control.

b. Conduct health information programs for the public relating to HIV infection, including information about how the infection is transmitted and how transmittal can be prevented. The department shall prepare, for free distribution, printed information relating to HIV infection and prevention.

c. Provide educational programs concerning HIV infection in the workplace.

d. Develop and implement HIV education risk-reduction programs for specific populations at high risk for infection.

e. Provide an informational brochure for patients who provide samples for purposes of performing an HIV test which, at a minimum, shall include a summary of the patient's rights and responsibilities under the law.

f. In cooperation with the department of education, develop and update a medically correct AIDS prevention curriculum for use at the discretion of secondary and middle schools.

3. The department shall, in cooperation with the department of education and other agencies, organizations, coalitions, and local health departments, develop and implement a program of public and professional AIDS-related education.

Sec. 8. NEW SECTION. 141A.4 TESTING AND COUNSELING.

1. HIV testing and counseling shall be offered to the following:

a. All persons seeking treatment for a sexually transmitted disease.

b. All persons seeking treatment for injecting drug abuse or having a history of injecting drug abuse.

c. All persons who consider themselves at risk for the HIV infection.

d. Male and female prostitutes.

2. Pregnant women shall be provided information about HIV prevention, risk reduction, and treatment opportunities to reduce the possible transmission of HIV to a fetus. Pregnant women who report one or more recognized risk factors for HIV shall be strongly encouraged to undergo HIV-related testing. A pregnant woman who requests testing shall be tested regardless of the absence of risk factors.

Sec. 9. NEW SECTION. 141A.5 PARTNER NOTIFICATION PROGRAM — HIV.

1. The department shall maintain a partner notification program for persons known to have tested positive for the HIV infection.

2. The department shall initiate the program at alternative testing and counseling sites and at sexually transmitted disease clinics.

3. In administering the program, the department shall provide for the following:

a. A person who tests positive for the HIV infection shall receive posttest counseling, during which time the person shall be encouraged to refer for counseling and HIV testing any person with whom the person has had sexual relations or has shared drug injecting equipment.

b. The physician or other health care provider attending the person may provide to the department any relevant information provided by the person regarding any person with whom the tested person has had sexual relations or has shared drug injecting equipment.

The department disease prevention staff shall then conduct partner notification in the same manner as that utilized for sexually transmitted diseases consistent with the provisions of this chapter.

c. Devise a procedure, as a part of the partner notification program, to provide for the notification of an identifiable third party who is a sexual partner of or who shares drug injecting equipment with a person who has tested positive for HIV, by the department or a physician, when all of the following situations exist:

(1) A physician for the infected person is of the good faith opinion that the nature of the continuing contact poses an imminent danger of HIV infection transmission to the third party.

(2) When the physician believes in good faith that the infected person, despite strong encouragement, has not and will not warn the third party and will not participate in the voluntary partner notification program.

Notwithstanding subsection 4, the department or a physician may reveal the identity of a person who has tested positive for the HIV infection pursuant to this subsection only to the extent necessary to protect a third party from the direct threat of transmission. This subsection shall not be interpreted to create a duty to warn third parties of the danger of exposure to HIV through contact with a person who tests positive for the HIV infection.

The department shall adopt rules pursuant to chapter 17A to implement this paragraph "c". The rules shall provide a detailed procedure by which the department or a physician may directly notify an endangered third party.

4. In making contact the department shall not disclose the identity of the person who provided the names of the persons to be contacted and shall protect the confidentiality of persons contacted.

5. The department may delegate its partner notification duties under this section to local health authorities unless the local authority refuses or neglects to conduct the contact tracing program in a manner deemed to be effective by the department.

6. In addition to the provisions for partner notification provided under this section and notwithstanding any provision to the contrary, a county medical examiner or deputy medical examiner performing official duties pursuant to sections 331.801 through 331.805 or the state medical examiner or deputy medical examiner performing official duties pursuant to chapter 691, who determines through an investigation that a deceased person was infected with HIV, may notify directly, or request that the department notify, the immediate family of the deceased or any person known to have had a significant exposure from the deceased of the finding.

Sec. 10. NEW SECTION. 141A.6 AIDS-RELATED CONDITIONS — SCREENING, TESTING, AND REPORTING.

1. Prior to obtaining a sample for the purpose of performing a voluntary HIV-related test, a health care provider shall inform the subject of the test that the test is voluntary. Within seven days of the receipt of a test result indicating HIV infection which has been confirmed as positive according to prevailing medical technology, the physician or other health care provider at whose request the test was performed shall make a report to the department on a form provided by the department.

2. Within seven days of diagnosing a person as having an AIDS-related condition, the diagnosing physician shall make a report to the department on a form provided by the department.

3. Within seven days of the death of a person resulting from an AIDS-related condition, the attending physician shall make a report to the department on a form provided by the department.

4. Within seven days of the receipt of a test result indicating HIV infection which has been confirmed as positive according to prevailing medical technology, the director of a blood bank shall make a report to the department on a form provided by the department.

5. Within seven days of the receipt of a test result indicating HIV infection which has been confirmed as positive according to prevailing medical technology, the director of a clinical laboratory shall make a report to the department on a form provided by the department.

6. The forms provided by the department shall require inclusion of all of the following information:

- a. The name of the patient.
- b. The address of the patient.
- c. The patient's date of birth.
- d. The gender of the patient.
- e. The race or ethnicity of the patient.
- f. The patient's marital status.
- g. The patient's telephone number.
- h. The name and address of the laboratory or blood bank.
- i. The date the test was found to be positive and the collection date.
- j. The name of the physician or health care provider who performed the test.
- k. If the patient is female, whether the patient is pregnant.

Sec. 11. NEW SECTION. 141A.7 TEST RESULTS — COUNSELING — APPLICATION FOR SERVICES.

1. Prior to undergoing an HIV-related test, information shall be available to the subject of the test concerning testing and any means of obtaining additional information regarding HIV infection and risk reduction. At any time that the subject of an HIV-related test is informed of confirmed positive test results, counseling concerning the emotional and physical health effects shall be initiated. Particular attention shall be given to explaining the need for the precautions necessary to avoid transmitting the virus. The subject shall be given information concerning additional counseling.

2. Notwithstanding subsection 1, the provisions of this section do not apply to any of the following:

a. The performance by a health care provider or health facility of an HIV-related test when the health care provider or health facility procures, processes, distributes, or uses a human body part donated for a purpose specified under the uniform anatomical gift Act, or semen provided prior to July 1, 1988, for the purpose of artificial insemination, or donations of blood, and such test is necessary to ensure medical acceptability of such gift or semen for the purposes intended.

b. A person engaged in the business of insurance who is subject to section 505.16.

c. The performance by a health care provider or health facility of an HIV-related test when the subject of the test is deceased and a documented significant exposure has occurred.

3. A person may apply for voluntary treatment, contraceptive services, or screening or treatment for HIV infection and other sexually transmitted diseases directly to a licensed physician and surgeon, an osteopathic physician and surgeon, or a family planning clinic. Notwithstanding any other provision of law, however, a minor shall be informed prior to testing that, upon confirmation according to prevailing medical technology of a positive HIV-related test result, the minor's legal guardian is required to be informed by the testing facility. Testing facilities where minors are tested shall have available a program to assist minors and legal guardians with the notification process which emphasizes the need for family support and assists in making available the resources necessary to accomplish that goal. However, a testing facility which is precluded by federal statute, regulation, or centers for disease control and prevention guidelines from informing the legal guardian is exempt from the notification requirement. The minor shall give written consent to these procedures and to receive the services, screening, or treatment. Such consent is not subject to later disaffirmance by reason of minority.

Sec. 12. NEW SECTION. 141A.8 CARE PROVIDER NOTIFICATION.

1. A hospital licensed under chapter 135B shall provide notification to a care provider who renders assistance or treatment to an individual, following submission of a significant exposure report by the care provider to the hospital and a diagnosis or confirmation by an attending physician that the individual has HIV infection, and determination that the exposure reported was a significant exposure. The notification shall advise the care provider of possible exposure to HIV infection. Notification shall be made in accordance with both of the following:

a. The hospital informs the individual, when the individual's condition permits, of the submission of a significant exposure report.

b. The individual consents to serological testing by or voluntarily discloses the individual's HIV status to the hospital and consents to notification.

Notwithstanding paragraphs "a" and "b", notification shall be made when the individual denies consent for or consent is not reasonably obtainable for serological testing, and in the course of admission, care, and treatment of the individual, the individual is diagnosed or is confirmed as having HIV infection.

2. The hospital shall notify the care provider involved in attending or transporting an individual who submitted a significant exposure report. This shall include a person who renders direct emergency aid without compensation, or in the case of an emergency care provider, the designated officer of the emergency care provider service, who in turn shall notify any emergency care providers. The identity of the designated officer shall not be revealed to the individual. The designated officer shall inform the hospital of those parties who received the notification, and following receipt of this information and upon request of the individual, the hospital shall inform the individual of the parties to whom notification was provided.

3. The hospital, upon request of the individual, shall inform the individual of the persons to whom notification was made.

4. The process for notification under this section shall be initiated as soon as is reasonably possible.

5. A health care provider, with consent of the individual, may provide the notification required of hospitals in this section to care providers if an individual who has HIV infection is delivered by a care provider to the office or clinic of the health care provider for treatment. The notification shall take place only upon submission of a significant exposure report form by the care provider to the health care provider and the determination by the health care provider that a significant exposure has occurred.

6. This section does not require or permit, unless otherwise provided, a hospital or health care provider to administer a test for the express purpose of determining the presence of HIV infection, except that testing may be performed if the individual consents, and if the requirements of this section are satisfied.

7. When a care provider in the course of providing care sustains a significant exposure on the premises of a health care facility or while engaged in rendering aid or providing transportation to an individual in circumstances which lead to the individual's presence at a health care facility, the individual to whom the care provider was exposed is deemed to consent to a test to be administered by the health care facility upon the written request of the exposed care provider for the express purpose of determining the presence of HIV infection in that individual. The sample and test results shall only be identified by a number and no reports otherwise required by this chapter shall be made which identify the individual tested. However, if the test results are positive, the health care facility shall notify the individual tested and ensure performance of counseling and reporting requirements of this chapter in the same manner as for an individual from whom actual consent was obtained.

8. A hospital or health care provider, or other person participating in good faith in making a report under the notification provisions of this section, under procedures similar to this section for notification of its own employees upon filing of a significant exposure

report, or in failing to make a report under this section, is immune from any liability, civil or criminal, which might otherwise be incurred or imposed.

9. Notifications made pursuant to this section shall not disclose the identity of the individual who is diagnosed or confirmed as having HIV infection unless the individual provides a specific written release as provided in subsection 1, paragraph "b". If the care provider determines the identity of the individual, the identity of the individual shall be confidential information and shall not be disclosed by the care provider to any other person unless a specific written release is obtained from the individual.

10. A hospital's duty to notify under this section is not continuing but is limited to the diagnosis of HIV infection made in the course of admission, care, and treatment following the rendering of assistance or treatment of the individual with the infection.

11. Notwithstanding subsection 10, if, following discharge or completion of care or treatment, an individual for whom a significant exposure report was submitted but which report did not result in notification, wishes to provide information regarding the individual's HIV infection status to the care provider who submitted the report, the hospital shall provide a procedure for notifying the care provider.

12. The employer of a care provider who submits a report of significant exposure under this section sustained in the course of employment shall pay the costs of HIV testing for the individual and the costs of HIV testing and counseling for the care provider. However, the department shall pay the costs of HIV testing for the individual and the costs of HIV testing and counseling for a care provider who renders direct aid without compensation.

Sec. 13. NEW SECTION. 141A.9 CONFIDENTIALITY OF INFORMATION.

Any information, including reports and records, obtained, submitted, and maintained pursuant to this chapter is strictly confidential medical information. The information shall not be released, shared with an agency or institution, or made public upon subpoena, search warrant, discovery proceedings, or by any other means except as provided in this chapter. A person shall not be compelled to disclose the identity of any person upon whom an HIV-related test is performed, or the results of the test in a manner which permits identification of the subject of the test, except to persons entitled to that information under this chapter. Information shall be made available for release to the following individuals or under the following circumstances:

1. To the subject of the test or the subject's legal guardian subject to the provisions of section 141A.7, subsection 3, when applicable.

2. To any person who secures a written release of test results executed by the subject of the test or the subject's legal guardian.

3. To an authorized agent or employee of a health facility or health care provider, if the health facility or health care provider ordered or participated in the testing or is otherwise authorized to obtain the test results, the agent or employee provides patient care or handles or processes samples, and the agent or employee has a medical need to know such information.

4. To a health care provider providing care to the subject of the test when knowledge of the test results is necessary to provide care or treatment.

5. To the department in accordance with reporting requirements for an HIV-related condition.

6. To a health facility or health care provider which procures, processes, distributes, or uses a human body part from a deceased person with respect to medical information regarding that person, or semen provided prior to July 1, 1988, for the purpose of artificial insemination.

7. Release may be made of medical or epidemiological information for statistical purposes in a manner such that no individual person can be identified.

8. Release may be made of medical or epidemiological information to the extent necessary to enforce the provisions of this chapter and related rules concerning the treatment, control, and investigation of HIV infection by public health officials.

9. Release may be made of medical or epidemiological information to medical personnel to the extent necessary to protect the health or life of the named party.

10. Release may be made of test results concerning a patient pursuant to procedures established under section 141A.5, subsection 3, paragraph "c".

11. To a person allowed access to a record by a court order which is issued in compliance with the following provisions:

a. A court has found that the person seeking the test results has demonstrated a compelling need for the test results which need cannot be accommodated by other means. In assessing compelling need, the court shall weigh the need for disclosure against the privacy interest of the test subject and the public interest which may be disserved by disclosure due to its deterrent effect on future testing or due to its effect in leading to discrimination.

b. Pleadings pertaining to disclosure of test results shall substitute a pseudonym for the true name of the subject of the test. The disclosure to the parties of the subject's true name shall be communicated confidentially in documents not filed with the court.

c. Before granting an order, the court shall provide the person whose test results are in question with notice and a reasonable opportunity to participate in the proceedings if the person is not already a party.

d. Court proceedings as to disclosure of test results shall be conducted in camera unless the subject of the test agrees to a hearing in open court or unless the court determines that a public hearing is necessary to the public interest and the proper administration of justice.

e. Upon the issuance of an order to disclose test results, the court shall impose appropriate safeguards against unauthorized disclosure, which shall specify the persons who may gain access to the information, the purposes for which the information shall be used, and appropriate prohibitions on future disclosure.

12. To an employer, if the test is authorized to be required under any other provision of law.

13. To a convicted or alleged sexual assault offender; the physician or other health care provider who orders the test of a convicted or alleged offender; the victim; the parent, guardian, or custodian of the victim if the victim is a minor; the physician of the victim; the victim counselor or person requested by the victim to provide counseling regarding the HIV-related test and results; the victim's spouse; persons with whom the victim has engaged in vaginal, anal, or oral intercourse subsequent to the sexual assault; members of the victim's family within the third degree of consanguinity; and the county attorney who may use the results as evidence in the prosecution of sexual assault under chapter 915, subchapter IV, or prosecution of the offense of criminal transmission of HIV under chapter 709C. For the purposes of this paragraph, "victim" means victim as defined section 915.40.

14. To employees of state correctional institutions subject to the jurisdiction of the department of corrections, employees of secure facilities for juveniles subject to the department of human services, and employees of city and county jails, if the employees have direct supervision over inmates of those facilities or institutions in the exercise of the duties prescribed pursuant to section 80.9, subsection 2, paragraph "d".

Sec. 14. NEW SECTION. 141A.10 IMMUNITIES.

1. A person making a report in good faith pursuant to this chapter is immune from any liability, civil or criminal, which might otherwise be incurred or imposed as a result of the report.

2. A health care provider attending a person who tests positive for the HIV infection has no duty to disclose to or to warn third parties of the dangers of exposure to HIV infection through contact with that person and is immune from any liability, civil or criminal, for failure to disclose to or warn third parties of the condition of that person.

Sec. 15. NEW SECTION. 141A.11 REMEDIES.

1. A person aggrieved by a violation of this chapter shall have a right of civil action for damages in district court.

2. A care provider who intentionally or recklessly makes an unauthorized disclosure under this chapter is subject to a civil penalty of one thousand dollars.

3. A person who violates a confidentiality requirement of section 141A.5 is guilty of an aggravated misdemeanor.

4. A civil action under this chapter is barred unless the action is commenced within two years after the cause of action accrues.

5. The attorney general may maintain a civil action to enforce this chapter.

6. This chapter does not limit the rights of the subject of an HIV-related test to recover damages or other relief under any other applicable law.

7. This chapter shall not be construed to impose civil liability or criminal sanction for disclosure of HIV-related test results in accordance with any reporting requirement for a diagnosed case of AIDS or a related condition by the department or the centers for disease control and prevention of the United States public health service.

Sec. 16. Section 321.186, unnumbered paragraph 4, Code 1999, is amended to read as follows:

A physician licensed under chapter 148, 150, or 150A, or an optometrist licensed under chapter 154, may report to the department the identity of a person who has been diagnosed as having a physical or mental condition which would render the person physically or mentally incompetent to operate a motor vehicle in a safe manner. The physician or optometrist shall make reasonable efforts to notify the person who is the subject of the report, in writing. The written notification shall state the nature of the disclosure and the reason for the disclosure. A physician or optometrist making a report under this section shall be immune from any liability, civil or criminal, which might otherwise be incurred or imposed as a result of the report. A physician or optometrist has no duty to make a report or to warn third parties with regard to any knowledge concerning a person's mental or physical competency to operate a motor vehicle in a safe manner. Any report received by the department from a physician or optometrist under this section shall be kept confidential. Information regulated by chapter ~~141~~ 141A shall be subject to the confidentiality provisions and remedies of sections 141.23 and 141.24 that chapter.

Sec. 17. Section 505.16, subsection 1, Code 1999, is amended to read as follows:

1. A person engaged in the business of insurance shall not require a test of an individual in connection with an application for insurance for the presence of an antibody to the human immunodeficiency virus unless the individual provides a written release on a form approved by the insurance commissioner. The form shall include information regarding the purpose, content, use, and meaning of the test, disclosure of test results including information explaining the effect of releasing the information to a person engaged in the business of insurance, the purpose for which the test results may be used, and other information approved by the insurance commissioner. The form shall also authorize the person performing the test to provide the results of the test to the insurance company subject to rules of confidentiality, consistent with section ~~141.23~~ 141A.9, approved by the insurance commissioner. As used in this section, "a person engaged in the business of insurance" includes hospital service corporations organized under chapter 514 and health maintenance organizations subject to chapter 514B.

Sec. 18. Section 904.515, Code 1999, is amended to read as follows:

904.515 HUMAN IMMUNODEFICIENCY VIRUS-RELATED MATTERS — EXEMPTION.

The provisions of chapter ~~141~~ 141A relating to knowledge and consent do not apply to persons committed to the custody of the department. The department may provide for medically acceptable procedures to inform employees, visitors, and persons committed to the department of possible infection and to protect them from possible infection.

Sec. 19. Section 915.40, subsection 3, paragraph c, Code 1999, is amended to read as follows:

c. The victim counselor or person requested by the victim ~~who is authorized to provide the counseling required pursuant to section 141.22 regarding the HIV-related test and results.~~

Sec. 20. Section 915.42, subsection 4, paragraph a, Code 1999, is amended to read as follows:

a. Prior to the scheduling of a hearing, refer the victim for counseling by a victim counselor or a person requested by the victim ~~who is authorized to provide the counseling required pursuant to section 141.22,~~ regarding the nature, reliability, and significance of the HIV-related test and of the serologic status of the convicted offender.

Sec. 21. Section 915.43, subsections 1, 2, 4, and 5, Code 1999, are amended to read as follows:

1. The physician or other practitioner who orders the test of a convicted or alleged offender for HIV under this subchapter shall disclose the results of the test to the convicted or alleged offender, and to the victim counselor or a person requested by the victim ~~who is authorized to provide the counseling required pursuant to section 141.22, regarding the HIV-related test and results~~ who shall disclose the results to the petitioner.

2. All testing under this chapter shall be accompanied by ~~pretest and posttest~~ counseling as required under section ~~141.22~~ 141A.7.

4. Results of a test performed under this subchapter, except as provided in subsection 13, shall be disclosed only to the physician or other practitioner who orders the test of the convicted or alleged offender, the convicted or alleged offender, the victim, the victim counselor or person requested by the victim ~~who is authorized to provide the counseling required pursuant to section 141.22 regarding the HIV-related test and results,~~ the physician of the victim if requested by the victim, the parent, guardian, or custodian of the victim, if the victim is a minor, and the county attorney who filed the petition for HIV-related testing under this chapter, who may use the results to file charges of criminal transmission of HIV under chapter 709C. Results of a test performed under this subchapter shall not be disclosed to any other person without the written informed consent of the convicted or alleged offender. A person to whom the results of a test have been disclosed under this subchapter is subject to the confidentiality provisions of section ~~141.23~~ 141A.9, and shall not disclose the results to another person except as authorized by section ~~141.23, subsection 1~~ 141A.9, subsection 13.

5. If testing is ordered under this subchapter, the court shall also order periodic testing of the convicted offender during the period of incarceration, probation, or parole or of the alleged offender during a period of six months following the initial test if the physician or other practitioner who ordered the initial test of the convicted or alleged offender certifies that, based upon prevailing scientific opinion regarding the maximum period during which the results of an HIV-related test may be negative for a person after being HIV-infected, additional testing is necessary to determine whether the convicted or alleged offender was HIV-infected at the time the sexual assault or alleged sexual assault was perpetrated. The results of the test conducted pursuant to this subsection shall be released only to the physician or other practitioner who orders the test of the convicted or alleged offender, the convicted or alleged offender, the victim counselor or person requested by the victim ~~who is authorized to provide the counseling required pursuant to section 141.22, regarding the HIV-related test and results~~ who shall disclose the results to the petitioner, the physician of the victim, if requested by the victim, and the county attorney who may use the results as evidence in the prosecution of the sexual assault or in the prosecution of the offense of criminal transmission of HIV under chapter 709C.

Sec. 22. Chapter 141, Code 1999, is repealed.

Approved May 26, 1999

CHAPTER 182

DEPARTMENT OF CORRECTIONS — MISCELLANEOUS PROVISIONS

S.F. 395

AN ACT relating to the department of corrections by providing for purchases from Iowa prison industries, the study of inmate worker safety issues, the establishment of a criminal offense for attempts to escape, the crediting of time served by inmates, inmate work program agreements, and deductions from inmate work program earnings, standards for the employment of probation and parole officers, and making penalties applicable.

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

Section 1. Section 8.62, subsection 2, Code 1999, is amended to read as follows:

2. Notwithstanding the provisions of section 8.33 or any other provision of law to the contrary, if on June 30 of a fiscal year, a balance of an operational appropriation remains unexpended or unencumbered, not more than fifty percent of the balance may be encumbered by the agency to which the appropriation was made and used as provided in this section and the remaining balance shall be deposited in the cash reserve fund created in section 8.56. Moneys encumbered under this section shall only be used by the agency during the succeeding fiscal year for employee training ~~and for~~ technology enhancement, or purchases of goods and services from Iowa prison industries. Unused moneys encumbered under this section shall be deposited in the cash reserve fund on June 30 of the succeeding fiscal year.

Sec. 2. Section 8.62, subsection 4, Code 1999, is amended by striking the subsection.

Sec. 3. Section 719.4, subsections 1 and 2, Code 1999, are amended to read as follows:

1. A person convicted of a felony, or charged with or arrested for the commission of a felony, who intentionally escapes, or attempts to escape, from a detention facility, community-based correctional facility, or institution to which the person has been committed by reason of the conviction, charge, or arrest, or from the custody of any public officer or employee to whom the person has been entrusted, commits a class "D" felony.

2. A person convicted of, charged with, or arrested for a misdemeanor, who intentionally escapes, or attempts to escape, from a detention facility, community-based correctional facility, or institution to which the person has been committed by reason of the conviction, charge, or arrest, or from the custody of any public officer or employee to whom the person has been entrusted, commits a serious misdemeanor.

Sec. 4. Section 903A.5, Code 1999, is amended to read as follows:

903A.5 TIME TO BE SERVED — CREDIT.

An inmate shall not be discharged from the custody of the director of the Iowa department of corrections until the inmate has served the full term for which the inmate was sentenced, less good conduct time earned and not forfeited, unless the inmate is pardoned or otherwise legally released. Good conduct time earned and not forfeited shall apply to reduce a mandatory minimum sentence being served pursuant to section 124.406, 124.413, 902.7, 902.8, or 902.11. An inmate shall be deemed to be serving the sentence from the day on which the inmate is received into the institution. ~~However, if~~ If an inmate was confined to a county jail or other correctional or mental facility at any time prior to sentencing, or after sentencing but prior to the case having been decided on appeal, because of failure to furnish bail or because of being charged with a nonbailable offense, the inmate shall be given credit for the days already served upon the term of the sentence. However, if a person commits any offense while confined in a county jail or other correctional or mental health facility, the person shall not be granted jail credit for that offense. The ~~Unless the inmate was confined in a correctional facility, the~~ sheriff of the county in which the inmate was confined shall

certify to the clerk of the district court from which the inmate was sentenced and to the department of corrections' records administrator at the Iowa medical and classification center the number of days so served. ~~The clerk of the district court~~ department of corrections' records administrator, or the administrator's designee, shall apply jail credit as ordered by the court of proper jurisdiction or as authorized by this section and section 907.3, subsection 3, and shall forward a copy of the certification of the number of days served to the warden the clerk of the district court from which the inmate was sentenced.

An inmate shall not receive credit upon the inmate's sentence for time spent in custody in another state resisting return to Iowa following an escape, or for time served in an institution or jail of another jurisdiction during any period of time the person is receiving credit upon a sentence of that other jurisdiction.

Sec. 5. Section 904.703, Code 1999, is amended to read as follows:

904.703 SERVICES OF INMATES — INSTITUTIONS AND PUBLIC SERVICE.

Inmates shall work on state account in the maintenance of state institutions, in the erection, repair, authorized demolition, or operation of buildings and works used in connection with the institutions, and in industries established and maintained in connection with the institutions by the director. The director shall encourage the making of agreements, including chapter 28E agreements, with departments and agencies of the state or its political subdivisions to provide products or services under an inmate work program to the departments and agencies. The director may implement an inmate work program for trustworthy inmates of state correctional institutions, under proper supervision, whether at work centers located outside the state correctional institutions or in construction or maintenance work at public or charitable facilities and for other agencies of state, county, or local government. The supervision, security, and transportation of, and allowances paid to inmates used in public service projects shall be provided pursuant to agreements, including chapter 28E agreements, made by the director and the agency for which the work is done. Housing and maintenance shall also be provided pursuant to the agreement, including a chapter 28E agreement, unless the inmate is housed and maintained in the correctional facility. All such work, including but not limited to that provided in this section, shall have as its primary purpose the development of attitudes, skills, and habit patterns which are conducive to inmate rehabilitation. The director may adopt rules allowing inmates participating in an inmate work program to receive educational or vocational training outside the state correctional institutions and away from the work centers or public or charitable facilities used under a program.

However, an inmate shall not work in a public service project if the work of that inmate would replace a person employed by the state agency or political subdivision, which employee is performing the work of the public service project at the time the inmate is being considered for work in the project.

~~The director may enter into a chapter 28E agreement with a county board of supervisors or county conservation board to provide inmate services for environmental maintenance including but not limited to brush and weed cutting, tree planting, and erosion control.~~

Sec. 6. Section 904.809, subsection 5, Code 1999, is amended to read as follows:

5. a. 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:~~

The inmate's employer shall provide each employed inmate with the withholding statement required under section 422.16, and any other employment information necessary for the receipt of the remainder of an inmate's payroll earnings.

b. From the inmate's gross payroll earnings, the following amounts shall be deducted:

(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. Twenty percent, to be deposited in the inmate's general account.~~

(2) ~~Restitution as ordered by the court pursuant to chapter 910. All required tax deductions, to be collected by the inmate's employer.~~

(3) ~~Five percent, of the balance to be deducted for the victim compensation fund created in section 915.94.~~

(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.~~

c. From the balance remaining after deduction of the amounts under paragraph "b", the following amounts shall be deducted in the following order of priority:

(1) An amount which the inmate may be legally obligated to pay for the support of the inmate's dependents, which shall be paid through the department of human services collection services center, and which shall include an amount for delinquent child support not to exceed fifty percent of net earnings.

(2) Restitution as ordered by the court under chapter 910.

(3) Any balance remaining after the deductions made under subparagraphs (1) and (2) shall represent the costs of the inmate's incarceration and shall be deposited, effective July 1, 2000, in the general fund of the state.

~~b d. 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 amount credited to the inmate's general account, the department shall deduct an amount representing any other legal or administrative financial obligations.~~

Sec. 7. Section 905.7, subsection 8, Code 1999, is amended to read as follows:

8. Provide for standards by rule for mental fitness which shall govern the initial recruitment, selection, and appointment of parole and probation officers. ~~To promote these standards, the department of corrections shall by rule require a battery of psychological tests to determine cognitive skills, personality characteristics, and suitability of all applicants for a correctional career, as is required for correctional officers pursuant to section 904.108.~~

Sec. 8. Section 907.3, subsection 3, unnumbered paragraph 1, Code 1999, is amended to read as follows:

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 any of the following sentences:

Sec. 9. INMATE WORKER SAFETY — STUDY — REPORT. The department of corrections, in consultation with the division of labor services of the department of workforce development, shall conduct a study on issues concerning the safety of inmate workers. The study shall consider, among other things, whether all or a part of chapter 88 should be

applicable to inmates, whether substitute guidelines should be adopted governing inmate worker safety, including guidelines on the reporting and investigation of unsafe conditions, and the legal consequences of any proposed recommendation or new guideline. The department of corrections shall submit the findings and any recommendations of the study to the general assembly by January 1, 2000.

Approved May 26, 1999

CHAPTER 183

WORKFORCE DEVELOPMENT FUND ACCOUNT — FEES PAID BY COMMUNITY COLLEGES

H.F. 337

AN ACT relating to the workforce development fund account and fees paid by community colleges and generated by the funding of new jobs training programs.

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

Section 1. Section 15.251, subsection 2, Code 1999, is amended to read as follows:

2. The department may charge, within thirty days following the sale of certificates under chapter 260E, the board of directors of the merged area a fee of up to one percent of the gross sale amount of the certificates issued. The amount of this fee shall be deposited ~~into and~~ allowed to accumulate in a job training fund created in the department and may be used by the department to cover the costs of management of chapter 260E and to support other efforts by the community colleges related to providing productivity and quality enhancement training. ~~Funds~~ At the end of each fiscal year, all funds deposited under this subsection into the job training fund during a the fiscal year ~~which are not expended by the department in that fiscal year are available for use by the department under this subsection for subsequent fiscal years~~ shall be transferred to the workforce development fund account established in section 15.342A.

Sec. 2. Section 15.342A, Code 1999, is amended to read as follows:

15.342A WORKFORCE DEVELOPMENT FUND ACCOUNT.

A workforce development fund account is established in the office of the treasurer of state under the control of the department. The account shall receive funds pursuant to section 422.16A up to a maximum of ten million dollars per year. The account shall also receive funds pursuant to section 15.251 with no dollar limitation.

Sec. 3. Section 15.343, subsection 2, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. To cover the costs of the administration of workforce development programs and services available through the department. A portion of these funds may be used to support efforts by the community colleges to provide workforce services to Iowa employers.

Approved May 26, 1999

CHAPTER 184

COSTS OF DRAINAGE IMPROVEMENTS IN RAILROAD RIGHTS-OF-WAY

H.F. 343

AN ACT providing for the collection of moneys by a county board of supervisors arising out of the construction of a drainage improvement within a railroad right-of-way.

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

Section 1. Section 468.112, Code 1999, is amended to read as follows:
468.112 CONSTRUCTION WHEN COMPANY REFUSES.

If ~~the a~~ railroad company ~~shall fail, neglect, or refuse to~~ does not comply with ~~said a~~ notice provided in section 468.109, the board shall ~~cause the same to be done~~ provide for the construction of the improvement under the supervision of the engineer in charge of the improvement, ~~and such~~. The railroad company shall be liable for the cost ~~thereof to~~ of the construction which shall be collected by the county ~~for said on behalf of the~~ district in any court having jurisdiction. The court may award a prevailing county reasonable attorney fees incurred by the county, to be paid by the railroad company and taxed as part of the costs of the action.

Approved May 26, 1999

CHAPTER 185

ELECTRONIC MAIL TRANSMISSIONS — ADVERTISEMENTS

H.F. 448

AN ACT prohibiting the transmission of electronic mail which includes advertisements in certain circumstances and providing for monetary damages, criminal penalties, and other remedies.

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

Section 1. NEW SECTION. 714D.1 RESTRICTIONS ON USE OF ELECTRONIC MAIL — DAMAGES — EXCEPTIONS.

1. DEFINITIONS. For purposes of this section, unless the context otherwise requires:

a. "Advertisement" means an electronic mail message sent to a computer for the purpose of promoting real property, goods, or services for sale, lease, barter, or auction.

b. "Computer" means an electronic device that performs logical, arithmetical, and memory functions by manipulations of electronic or magnetic impulses, and includes all input, output, processing, storage, and communication facilities which are connected or related to the computer, including a computer network. As used in this paragraph, "computer" includes any central processing unit, front-end processing unit, miniprocessor, or microprocessor, and related peripheral equipment such as data storage devices, document scanners, data entry terminal controllers, and data terminal equipment and systems for computer networks.

c. "Computer network" means a set of related, remotely connected devices and communication facilities, including two or more computers with capability to transmit data among them through communication facilities.

d. "Electronic mail" means an electronic message, file, data, or other electronic information that is transmitted using an internet or intranet computer network to one or more persons.

e. "Interactive computer service" means an information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the internet, and such systems operated or services offered by a library or an educational institution.

f. "Internet domain name" means a globally unique, hierarchical reference to an internet host or service, assigned through a centralized internet naming authority, comprising a series of character strings separated by periods, with the right-most string specifying the top of the hierarchy.

g. "Recipient" means a person who receives electronic mail.

2. PROHIBITED ACTS. It is unlawful for a person to use an interactive computer service to initiate the sending of bulk electronic mail that the sender knows, or has reason to know, violates any of the following:

a. Uses the name of a third party in the return address field without permission of the third party.

b. Misrepresents any information in identifying the point of origin of the transmission path of the electronic mail.

c. Does not contain information identifying the point of origin or the transmission path of the electronic mail message.

d. With respect to an unsolicited advertisement, does not, at a minimum, provide an electronic mail address readily identifiable in the advertisement to which the recipient may send a request for declining such electronic mail.

e. Demonstrates a pattern of sending unsolicited advertisements to a recipient who has sent the person a request for declining such electronic mail following a reasonable time, which in no event shall be more than five business days, after the receipt by the person of request.

3. CIVIL DAMAGES.

a. (1) Except as provided in paragraph "b", a person who is injured in person or property as a result of a violation of this section may bring an action to recover damages. Such damages shall include, but are not limited to, actual damages including lost profits.

(2) Notwithstanding subparagraph (1), a person who transmits or causes to be transmitted electronic mail in violation of subsection 2 is liable to the recipient of the electronic mail for monetary damages in an amount equal to any actual damages, including lost profits, caused by such transmittal. The recipient, in lieu of actual damages, may elect to recover from the person transmitting or causing to be transmitted such electronic mail the greater of ten dollars for each bulk electronic mail message transmitted to the recipient in violation of this section, or five hundred dollars. In addition to the monetary damages, the recipient is also entitled to costs and reasonable attorney fees.

b. (1) Notwithstanding paragraph "a", if the person injured is an interactive computer service and such injury arises from a person who transmits bulk electronic mail without authority, such service may recover actual damages, attorney fees, and costs. Such service, in lieu of recovering actual damages, may also elect to recover the greater of ten dollars for each unsolicited bulk electronic mail message transmitted in violation of this section, or twenty-five thousand dollars.

(2) For purposes of this paragraph, a person is "without authority" when the person has no right or permission of the owner to use a computer, or the person uses the computer in a manner which exceeds the person's right or permission; or the person uses a computer, a computer network, or the computer services or an interactive computer service to transmit unsolicited bulk electronic mail in contravention of the authority granted by or in violation of the policies set by the interactive computer service to the extent the person has received actual notice of such policies. Transmission of electronic mail from an organization or similar entity to the members of such organization or similar entity shall not be deemed to be unsolicited bulk electronic mail.

c. In an action brought under this chapter, a court shall preserve the secrecy of an alleged trade secret by reasonable means, including but not limited to granting protective orders in connection with discovery proceedings, holding in-camera hearings, sealing the records of the action, and ordering a person involved in the litigation not to disclose an alleged trade secret without prior court approval.

d. This section shall not be construed to limit any person's right to pursue any additional civil remedy otherwise allowed by law.

4. INJUNCTION. In addition to any other remedy under this section, a recipient may also petition the district court for an injunction to prohibit the person from transmitting to the recipient any other electronic mail that includes an advertisement.

5. JURISDICTION. Transmitting or causing the transmission of unsolicited bulk electronic mail to or through an interactive computer service's computer network located in this state shall constitute an act in this state. When jurisdiction over a person is based solely upon this section, only a cause of action arising from acts enumerated in this section may be asserted against that person. However, this chapter does not limit, restrict, or otherwise affect the jurisdiction of any court of this state over foreign corporations which are subject to service of process pursuant to any other statute, or the jurisdiction of any court of this state over a person for engaging in acts which result in jurisdiction under this section.

6. EXCEPTIONS.

a. This section does not apply to any of the following:

(1) A person who provides users with access to a computer network, and as part of that service, transmits electronic mail on behalf of those users, unless such person knowingly transmits electronic mail that includes an advertisement which the person prepared or caused to be prepared.

(2) A person who provides users with access to a computer network, and as part of that service, transmits electronic mail on behalf of those users, unless such person transmits electronic mail on behalf of those users which the person knows, or should have known was transmitted in violation of subsection 2.

(3) Electronic mail which is accessed by the recipient from an electronic bulletin board.

(4) A person who provides users with access at no charge to electronic mail, including receiving and transmitting such electronic mail, and as a condition of providing such access requires such users to receive unsolicited advertisements.

b. An interactive computer service is not liable under this section for an action voluntarily taken in good faith to block or prevent the receipt or transmission through its service of any commercial electronic mail which is reasonably believed to be in violation of subsection 2.

Sec. 2. NEW SECTION. 714D.2 CIVIL ENFORCEMENT.

1. A violation of section 714D.1, subsection 2, is a violation of section 714.16, subsection 2, paragraph "a". All the powers conferred upon the attorney general to accomplish the objectives and carry out the duties prescribed pursuant to section 714.16 are also conferred upon the attorney general to enforce section 714D.1, including, but not limited to the power to issue subpoenas, adopt rules which shall have the force of law, and seek injunctive relief and civil penalties.

2. In seeking reimbursement pursuant to section 714.16, subsection 7, from a person who has committed a violation of section 714D.1, subsection 2, the attorney general may seek an order from the court that the person pay to the attorney general on behalf of consumers the amounts for which the person would be liable under section 714D.1, subsection 3, for each consumer who has a cause of action pursuant to section 714D.1, subsection 3. Section 714.16, as it relates to consumer reimbursement, shall apply to consumer reimbursement pursuant to this section.

Approved May 26, 1999

CHAPTER 186**MOBILE HOME PARK STORM SHELTERS***H.F. 758*

AN ACT relating to the authority of counties and cities to require storm shelters in mobile home parks, providing a property tax exemption, and providing an applicability date.

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

Section 1. Section 331.301, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 15. a. A county may adopt and enforce an ordinance requiring the construction of a storm shelter at a mobile home park which is constructed after July 1, 1999. In lieu of requiring construction of a storm shelter, a county may require a park owner to provide a plan for the evacuation of park residents to a safe place of shelter in times of severe weather including tornadoes and high winds if the county determines that a safe place of shelter is available within a reasonable distance of the mobile home park for use by park residents. Each evacuation plan prepared pursuant to this subsection shall be filed with, and approved by, the local emergency management agency. If construction of a storm shelter is required, an ordinance adopted or enforced pursuant to this subsection shall not include any of the following requirements:

(1) That the size of the storm shelter be larger than the equivalent of seven square feet for each mobile home space in the mobile home park.

(2) That the storm shelter include a restroom if the shelter is used exclusively as a storm shelter.

(3) That the storm shelter exceed the construction specifications approved by a licensed professional engineer and presented by the owner of the mobile home park.

b. For the purposes of this subsection:

(1) "Mobile home park" means a mobile home park as defined in section 562B.7.

(2) "Storm shelter" means a single structure or multiple structures designed to provide persons with temporary protection from a storm.

Sec. 2. Section 364.3, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 7. a. A city may adopt and enforce an ordinance requiring the construction of a storm shelter at a mobile home park which is constructed after July 1, 1999. In lieu of requiring construction of a storm shelter, a city may require a park owner to provide a plan for the evacuation of park residents to a safe place of shelter in times of severe weather including tornadoes and high winds if the city determines that a safe place of shelter is available within a reasonable distance of the mobile home park for use by park residents. Each evacuation plan prepared pursuant to this subsection shall be filed with, and approved by, the local emergency management agency. If construction of a storm shelter is required, an ordinance adopted or enforced pursuant to this subsection shall not include any of the following requirements:

(1) That the size of the storm shelter be larger than the equivalent of seven square feet for each mobile home space in the mobile home park.

(2) That the storm shelter include a restroom if the shelter is used exclusively as a storm shelter.

(3) That the storm shelter exceed the construction specifications approved by a licensed professional engineer and presented by the owner of the mobile home park.

b. For the purposes of this subsection:

(1) "Mobile home park" means a mobile home park as defined in section 562B.7.

(2) "Storm shelter" means a single structure or multiple structures designed to provide persons with temporary protection from a storm.

Sec. 3. Section 427.1, Code 1999, is amended by adding the following new subsection: **NEW SUBSECTION. 30. MOBILE HOME PARK STORM SHELTER.** A structure constructed as a storm shelter at a mobile home park as defined in section 435.1. If the structure serves a use in addition to use as a storm shelter, the exemption shall apply only to that portion of the structure which serves as a storm shelter. An application for this exemption shall be filed with the assessing authority not later than April fifteenth of the first year for which the exemption is requested, on forms provided by the department of revenue and finance. The application shall describe and locate the storm shelter to be exempted. If the storm shelter structure is used exclusively as a storm shelter, all of the structure's assessed value shall be exempt from taxation. If the storm shelter structure is not used exclusively as a storm shelter, the storm shelter structure which is not used exclusively as a storm shelter shall be assessed for taxation at seventy-five percent of its value as commercial property.*

Sec. 4. **APPLICABILITY.** Section 3 of this Act applies to property tax assessment years beginning on or after January 1, 2000.

Sec. 5. **NONAPPLICABILITY.** Section 25B.7 does not apply to section 3 of this Act.

Approved May 26, 1999

CHAPTER 187

PROPERTY TAX CLASSIFICATION OF APARTMENTS IN CONDOMINIUMS

H.F. 769

AN ACT relating to the classification of apartments in condominiums for purposes of property taxation.

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

Section 1. Section 499B.11, subsection 1, Code 1999, is amended to read as follows:

1. All real property taxes and special assessments shall be assessed and levied on each apartment and its respective appurtenant fractional share or percentage of the land, general common elements and limited common elements where applicable as such apartments and appurtenances are separately owned, and not on the entire horizontal property regime.

Sec. 2. Section 499B.11, Code 1999, is amended by adding the following new subsection: **NEW SUBSECTION. 1A.** An apartment meeting either of the following conditions shall be classified as follows:

a. An apartment used for human habitation on January 1, 1999, or an apartment intended for use for human habitation in a horizontal property regime pursuant to a declaration submitting a parcel of real property to a horizontal property regime pursuant to section 499B.3, which was recorded prior to January 1, 1999, shall be classified as residential real estate as long as the apartment is used for human habitation.

b. An apartment intended for use for human habitation included in a development plan for a horizontal property regime which was approved by the city or county having jurisdiction over the real property included in the development plan prior to January 1, 1999, and which is included substantially in accordance with the development plan in an extension of a horizontal property regime established pursuant to a declaration submitting a parcel of contiguous real estate to a horizontal property regime pursuant to section 499B.3, which

* See chapter 208, §56 herein

was recorded prior to January 1, 1999, shall be classified as residential real estate as long as the apartment is used for human habitation.

c. This subsection is repealed December 31, 2004.

Sec. 3. **STUDY REQUESTED.** The legislative council is requested to establish an interim committee to study the issue of the property taxation of apartments, as defined in section 499B.2, subsection 1, in horizontal property regimes, including the classification for property tax purposes of apartments in horizontal property regimes containing multiple uses, and to report its recommendations, if any, to the general assembly by January 15, 2000.

Approved May 26, 1999

CHAPTER 188

MANUFACTURED HOUSING — SALES AND USE TAXES — CERTIFICATES OF TITLE

H.F. 770

AN ACT relating to the treatment of manufactured housing under the state sales and use taxes and the requirements for the issuance of a certificate of title.

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

Section 1. Section 321.1, Code 1999, is amended by adding the following new subsection: **NEW SUBSECTION.** 36A. “Manufactured housing” is a factory-built structure constructed under authority of 42 U.S.C. § 5403, which 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.

Sec. 2. Section 321.18, subsection 8, Code 1999, is amended to read as follows:

8. Any mobile home or manufactured housing.

Sec. 3. Section 321.20, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Except as provided in this chapter, an owner of a vehicle subject to registration shall make application to the county treasurer, of the county of the owner’s residence, or if a nonresident to the county treasurer of the county where the primary users of the vehicle are located, or if a lessor of the vehicle pursuant to chapter 321F which vehicle has a gross vehicle weight of less than ten thousand pounds, to the county treasurer of the county of the lessee’s residence, for the registration and issuance of a certificate of title for the vehicle upon the appropriate form furnished by the department. However, upon the transfer of ownership, the owner of a vehicle subject to the proportional registration provisions of chapter 326 shall make application for registration and issuance of a certificate of title to either the department or the appropriate county treasurer. The application shall be accompanied by a fee of ten dollars, and shall bear the owner’s signature written with pen and ink. A nonresident owner of two or more vehicles subject to registration may make application for registration and issuance of a certificate of title for all vehicles subject to registration to the county treasurer of the county where the primary user of any of the vehicles is located. The owner of a mobile home or of manufactured housing shall make application for a certificate of title under this section. The application shall contain:

Sec. 4. Section 321.24, unnumbered paragraphs 1 and 6, Code 1999, are amended to read as follows:

Upon receipt of the application for title and payment of the required fees for a motor vehicle, trailer, or semitrailer, the county treasurer or the department shall, when satisfied as to the application's genuineness and regularity, and, in the case of a mobile home or manufactured housing, that taxes are not owing under chapter 435, issue a certificate of title and, except for a mobile home or manufactured housing, a registration receipt, and shall file the application, the manufacturer's or importer's certificate, the certificate of title, or other evidence of ownership, as prescribed by the department. The registration receipt shall be delivered to the owner and shall contain upon its face the date issued, the name and address of the owner, the registration number assigned to the vehicle, the title number assigned to the owner of the vehicle, the amount of the fee paid, the amount of tax paid pursuant to section 423.7, the type of fuel used, and a description of the vehicle as determined by the department, and upon the reverse side a form for notice of transfer of the vehicle.

The certificate shall bear the seal of the county treasurer or of the department, and the signature of the county treasurer, the deputy county treasurer, or the department director or deputy designee. The certificate shall provide space for the signature of the owner. The owner shall sign the certificate of title in the space provided with pen and ink upon its receipt. The certificate of title shall contain upon the reverse side a form for assignment of title or interest and warranty by the owner, for reassignments by a dealer licensed in this state or in another state if the state in which the dealer is licensed permits Iowa licensed dealers to similarly reassign certificates of title. Attached to the certificate of title shall be an application for a new certificate of title by the transferee as provided in this chapter. However, titles for mobile homes or manufactured housing shall not be reassigned by licensed dealers. All certificates of title shall be typewritten or printed by other mechanical means. Notwithstanding section 321.1, subsection 17, as used in this paragraph "dealer" means every person engaged in the business of buying, selling, or exchanging vehicles of a type required to be registered under this chapter.

Sec. 5. Section 321.30, subsections 10 and 11, Code 1999, are amended to read as follows:

10. In the case of a mobile home or manufactured housing, that taxes are owing under chapter 435 for a previous year.

11. In the case of a mobile home or manufactured housing converted from real estate, real estate taxes which are delinquent.

Sec. 6. Section 321.45, subsection 1, unnumbered paragraph 2, Code 1999, is amended to read as follows:

For each new mobile home, manufactured housing, travel trailer and camping trailer said manufacturer's or importer's certificate shall also contain thereon the exterior length and exterior width of said vehicle not including any area occupied by any hitching device, and the manufacturer's shipping weight.

Sec. 7. Section 321.45, subsection 4, Code 1999, is amended to read as follows:

4. A mobile home dealer, as defined in section 322B.2, shall within ~~fifteen~~ thirty days of acquiring a used mobile home or manufactured home housing, titled in Iowa, apply for and obtain from the county treasurer of the dealer's county of residence a new certificate of title for the mobile home or manufactured home housing.

Sec. 8. Section 321.46, subsection 2, Code 1999, is amended to read as follows:

2. Upon filing the application for a new registration and a new title, the applicant shall pay a title fee of ten dollars and a registration fee prorated for the remaining unexpired months of the registration year. However, no title fee shall be charged to a mobile home dealer applying for a certificate of title for a used mobile home or manufactured housing, titled in Iowa, as required under section 321.45, subsection 4. The county treasurer, if satisfied of the genuineness and regularity of the application, and in the case of a mobile home or manufactured housing, that taxes are not owing under chapter 435, and that applicant has complied with all the requirements of this chapter, shall issue a new certificate of title and,

except for a mobile home or manufactured housing, a registration card to the purchaser or transferee, shall cancel the prior registration for the vehicle, and shall forward the necessary copies to the department on the date of issuance, as prescribed in section 321.24. Mobile homes or manufactured housing titled under chapter 448 that have been subject under section 446.18 to a public bidder sale in a county, shall be titled in the county's name, with no fee and the county treasurer shall issue the title.

Sec. 9. Section 321.49, subsection 3, Code 1999, is amended to read as follows:

3. A mobile home dealer who acquires a used mobile home, or manufactured housing titled in Iowa, and who does not apply for and obtain a certificate of title from the county treasurer of the dealer's county of residence within ~~fifteen~~ thirty days of the date of acquisition, as required under section 321.45, subsection 4, is subject to a penalty of ten dollars. A certificate of title shall not be issued to the mobile home dealer until the penalty is paid.

Sec. 10. Section 321.50, subsection 1, Code 1999, is amended to read as follows:

1. A security interest in a vehicle subject to registration under the laws of this state or a mobile home or manufactured housing, except trailers whose empty weight is two thousand pounds or less, and except new or used vehicles held by a dealer or manufacturer as inventory for sale, is perfected by the delivery to the county treasurer of the county where the certificate of title was issued or, in the case of a new certificate, to the county treasurer where the certificate will be issued, of an application for certificate of title which lists the security interest, or an application for notation of security interest signed by the owner, or by one owner of a vehicle owned jointly by more than one person, or a certificate of title from another jurisdiction which shows the security interest, and a fee of five dollars for each security interest shown. If the owner or secured party is in possession of the certificate of title, it must also be delivered at this time in order to perfect the security interest. If a vehicle is subject to a security interest when brought into this state, the validity of the security interest and the date of perfection is determined by section 554.9103. Delivery as provided in this subsection is an indication of a security interest on a certificate of title for purposes of chapter 554.

Sec. 11. Section 321.57, unnumbered paragraph 5, Code 1999, is amended to read as follows:

Mobile home dealers licensed under chapter 322B may transport and deliver mobile homes or manufactured housing in their inventory upon the highways of this state with a special plate displayed on the mobile home or manufactured housing as provided in sections 321.58 to 321.62.

Sec. 12. Section 321.101, subsection 8, Code 1999, is amended to read as follows:

8. The department shall cancel a certificate of title that appears to have been improperly issued or fraudulently obtained or in the case of a mobile home or manufactured housing, if taxes were owing under chapter 435 at the time the certificate was issued and have not been paid. However, before the certificate to a mobile home or manufactured housing where taxes were owing can be canceled, notice and opportunity to pay the taxes must be given to the person to whom the certificate was issued. Upon cancellation of any certificate of title the department shall notify the county treasurer who issued it, who shall enter the cancellation upon the records. The department shall also notify the person to whom the certificate of title was issued, as well as any lienholders appearing thereon, of the cancellation and shall demand the surrender of the certificate of title, but the cancellation shall not affect the validity of any lien noted thereon.

Sec. 13. Section 321.104, subsection 6, Code 1999, is amended to read as follows:

6. For a dealer to sell or transfer a mobile home or manufactured housing without delivering to the purchaser or transferee a certificate of title or a manufacturer's or importer's certificate properly assigned to the purchaser, or to transfer a mobile home or manufactured

housing without disclosing to the purchaser the owner of the mobile home or manufactured housing in a manner prescribed by the department pursuant to rules, or to fail to certify within seven days to the proper county treasurer the information required under section 321.45, subsection 4, or to fail to apply for and obtain a certificate of title for a used mobile home or manufactured housing, titled in Iowa, acquired by the dealer within ~~fifteen~~ thirty days from the date of acquisition as required under section 321.45, subsection 4.

Sec. 14. Section 321.123, unnumbered paragraph 1, Code 1999, is amended to read as follows:

All trailers except farm trailers, ~~and mobile homes, and manufactured housing~~, unless otherwise provided in this section, are subject to a registration fee of ten dollars. Trailers for which the empty weight is two thousand pounds or less are exempt from the certificate of title and lien provisions of this chapter. Fees collected under this section shall not be reduced or prorated under chapter 326.

Sec. 15. Section 322B.2, subsection 3, Code 1999, is amended to read as follows:

3. "Mobile home" means a structure, transportable in one or more sections, which exceeds eight feet in width and thirty-two feet in length, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to one or more utilities. "Mobile home" also includes "manufactured ~~home hous-~~ ing" as the term is defined in section ~~435.1~~ 321.1.

Sec. 16. Section 322B.6, subsection 6, Code 1999, is amended to read as follows:

6. Failing to apply for and obtain from a county treasurer a certificate of title for a used mobile home, titled in Iowa, acquired by the dealer within ~~fifteen~~ thirty days from the date of acquisition, as required under section 321.45, subsection 4.

Sec. 17. Section 423.1, subsection 1, Code 1999, is amended to read as follows:

1. "Certificate of title" means a certificate of title issued for a vehicle or for manufactured housing under chapter 321.

Sec. 18. Section 423.1, Code 1999, is amended by adding the following new subsections:

NEW SUBSECTION. 2A. "Installed purchase price" is the amount charged, valued in money whether paid in money or otherwise, by a building contractor to convert manufactured housing from tangible personal property into realty. "Installed purchase price" includes, but is not limited to, amounts charged for installing a foundation and electrical and plumbing hookups. "Installed purchase price" excludes any amount charged for landscaping in connection with the conversion.

NEW SUBSECTION. 2B. "Manufactured housing" means the same as defined in section 321.1.

Sec. 19. Section 423.1, subsection 12, Code 1999, is amended to read as follows:

12. "Use" means and includes the exercise by any person of any right or power over tangible personal property incident to the ownership of that property, except that it shall not include processing, or the sale of that property in the regular course of business. Property used in "processing" within the meaning of this subsection shall mean and include ~~(a)~~ of the following:

a. Any tangible personal property including containers which it is intended shall, by means of fabrication, compounding, manufacturing, or germination, become an integral part of other tangible personal property intended to be sold ultimately at retail, and containers used in the collection, recovery or return of empty beverage containers subject to chapter 455C, ~~or (b) fuel,~~

b. Fuel which is consumed in creating power, heat, or steam for processing or for generating electric current, ~~or (c) chemicals,~~

c. Chemicals, solvents, sorbents, or reagents, which are directly used and are consumed, dissipated, or depleted in processing personal property, which is intended to be sold ultimately at retail, and which may not become a component or integral part of the finished product.

PARAGRAPH DIVIDED. The distribution to the public of free newspapers or shoppers guides shall be deemed a retail sale for purposes of the processing exemption. A retailer's or building contractor's sale of manufactured housing for use in this state, whether in the form of tangible personal property or of realty, is a use of that property for the purposes of this chapter.

Sec. 20. Section 423.2, Code 1999, is amended to read as follows:

423.2 IMPOSITION OF TAX.

An excise tax is imposed on the use in this state of tangible personal property purchased for use in this state, at the rate of five percent of the purchase price of the property. An excise tax is imposed on the use of manufactured housing in this state at the rate of five percent of the purchase price if the manufactured housing is sold in the form of tangible personal property and at the rate of five percent of the installed purchase price if the manufactured housing is sold in the form of realty. An excise tax is imposed on the use of leased vehicles at the rate of five percent of the amount otherwise subject to tax as calculated pursuant to section 423.7A. The excise tax is imposed upon every person using the property within this state until the tax has been paid directly to the county treasurer or the state department of transportation, to a retailer, or to the department. An excise tax is imposed on the use in this state of services enumerated in section 422.43 at the rate of five percent. This tax is applicable where services are rendered, furnished, or performed in this state or where the product or result of the service is used in this state. This tax is imposed on every person using the services or the product of the services in this state until the user has paid the tax either to an Iowa use tax permit holder or to the department.

Sec. 21. Section 423.4, subsections 11 and 12, Code 1999, are amended to read as follows:

11. Mobile homes and manufactured housing the use of which has previously been subject to the tax imposed under this chapter and for which that tax has been paid.

12. Mobile homes to the extent of the portion of the purchase price of the mobile home which is not attributable to the cost of the tangible personal property used in the processing of the mobile home and manufactured housing to the extent of the purchase price or the installed purchase price of the manufactured housing which is not attributable to the cost of the tangible personal property used in the processing of the manufactured housing. For purposes of this exemption, the portion of the purchase price which is not attributable to the cost of the tangible personal property used in the processing of the mobile home is forty percent and the portion of the purchase price or installed purchase price which is not attributable to the cost of the tangible personal property used in the processing of the manufactured housing is forty percent.

Sec. 22. Section 423.6, subsection 1, Code 1999, is amended to read as follows:

1. The tax upon the use of all vehicles subject to registration or subject only to the issuance of a certificate of title or the tax upon the use of manufactured housing shall be collected by the county treasurer or the state department of transportation pursuant to sections 423.7 and 423.7A. The county treasurer shall retain one dollar from each tax payment collected, to be credited to the county general fund.

Sec. 23. Section 423.7, Code 1999, is amended to read as follows:

423.7 VEHICLES SUBJECT TO REGISTRATION OR ONLY TO THE ISSUANCE OF TITLE.

The tax imposed upon the use of vehicles subject to registration or subject only to the issuance of a certificate of title or imposed upon the use of manufactured housing shall be paid by the owner of the vehicle or of the manufactured housing to the county treasurer or the 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 certificate of title shall not be issued until the tax has been paid. The county treasurer or the state department of transportation shall require every applicant for a registration receipt for a

vehicle subject to registration or certificate of title to supply information as the county treasurer or the director deems necessary as to the time of purchase, the purchase price, installed purchase price, and other information relative to the purchase of the vehicle or manufactured housing. On or before the tenth day of each month the county treasurer or the state department of transportation shall remit to the department the amount of the taxes collected during the preceding month.

Approved May 26, 1999

CHAPTER 189

CHILDREN'S CENTERS — CERTIFICATION OR LICENSING STANDARDS

S.F. 275

AN ACT requiring the department of human services to establish certification or licensing standards for children's centers.

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

Section 1. NEW SECTION. 237C.1 CHILDREN'S CENTERS.

1. For the purposes of this section, unless the context requires otherwise, "children's center" means a privately funded facility designed to serve seven or more children at any one time who are not under the custody or authority of the department of human services, juvenile court, or another governmental agency, and that offers one or more of the following services:

- a. Child day care.
- b. Child day care for children with a chronic illness.
- c. Respite care.
- d. Family support services.
- e. Medical equipment.
- f. Therapeutic day programming.
- g. Educational enrichment.
- h. Housing.

2. The department of human services shall consult with the department of inspections and appeals, department of education, Iowa department of public health, state fire marshal, and community-based providers of services to children in establishing certification or licensing standards for children's centers.

3. In establishing the initial and subsequent standards, the department of human services shall review other certification and licensing standards applicable to the centers. The standards established by the department shall be broad facility standards for the protection of children's safety. The department of human services shall not establish program standards or other requirements under this section involving program development or oversight of the programs provided to the children served by children's centers.

Approved May 27, 1999

CHAPTER 190

IOWA COMMUNITY EMPOWERMENT — MISCELLANEOUS PROVISIONS

S.F. 439

AN ACT relating to the Iowa community empowerment Act and related provisions, and providing effective dates.

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

Section 1. Section 71.1, subsection 5, Code 1999, is amended to read as follows:

5. "Iowa empowerment board" or "Iowa board" means the Iowa empowerment board created in ~~this chapter section 71.2.~~

Sec. 2. NEW SECTION. 71.1A PURPOSE AND SCOPE.

1. The purpose of creating the community empowerment initiative is to empower individuals and their communities to achieve desired results for improving the quality of life in the communities in this state. It is expected that the empowerment of individuals will strengthen the individuals' sense of responsibility for their neighbors and promote partnerships in order for all to succeed. It is believed that the desired results identified by individuals and their communities, with the support of the state, will be achieved as individuals, governments, and agencies work collaboratively within communities. It is believed that local individuals in local communities working together will identify and implement the best means for attaining the desired results for themselves and their neighbors. The role of the Iowa empowerment board, the state, and local governments is to support and facilitate growth of individual and community responsibility in place of the directive role that the public has come to expect of government.

2. It is intended that through the community empowerment initiative, by June 30, 2005, every community in Iowa will have developed the capacity and commitment for using local decision making to achieve the following initial set of desired results:

- a. Healthy children.
- b. Children ready to succeed in school.
- c. Safe and supportive communities.
- d. Secure and nurturing families.
- e. Secure and nurturing child care environments.

3. To achieve the initial set of desired results, the initiative's primary focus shall first be on the efforts of the state and communities to work together to improve the efficiency and effectiveness of education, health, and human services provided to families with children from birth through age five years.

4. It is anticipated that the scope of the initiative will expand as additional desired results are identified and agreed upon by communities and the state. It is the intent of the general assembly to identify from time to time the additional desired results in statute.

Sec. 3. Section 71.2, subsections 1 and 2, Code 1999, are amended to read as follows:

1. An Iowa empowerment board is created to ~~oversee~~ facilitate state and community efforts involving community empowerment areas, including strategic planning, funding identification, and guidance, and to promote collaboration among state and local education, health, and human services programs.

2. The Iowa board shall consist of ~~eleven~~ fifteen voting members with ~~eight~~ twelve citizen members and three state agency members. The three state agency members shall be the directors of the following departments: education, human services, and public health. The twelve citizen members shall be appointed by the governor, subject to confirmation by the senate. The governor's appointments of citizen members shall be made in a manner so that all each of the state's congressional districts are is represented along with by two citizen members and so that all the appointments as a whole reflect the ethnic, cultural, social, and

economic diversity of the state. ~~In making appointments, preference shall be given to citizens participating on a~~ The governor's appointees shall be selected from individuals nominated by community empowerment area board boards. The nominations shall reflect the range of interests represented on the community boards so that the governor is able to appoint one or more members each for education, health, human services, business, faith, and public interests. At least one of the citizen members shall be a service consumer or the parent of a service consumer. Terms of office of all citizen members are three years. A vacancy on the board shall be filled in the same manner as the original appointment for the balance of the unexpired term.

Sec. 4. Section 71.2, subsection 4, Code 1999, is amended to read as follows:

4. In addition to the ~~eleven~~ voting members, the Iowa board shall include six members of the general assembly with not more than two members from each chamber being from the same political party. The three senators shall be appointed by the majority leader of the senate after consultation with the president of the senate and the minority leader of the senate. The three representatives shall be appointed by the speaker of the house of representatives after consultation with the majority and minority leaders of the house of representatives. Legislative members shall serve in an ex officio, nonvoting capacity. A legislative member is eligible for per diem and expenses as provided in section 2.10.

Sec. 5. Section 71.2, subsection 5, unnumbered paragraph 1, Code 1999, is amended to read as follows:

~~The Iowa board shall designate a~~ A community empowerment assistance team or teams of state agency staff representatives shall be designated to provide technical assistance and other support to community empowerment areas. A technical assistance system shall be developed using local representatives of the state agencies represented on the Iowa board and other state agencies and individuals involved with local community empowerment areas. The technical assistance shall be available in at least three levels of support as follows:

Sec. 6. Section 71.2, subsection 6, Code 1999, is amended to read as follows:

6. a. Staffing services to the Iowa board shall be provided by the state agencies which are represented on the Iowa board and by other state agencies making staffing available to the Iowa board.

b. In addition, a community empowerment office is established as a division of the department of management to provide a center for facilitation, communication, and coordination for community empowerment activities and funding. Staffing for the community empowerment office shall be provided by a facilitator appointed by the governor, subject to confirmation by the senate, and who serves at the pleasure of the governor. A deputy and support staff may be designated, subject to appropriation made for this purpose. The facilitator shall submit reports to the governor, the Iowa board, and the general assembly. The facilitator shall provide primary staffing to the board, coordinate state technical assistance activities and implementation of the technical assistance system, and other communication and coordination functions to move authority and decision-making responsibility from the state to communities and individuals.

Sec. 7. Section 71.3, subsection 2, Code 1999, is amended to read as follows:

2. ~~Oversee~~ Manage and coordinate the provision of grant funding and other moneys made available to community empowerment areas by combining all or portions of appropriations or other revenues as authorized by law.

Sec. 8. Section 71.3, subsection 9, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Core functions for home visitation, parent support, and preschool services provided under a school ready children grant.

Sec. 9. Section 71.3, Code 1999, is amended by adding the following new subsections:

NEW SUBSECTION. 10. Implement a process for community empowerment areas to identify desired results for improving the quality of life in this state. The process shall allow for consideration of updates, additions, and deletions on a regular basis. The identified desired results shall be submitted to the governor and general assembly.

NEW SUBSECTION. 11. Develop guidelines for recommended coverage and take other actions to assist community empowerment area boards in acquiring necessary insurance or other liability coverage at a reasonable cost. Moneys expended by a community empowerment area board to acquire necessary insurance or other liability coverage shall be considered an administrative cost and implementation expense.

NEW SUBSECTION. 12. a. With extensive community involvement, develop and annually update a five-year plan for consolidating, blending, and redistributing state-administered funding streams for children from birth through age five made available to community empowerment area boards.

b. With extensive community involvement, develop and annually update a ten-year plan for consolidating, blending, and redistributing state-administered funding streams for other age groups made available to community empowerment area boards. The focus for the early years of the initial ten-year plan shall be on the efforts of the Iowa board and affected state agencies to facilitate implementation of individual community empowerment area board requests for pooling, consolidating, blending, and redistributing state-administered funding streams for other age groups.

c. Submit plans and plan updates developed under paragraphs "a" and "b" to the community empowerment areas, the governor, and the general assembly annually in December.

d. The Iowa empowerment board shall regularly make information available identifying community empowerment funding and funding distributed through the funding streams listed under this paragraph "d" to communities. It is the intent of the general assembly that the community empowerment area boards and the administrators of the programs located within the community empowerment areas that are supported by the listed funding streams shall fully cooperate with one another on or before the indicated fiscal years, in order to avoid duplication, enhance efforts, combine planning, and take other steps to best utilize the funding to meet the needs of the families in the areas. The community empowerment area boards and the administrators shall annually submit a report concerning such efforts to the community empowerment office. If a community empowerment area is receiving a school ready children grant, this report shall be an addendum to the annual report required under section 71.7. The state community empowerment facilitator shall compile and summarize the reports which shall be submitted to the governor, general assembly, and Iowa board. The funding streams shall include all of the following:

(1) Moneys for the healthy families Iowa program under section 135.106 by the fiscal year beginning July 1, 2000, and ending June 30, 2001.

(2) Moneys for parent education appropriated in section 279.51 and distributed through the child development coordinating council, by the fiscal year beginning July 1, 2000, and ending June 30, 2001.

(3) Moneys for the preschool children at-risk program appropriated in section 279.51 and distributed through the child development coordinating council, by the fiscal year beginning July 1, 2001, and ending June 30, 2002.

(4) Moneys for home visitation and parent support annually appropriated to the department of human services and distributed or expended through child abuse prevention grants and the family preservation program, by the fiscal year beginning July 1, 2000, and ending June 30, 2001.

Sec. 10. Section 71.5, subsection 1, Code 1999, is amended by striking the subsection and inserting in lieu thereof the following:

1. a. Community empowerment area functions shall be performed under the authority of a community empowerment area board. A majority of the members of a community board shall be elected officials and members of the public who are not employed by a provider of

services to or for the community board. At least one member shall be a service consumer or the parent of a service consumer. Terms of office of community board members shall be not more than three years and the terms shall be staggered. The membership of a community empowerment area board shall include members with education, health, human services, business, faith, and public interests.

b. If a disagreement arises within a community empowerment area regarding the interests represented on the community board, board decisions, or other disputes that cannot be locally resolved, upon request, state or regional technical assistance may be provided to assist the area in resolving the disagreement.

Sec. 11. Section 7I.5, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 5. A community empowerment area board is a unit of local government for purposes of chapter 670, relating to tort liability of governmental subdivisions. For purposes of implementing a formal organizational structure, a community empowerment board may utilize recommended guidelines and bylaws established for this purpose by the Iowa board. All meetings of a community empowerment area board or any committee or other body established by a community board at which public business is discussed or formal action taken shall comply with the requirements of chapter 21. A community board shall maintain its records in accordance with chapter 22.

Sec. 12. Section 7I.6, subsection 1, paragraph a, Code 1999, is amended to read as follows:

a. Designate a public agency of this state, as defined in section 28E.2, a community action agency as defined in section 216A.91, or nonprofit corporation, to be the fiscal agent for grant moneys and for other moneys administered by the community board.

Sec. 13. Section 7I.7, subsection 5, paragraphs b and c, Code 1999, are amended to read as follows:

b. The Iowa ~~empowerment~~ board shall distribute school ready children grant moneys to community boards with approved comprehensive school ready children grant plans based upon ~~the degree~~ a determination of readiness of the community empowerment area to effectively utilize the moneys, with the grant moneys being adjusted for other federal and state grant moneys to be received by the area for services to children from birth through five years of age.

c. A community board's ~~degree of~~ readiness shall be ascertained by evidence of successful collaboration among public or private education, human services, or health interests or a documented program design evincing a strong likelihood of leading to a successful collaboration between these interests. Other criteria which may be used by the Iowa board to ascertain ~~degree of~~ readiness and to determine funding amounts include one or more of the following:

- (1) Experience or other evidence of capacity to successfully implement the services in the plan.
- (2) Local public and private funding and other resources committed to implementation of the plan.
- (3) Adequacy of plans for commitment of local funding and other resources for implementation of the plan.

Sec. 14. Section 7I.8, subsection 3, Code 1999, is amended to read as follows:

3. An early childhood programs grant account is created in the Iowa empowerment fund under the authority of the director of human services. Moneys credited to the account shall be distributed by the department of human services in the form of grants to community empowerment areas pursuant to criteria established by the Iowa board in accordance with law. The criteria shall include but are not limited to a requirement that a community empowerment area must be eligible to receive a school ready children grant designated by the Iowa board in accordance with section 7I.4, in order to be eligible to receive an early childhood programs grant.

Sec. 15. Section 71.8, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 4. Beginning July 1, 1999, unless a different amount is authorized by law, up to three percent, not to exceed sixty thousand dollars, of the school ready children grant moneys distributed under the auspices of the Iowa board to a community empowerment area board may be used by the community board for administrative costs and other implementation expenses.

Sec. 16. Section 232.188, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 8. A decategorization governance board shall coordinate the board's planning and budgeting activities with the community empowerment area board for the community empowerment area within which the decategorization county is located.

Sec. 17. 1999 Iowa Acts, House File 760, section 2, subsection 1, paragraphs a and b, if enacted,* are amended to read as follows:

a. The area must be ~~approved~~ designated as a community empowerment area by the Iowa empowerment board in accordance with section 71.4.

b. The maximum funding amount a designated community empowerment area is eligible to receive shall be determined by applying the area's percentage of the state's average monthly family investment program population in the preceding fiscal year to the total amount appropriated in this section for fiscal year 1999-2000. ~~If the a~~ community empowerment board's request for funding official designation is received by the Iowa empowerment board on or after ~~August~~ September 1, 1999, upon designation, the maximum funding amount shall be prorated for the fiscal year and rounded up to the nearest full month. The department of human services may adopt emergency rules to implement the provisions of this paragraph and the amendment in 1999 Iowa Acts, Senate File 439, to section 71.8, subsection 3, if enacted.**

Sec. 18. FUNDING FORMULA.

1. The Iowa empowerment board shall develop a distribution formula for allocation of school ready children grant funding to new applicants and to applicants for renewal following expiration of the original grants' funding period. The distribution formula shall provide for an initial statewide allocation of the funding among the geographic areas represented by county and school district political subdivisions. The initial allocation shall be based upon the political subdivision area's relative proportion of the state's general population and population of children qualifying for free or reduced-price school lunches, plus a base amount for each political subdivision area. A community empowerment area board may apply for the initial allocation amount or amounts attributable to the community empowerment area covered by that board.

2. The Iowa empowerment board shall submit its recommended funding formula to the governor and general assembly by December 15, 1999, so that a formula may be enacted to be first applicable to the fiscal year beginning July 1, 2001. Notwithstanding section 71.7, subsection 5, the duration of any school ready children grant awarded on or after the effective date of this Act, shall not be for a three-year period but shall be adjusted so that renewal of the grant will be subject to the funding allocation formula to be first applicable to the fiscal year beginning July 1, 2001, and the duration of such grants and of grants initially awarded prior to the effective date of this Act shall be adjusted to annualize the distribution of funding to grantees as follows:

a. For the fiscal year beginning July 1, 1999, the duration of the second year of school ready children grants that were initially funded in the previous fiscal year shall be shortened to end on June 30, 2000, and the amount of the grant paid out in the fiscal year beginning July 1, 1999, shall be prorated accordingly. However, in the fiscal year beginning July 1, 1999, the three school ready children grant applications submitted in the December 1998 grant cycle which were recognized by the Iowa empowerment board for showing a high degree of readiness, received community empowerment area designation, and received

* Chapter 203 herein

** This chapter, chapter 190, §14 herein

partial funding in the fiscal year beginning July 1, 1998, shall each receive during the fiscal year beginning July 1, 1999, the annual amount applied for as adjusted by subtracting half of the amount of the partial funding received in the previous fiscal year. For those three grantees this adjusted amount shall apply to the entire 1999-2000 fiscal year and shall be considered to be the second year of grant funding. All grantees described in this lettered paragraph shall be eligible to receive the full annual amount applied for and approved, in the fiscal year beginning July 1, 2000.

b. The total amount that may be distributed in the fiscal year beginning July 1, 1999, to designated community empowerment areas for new school ready children grants initially awarded in that fiscal year shall not exceed \$3,750,000, the first-year funding period for those grants in that fiscal year shall commence October 1, 1999, and end June 30, 2000, and the annual amount applied for and approved shall be prorated accordingly. Those grantees shall be eligible to receive the full annual amount applied for and approved, in the fiscal year beginning July 1, 2000.

c. Of the funding appropriated for school ready children grants for the fiscal year beginning July 1, 1999, not more than \$200,000 is allocated for the community empowerment office and other technical assistance activities.

3. The deadline for applications for school ready children grants in the fiscal year beginning July 1, 1999, shall be August 31, 1999, with grant awards to be made on October 1, 1999.

4. The percentage of school ready children grant funding committed to home visitation and parent support services that is designed for families with newborns and infants by the designated community empowerment areas awarded grants in the fiscal year beginning July 1, 1998, is approximately 60 percent. For the fiscal year beginning July 1, 1999, based upon the need identified in the community needs assessment performed by an applicant community empowerment area, the applicant community empowerment area shall strive to commit an equivalent percentage of any approved school ready children grant funding to such services.

5. If unobligated school ready children grant funding can be identified by the Iowa empowerment board for the fiscal year beginning July 1, 1999, the board may authorize a school ready children grant supplement for partial assistance to those designated community empowerment areas for which the costs of necessary insurance or other liability coverage consumes a majority or other substantial portion of such areas' school ready children and early childhood grant moneys that may be used for administrative and other implementation expenses. The Iowa empowerment board shall determine procedures and other requirements to ensure the need for the assistance and to contain the total supplementation within the amount identified.

Sec. 19. DIRECTIONS TO CODE EDITOR. The Iowa Code editor shall transfer chapter 7I, as amended by this or any other enactment of the Seventy-eighth General Assembly, 1999 Session, to be placed in or near chapter 28L and shall correct internal references as necessary.

Sec. 20. EFFECTIVE DATE AND TRANSITION PROVISIONS.

1. Except for the provisions of this Act listed in this subsection, this Act, being deemed of immediate importance, takes effect upon enactment. The following provisions of this Act take effect July 1, 1999:

- a. Section 6, amending section 7I.2, subsection 6.
- b. Section 13, amending section 7I.7, subsection 5.
- c. Section 15, enacting 7I.8, subsection 4.
- d. Section 17, amending 1999 Iowa Acts, House File 760, section 2.*

2. The governor's appointments of four additional citizen members shall be made from community empowerment area board nominees in a manner so as to ensure that each

* Chapter 203 herein

congressional district is represented by at least two citizen members. The initial terms of the four additional members shall be staggered so that not more than four members' terms expire in any one year. The appointments shall be made within sixty calendar days of the effective date of this Act.

3. The Iowa empowerment board shall obtain extensive community input and involvement in adopting the administrative rules to implement the provisions of section 71.3, subsection 9, paragraph "c", as enacted by this Act, to be applicable to grants initially awarded or renewed on or after the effective date of this Act. The Iowa empowerment board may adopt emergency rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of section 71.3, subsection 9, paragraph "c", as enacted by this Act, on or before August 31, 1999, 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 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 subsection shall also be published as a notice of intended action as provided in section 17A.4.

4. The advisory council of representatives from community empowerment areas shall be used by the Iowa empowerment board to revise the application and the application process for school ready children grants for the grant cycle immediately following the effective date of this Act.

Approved May 27, 1999

CHAPTER 191

EDUCATION PRACTITIONER PREPARATION PROGRAMS

H.F. 532

AN ACT relating to practitioner preparation programs and providing for a pilot study to assess the performance of teacher education graduates.

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

Section 1. Section 256.16, Code 1999, is amended to read as follows:

256.16 SPECIFIC CRITERIA FOR TEACHER PREPARATION AND CERTAIN EDUCATORS.

1. Pursuant to section 256.7, subsection 5, the state board shall adopt rules requiring all higher education institutions providing practitioner preparation to ~~include~~ do the following:

a. Administer a basic skills test to practitioner preparation program admission candidates. Rules adopted shall require institutions to deny admission to the program to any candidate who does not successfully pass the test.

b. Include preparation in reading programs, including reading recovery, and integrate reading strategies into content area methods coursework.

c. Include in the professional education program, preparation that contributes to the education of students with disabilities and students who are gifted and talented, ~~which and~~ preparation in classroom management addressing high-risk behaviors including, but not limited to, behaviors related to substance abuse. Preparation required under this paragraph must be successfully completed before graduation from the practitioner preparation program.

2. A person initially applying for a license shall successfully complete a professional education program containing the subject matter specified in this section, before the initial action by the board of educational examiners takes place.

Sec. 2. Section 272.25, subsection 1, Code 1999, is amended to read as follows:

1. A requirement that each student admitted to an approved practitioner preparation program must participate in field experiences that include both observation and participation in teaching activities in a variety of school settings. These field experiences shall comprise a total of at least fifty hours' duration, at least ~~forty ten~~ forty ten hours of which shall occur ~~after~~ prior to a student's ~~admission to acceptance in~~ an approved practitioner preparation program. The student teaching experience shall be a minimum of twelve weeks in duration during the student's final year of the practitioner preparation program.

Sec. 3. BOARD OF EDUCATIONAL EXAMINERS PILOT PROGRAM STUDY. The board of educational examiners shall develop and implement a one-year pilot study to assess the performance of teacher education graduates in the areas of content and pedagogy using a standardized, national assessment, which may be modified to meet the information needs of the board. The purpose of the pilot study is to measure an education graduate's knowledge in the graduate's chosen major field and the graduate's attained level of pedagogy, to establish baseline data on graduates, and to determine whether successful completion of a standardized assessment should be required of all education graduates prior to initial licensure. Individual assessment results from this study shall not prohibit an individual from receiving an initial teaching license under this chapter if the individual meets all other qualifications for licensure. By January 15, 2001, the board of educational examiners shall submit its recommendations in a report summarizing the results of the pilot study to the chairpersons and ranking members of the senate and house standing education committees and of the joint subcommittee on education appropriations.

Approved May 27, 1999

CHAPTER 192

CHILD CARE — MISCELLANEOUS PROVISIONS

H.F. 761

AN ACT relating to child care provisions administered by the department of human services and to the terminology used to describe child care, and including effective dates and applicability provisions.

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

DIVISION I CHAPTER 237A REWRITE

Section 1. Section 237A.1, Code 1999, is amended to read as follows:
237A.1 DEFINITIONS.

As used in this chapter unless the context otherwise requires:

1. "Administrator" means the administrator of the division of the department designated by the director to administer this chapter.
2. "Child" means a person under eighteen years of age.

3. "Child care center" or "center" means a facility providing child ~~day~~ care or preschool services for seven or more children, except when the facility is registered as a ~~family day child care home or group day care home~~.

4. "Child ~~day~~ care" means the care, supervision, ~~or~~ and guidance of a child by a person other than the child's parent, guardian, ~~relative~~, or custodian for periods of less than twenty-four hours per day per child on a regular basis ~~in a place other than the child's home~~, but does not include care, supervision, ~~or~~ and guidance of a child by any of the following:

a. An instructional program for children who are attending prekindergarten as defined by the state board of education under section 256.11 or a higher grade level and are at least four years of age administered by a any of the following:

(1) A public or nonpublic school system accredited by the department of education or the state board of regents, or a

(2) A nonpublic school system which is not accredited by the department of education or the state board of regents.

~~b.~~ A program provided under section 279.49 or 280.3A.

~~b.~~ c. A Any of the following church-related programs:

(1) An instructional program of not more than one day per week.

(2) A youth program other than a preschool, before or after school child care program, or other child care program.

(3) A program providing care to children on church premises while the children's parents are attending church-related or church-sponsored activities on the church premises.

~~e.~~ d. Short-term classes of less than two weeks' duration held between school terms or during a break within a school term.

~~d.~~ e. A child care center for sick children operated as part of a pediatrics unit in a hospital licensed by the department of inspections and appeals pursuant to chapter 135B.

~~e.~~ f. A nonprofit program operated not more than one day per week by volunteers for no charge which meets all of the following conditions:

(1) Not more than eleven children are served per volunteer.

(2) The program operates for not more less than two four hours during any twenty-four hour twenty-four-hour period.

(3) The program is provided at no cost to the children's parent, guardian, or custodian.

~~f.~~ g. A program provided by the state or a political subdivision, which provides recreational classes for a period of less than two hours per day.

g. A program administered by a political subdivision of the state which is primarily for recreational or social purposes and is limited to children who are five years of age or older and attending school.

~~h.~~ An instructional program administered by a nonpublic school system which is not accredited by the department of education or the state board of regents.

h. An after school program continuously offered throughout the school year calendar to children who are at least five years of age and are enrolled in school, and attend the program intermittently. The program must be provided through a nominal membership fee or at no cost.

i. A special activity program which meets less than four hours per day for the sole purpose of the special activity. Special activity programs include but are not limited to music or dance classes, organized athletic or sports programs, recreational classes, scouting programs, and hobby or craft clubs or classes.

j. A nationally accredited camp.

k. A structured program for the purpose of providing therapeutic, rehabilitative, or supervisory services to children under any of the following:

(1) A purchase of service or managed care contract with the department.

(2) A contract approved by a local decategorization governance board created under section 232.188.

(3) An arrangement approved by a juvenile court order.

1. Care provided on-site to children of parents residing in an emergency, homeless, or domestic violence shelter.

5. "Child day care facility" or "facility" means a child care center, ~~group day care home preschool, or a registered family day child care home.~~

6. "Child care home" means a person or program providing child care as a family child care home or a group child care home as authorized under section 237A.3.

7. "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.

6. 8. "Department" means the department of human services.

7. 9. "Director" means the director of human services.

8.* a. "Family day child care home" means a person or program which provides child day care to less than seven children at any one time or to less than twelve children at any one time as authorized by section 237A.3, subsection 1.

b. "Group day child 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.

11. "Infant" means a child who is less than twenty-four months of age.

9. 12. "Licensed center" means a center issued a full or provisional license by the department under the provisions of this chapter or a center for which a license is being processed.

10. "Low income family" means a family whose monthly gross income is less than the lower of:

a. Eighty percent of the median income of a family of four in this state adjusted to take into account the size of the family; or

b. The median income of a family of four in the fifty states and the District of Columbia adjusted to take into account the size of the family.

11. 13. "Preschool" means a child day care facility which provides to children ages three through five, for periods of time not exceeding three hours per day, programs designed to help the children to develop intellectual skills, social skills, and motor skills, and to extend their interest and understanding of the world about them.

12. "Relative" means a person who by marriage, blood, or adoption is a parent, grandparent, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, or guardian.

14. "School" means kindergarten or a higher grade level.

13. 15. "State child day care advisory council" means the state child day care advisory council established pursuant to sections 237A.21 and 237A.22.

Sec. 2. Section 237A.2, Code 1999, is amended to read as follows:

237A.2 LICENSING OF CHILD CARE CENTERS.

1. A person shall not establish or operate a child care center without obtaining a license under the provisions of this chapter. A center may operate for a specified period of time, to be established by rule of the department, if application for a license has been made. If the department denies an application for an initial license, notwithstanding section 17A.8, the applicant center shall not continue to provide child care pending the outcome of an evidentiary hearing. The department shall issue a license if it determines that all of the following conditions have been met:

1. a. An application for a license or a renewal has been filed with the administrator on forms provided by the department.

2. b. The center is maintained to comply with state health and fire laws.

3. c. The center is maintained to comply with rules ~~promulgated~~ adopted under section 237A.12.

2. A person denied a license under the provisions of this section shall receive written notice of the denial stating the reasons for denial and shall be provided with an opportunity for an evidentiary hearing. Licenses granted under this chapter shall be valid for one year

* Subsection probably intended to be renumbered as 10

from the date of issuance unless revoked or suspended in accordance with the provisions of section 237A.8 or reduced to a provisional license under subsection 3. A record of the license shall be kept by the department. The license shall be posted in a conspicuous place in the center and shall state the particular premises in which child ~~day~~ care may be offered and the number of individuals who may be received for care at any one time. ~~No~~ A greater number of children than is authorized by the license shall not be kept in the center at any one time.

3. The administrator may reduce a previously issued license to a provisional license or issue a provisional license for a period of time not to exceed one year if the center does not meet standards required under this section. A provisional license shall not be renewable in regard to the same standards for more than two consecutive years. A provisional license shall be posted in a conspicuous place in the center as provided in this section. If written plans to bring the center up to standards, giving specific dates for completion of work, are submitted to and approved by the department ~~promulgating the regulations~~, the provisional license shall be renewable as provided in this subsection.

4. A program which is not a child care center by reason of the ~~exceptions to the~~ definition of child ~~day~~ care in section 237A.1, subsection 4, but which provides care, supervision, ~~or~~ and guidance to a child may be issued a license if the program complies with all the provisions of this chapter.

5. If the department has denied or revoked a license because the applicant or person has continually or repeatedly failed to operate a licensed center in compliance with this chapter and rules adopted pursuant to this chapter, the person shall not own or operate a child care center for a period of six months from the date the license is denied or revoked. The department shall not act on an application for a license submitted by the applicant or person during the six-month period.

Sec. 3. Section 237A.3, Code 1999, is amended to read as follows:

237A.3 REGISTRATION OF ~~FAMILY AND GROUP DAY~~ CHILD CARE HOMES.

1. a. A person who operates or establishes a family ~~day~~ child care home may apply to the department for registration under this chapter. The department shall issue a certificate of registration upon receipt of a statement from the family ~~day~~ child care home that the home complies with rules adopted by the department. The registration certificate shall be posted in a conspicuous place in the family ~~day~~ child care home, shall state the name of the registrant, the number of individuals who may be received for care at any one time, and the address of the home, and shall include a check list of registration compliances.

b. No greater number of children than is authorized by the registration certificate shall be kept in the family ~~day~~ child care home at any one time. However, a registered or unregistered family ~~day~~ child care home may provide care for more than six but less than twelve children at any one time for a period of less than two hours, provided that each child in excess of six children is attending school in kindergarten or a higher grade level.

c. A family ~~day~~ child care home may provide care in accordance with this subsection for more than six but less than twelve children for two hours or more during a day with inclement weather following the cancellation of school classes. The home must have prior written approval from the parent or guardian of each child present in the home concerning the presence of excess children in the home pursuant to this paragraph. The home must have a responsible individual, age fourteen or older, on duty to assist the home provider when more than six children are present in accordance with the provisions of this paragraph. In addition, one or more of the following conditions shall apply to each child present in the home in excess of six children:

(1) The home provides care to the child on a regular basis for periods of less than two hours.

(2) If the child was not present in the family ~~day~~ child care home, the child would be unattended.

(3) The home regularly provides care to a sibling of the child.

d. In determining the number of children cared for at any one time in a registered or unregistered family ~~day child~~ care home, if the person who operates or establishes the home is a child's parent, guardian, ~~relative~~, or custodian and the child is not attending school in kindergarten or a higher grade level or is not receiving child ~~day~~ care full-time on a regular basis from another person, the child shall be considered to be receiving child ~~day~~ care from the person and shall be counted as one of the children cared for in the home.

e. The registration process may be repeated on an annual basis.

f. A child ~~day~~ care home provider or program which is not a family ~~day child~~ care home by reason of the definition of child ~~day~~ care in section 237A.1, ~~subsection 4~~, but which provides care, supervision, or guidance to a child may be issued a certificate of registration under this chapter.

2. a. A person shall not operate or establish a group ~~day child~~ care home unless the person obtains a certificate of registration under this chapter. Two persons who comply with the individual requirements for registration as a group ~~day child~~ 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 child~~ care home requirements for registration are met. All other requirements of this chapter for registered family ~~day child~~ care homes and the rules adopted under this chapter for registered family ~~day child~~ care homes apply to group ~~day child~~ care homes. In addition, the department shall adopt rules relating to the provision in group ~~day child~~ 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 child~~ 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 child~~ care home must have at least one responsible individual who is at least fourteen years of age present to assist the group ~~day child~~ 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.

3. A registered group ~~day child~~ care home may provide care in accordance with this subsection for more than eleven but less than sixteen children for a period of less than two hours or for a period of two hours or more during a day with inclement weather following the cancellation of school classes. The home must have the prior written approval from the parent or guardian of each child present in the home concerning the presence of excess children in the home. In addition, one or more of the following conditions shall apply to each child present in the home in excess of eleven children during a period of inclement weather:

a. The group ~~day child~~ care home provides care to the child on a regular basis for periods of less than two hours.

b. If the child was not present in the group ~~day child~~ care home, the child would be unattended.

c. The group ~~day child~~ care home provides care to a sibling of the child.

4. A person who operates or establishes a ~~family day care home or a group day child~~ care home and who is a child foster care licensee under chapter 237 shall register with the department under this chapter. For purposes of registration and determination of the maximum number of children who can be provided child ~~day~~ care by the ~~family day care home or group day child~~ care home, the children receiving child foster care shall be considered the children of the person operating the ~~family day care home or group day child~~ care home.

5. If the department has denied or revoked a registration because the applicant or person has continually or repeatedly failed to operate a registered child day care facility in compliance with this chapter and rules adopted pursuant to this chapter, the person shall not own or operate a registered facility for a period of six months from the date the registration is denied or revoked. The department shall not act on an application for registration submitted by the applicant or person during the six-month period.

Sec. 4. Section 237A.3A, subsection 1, Code 1999, is amended to read as follows:

1. PILOT PROJECT. The department shall implement a pilot project applying the provisions of this section to registered family or group day child care homes located in one county of this state. The provisions of this section shall not apply to unregistered family day child 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, During the fiscal year beginning July 1, 1999, the department may shall implement the pilot project in one additional urban or mixed rural and urban county in each of the department's regions where there is interest in implementing the pilot project. The department shall implement the pilot project on or after July 1, 1997. In addition, the department may implement the pilot project in one other county in each of the department's regions where there is interest in implementing the pilot project.~~ 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.

Sec. 5. Section 237A.3A, subsection 2, Code 1999, is amended by striking the subsection and inserting in lieu thereof the following:

2. DEFINITION. For the purposes of this section, unless the context otherwise requires, "child care home" means a person registered under this section to provide child care in a pilot project county.

Sec. 6. Section 237A.3A, subsection 3, paragraph c, Code 1999, is amended to read as follows:

c. A person or program in a pilot project county which provides care, supervision, ~~or~~ and 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.

Sec. 7. Section 237A.3A, subsection 3, paragraph d, subparagraph (2), Code 1999, is amended to read as follows:

(2) The rules shall allow a child day care home to be registered at level II, III, or IV for which the provider is qualified even though the amount of space required to be available for the maximum number of children authorized for that level exceeds the actual amount of space available in that child care home. However, the total number of children authorized for the child care home at that level of registration shall be limited by the amount of space available per child.

Sec. 8. Section 237A.3A, subsection 4, paragraph a, Code 1999, is amended to read as follows:

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.

Sec. 9. Section 237A.3A, subsection 6, Code 1999, is amended to read as follows:

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.

Sec. 10. Section 237A.3A, subsection 11, paragraph c, Code 1999, is amended to read as follows:

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~~ more than two hours at any one time.

Sec. 11. Section 237A.3A, subsection 12, paragraph f, Code 1999, is amended to read as follows:

f. If more than eight children are present at any one time for a period of more than two hours, the provider shall be assisted by a responsible individual who is at least fourteen years of age.

Sec. 12. Section 237A.4, Code 1999, is amended to read as follows:

237A.4 INSPECTION AND EVALUATION.

The department shall make periodic inspections of licensed centers to ~~insure~~ ensure compliance with licensing requirements provided in this chapter, and the local boards of health may make periodic inspections of licensed centers to ~~insure~~ ensure compliance with health-related licensing requirements provided in this chapter. The administrator may inspect records maintained by a licensed center and may inquire into matters concerning these centers and the persons in charge. The administrator shall require that the center be inspected by the state fire marshal or a designee for compliance with rules relating to fire safety before a license is granted or renewed. The administrator or a designee may periodically visit registered ~~family day child~~ care homes for the purpose of evaluation of an inquiry into matters concerning compliance with rules adopted under section 237A.12. Evaluation of ~~family day child~~ care homes under this section may include consultative services provided pursuant to section 237A.6.

Sec. 13. Section 237A.5, subsections 2, 6, and 7, Code 1999, are amended to read as follows:

2. a. If a person is being considered for licensure or registration under this chapter, or for employment involving direct responsibility for a child or with access to a child when the child is alone, by a child ~~day~~ care facility subject to licensure or registration under this chapter, or if a person will reside in a facility, and if the person has been convicted of a crime or has a record of founded child abuse, the department ~~and the licensee or registrant for an employee of the licensee or registrant~~ shall perform an evaluation to determine whether the crime or founded child abuse warrants prohibition of licensure, registration, employment, or residence in the facility. The department shall conduct criminal and child abuse record checks in this state and may conduct these checks in other states. The evaluation shall be performed in accordance with procedures adopted for this purpose by the department.

b. If the department determines that a person has committed a crime or has a record of founded child abuse and is licensed, employed by a licensee or registrant or registered under this chapter, or resides in a licensed or registered facility the department shall notify the licensee or registrant that an evaluation will be conducted to determine whether prohibition of the person's licensure, registration, employment, or residence is warranted.

c. In an evaluation, the department ~~and the licensee or registrant for an employee of the licensee or registrant~~ shall consider the nature and seriousness of the crime or founded child 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 licensed, registered, employed, or to reside, or to continue to be licensed,

registered, employed, or to reside in a licensed facility, if the person complies with the department's conditions relating to the person's licensure, registration, employment, or residence, which may include completion of additional training. ~~For an employee of a licensee or registrant, these conditional requirements shall be developed with the licensee or registrant.~~ The department has final authority in determining whether prohibition of the person's licensure, registration, employment, or residence is warranted and in developing any conditional requirements under this paragraph.

d. If the department determines that the person has committed a crime or has a record of founded child abuse which warrants prohibition of licensure, registration, employment, or residence, the person shall not be licensed or registered under this chapter to operate a child ~~day~~ care facility and shall not be employed by a licensee or registrant or reside in a facility licensed or registered under this chapter.

e. If it has been determined that a child receiving child care from a child care facility is the victim of founded child abuse committed by an employee, licensee or registration holder, or resident of the child care facility for which a report is placed in the central registry pursuant to section 232.71D, the administrator shall provide notification at the time of the determination to the parents, guardians, and custodians of children receiving care from the facility. A notification made under this paragraph shall identify the type of abuse but shall not identify the victim or perpetrator or circumstances of the founded abuse.

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.

7. A person who serves as an unpaid volunteer in a child ~~day~~ care facility shall not be required to complete training as a mandatory reporter of child abuse under section 232.69 or under any other requirement.

Sec. 14. Section 237A.7, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Anyone who acquires through the administration of this chapter information relative to an individual in a child ~~day~~ care facility or to a relative of the individual shall not, directly or indirectly, disclose the information except upon inquiry before a court of law or with the written consent of the individual or, in the case of a child, the written consent of the parent or guardian or as otherwise specifically required or allowed by law.

Sec. 15. Section 237A.8, Code 1999, is amended to read as follows:

237A.8 SUSPENSION AND REVOCATION VIOLATIONS — ACTIONS AGAINST LICENSE OR REGISTRATION.

The administrator, after notice and opportunity for an evidentiary hearing before the department of inspections and appeals, may suspend or revoke a license or certificate of registration issued under this chapter or may reduce a license to a provisional license if the person to whom a license or certificate is issued violates a provision of this chapter or if the person makes false reports regarding the operation of the child ~~day~~ care facility to the administrator or a designee of the administrator. The administrator shall notify the parent, guardian, or legal custodian of each child for whom the person provides child ~~day~~ care, if the license or certificate of registration is suspended or revoked or if there has been a substantiated child abuse case against an employee, owner, or operator of the child day care facility at the time of action to suspend or revoke a license or certificate of registration.

Sec. 16. Section 237A.12, Code 1999, is amended to read as follows:

237A.12 RULES.

1. Subject to the provisions of chapter 17A, the administrator shall ~~promulgate~~ adopt rules setting minimum standards to provide quality child ~~day~~ care in the operation and maintenance of child care centers and registered ~~family-day~~ child care homes, relating to all of the following:

1- a. The number and qualifications of personnel necessary to assure the health, safety, and welfare of children in the facilities. Rules for facilities which are preschools shall be drawn so that any staff-to-children ratios which relate to the age of the children enrolled shall be based on the age of the majority of the children served by a particular class rather than on the age of the youngest child served.

2- b. Physical facilities.

3- c. The adequacy of activity programs and food services available to the children. The administrator shall not restrict the use of or apply nutritional standards to a lunch or other meal which is brought to the center or ~~family-day~~ child care home by a school-age child for the child's consumption.

4- d. Policies established by the center for parental participation.

5- e. Programs for education and in-service training of staff.

6- f. Records kept by the facilities.

7- g. Administration.

8- h. Health, safety, and medical policies for children.

2. Rules adopted by the state fire marshal for buildings, other than school buildings, used as child care centers as an adjunct to the primary purpose of the building shall take into consideration that children are received for temporary care only and shall not differ from rules adopted for these buildings when they are used by groups of persons congregating from time to time in the primary use and occupancy of the buildings. However, the rules may require a fire-rated separation from the remaining portion of the building if the fire marshal determines that the separation is necessary for the protection of children from a specific flammable hazard.

3. Rules relating to fire safety shall be adopted under this chapter by the state fire marshal in consultation with the department. Rules adopted by the state fire marshal for a building which is owned or leased by a school district or accredited nonpublic school and used as a child ~~day~~ care facility shall not differ from standards adopted by the state fire marshal for school buildings under chapter 100. Rules relating to sanitation shall be adopted by the department in consultation with the director of public health. All rules shall be developed in consultation with the state child ~~day~~ care advisory council. The state fire marshal shall inspect the facilities.

4. If a building is owned or leased by a school district or accredited nonpublic school and complies with standards adopted by the state fire marshal for school buildings under chapter 100, the building is considered appropriate for use by a child ~~day~~ care facility. The rules adopted by the administrator under this section shall not require the facility to comply with building requirements which differ from requirements for use of the building as a school.

5. Standards and requirements set by a city or county for a building which is owned or leased by a school district or accredited nonpublic school and used as a child ~~day~~ care facility shall take into consideration that children are received for temporary care only and shall not differ from standards and requirements set for use of the building as a school.

Sec. 17. Section 237A.19, unnumbered paragraph 2, Code 1999, is amended to read as follows:

A If registration is required under section 237A.3, a person who establishes, conducts, manages, or operates a ~~group-day~~ child care home without registering under this chapter or a person who operates a ~~family-day~~ child care home contrary to section 237A.5, is guilty of a simple misdemeanor. Each day of continuing violation after conviction, or notice from the department by certified mail of the violation, is a separate offense. A single charge alleging continuing violation may be made in lieu of filing charges for each day of violation.

Sec. 18. Section 237A.20, Code 1999, is amended to read as follows:
237A.20 INJUNCTION.

A person who establishes, conducts, manages, or operates a center without a license or a ~~group-day child~~ care home without a certificate of registration, if registration is required under section 237A.3, may be restrained by temporary or permanent injunction. A person who has been convicted of a crime against a person or a person with a record of founded child abuse may be restrained by temporary or permanent injunction from providing unregistered, registered, or licensed child ~~day~~ care. The action may be instituted by the state, the county attorney, a political subdivision of the state, or an interested person.

Sec. 19. Section 237A.21, Code 1999, is amended to read as follows:
237A.21 STATE CHILD ~~DAY~~ CARE ADVISORY COUNCIL.

1. A state child ~~day~~ care advisory council is established consisting of not more than thirty-five members from urban and rural areas across the state. The membership shall include, but is not limited to, all of the following persons or representatives with an interest in child ~~day~~ care: a licensed center, a registered ~~family-day child~~ care home from a county with a population of less than twenty-two thousand, an unregistered ~~family-day child~~ care home, a parent of a child in child ~~day~~ care, appropriate governmental agencies, and other members as deemed necessary by the director. The members are eligible for reimbursement of their actual and necessary expenses while engaged in performance of their official duties.

2. Members shall be appointed by the director from a list of names submitted by a nominating committee to consist of one member of the state council established pursuant to this section, one member of the department's child ~~day~~ care staff, three consumers of child ~~day~~ care, and one member of a professional child ~~day~~ care organization. Two names shall be submitted for each appointment. Members shall be appointed for terms of three years but no member shall be appointed to more than two consecutive terms. The state council shall develop its own operational policies which are subject to departmental approval.

3. The membership of the council shall be appointed in a manner so as to provide equitable representation of persons with an interest in child ~~day~~ care and shall include all of the following:

- a. Two parents of a child served by a ~~family or group-day~~ registered child care home.
- b. Two parents of a child served by a licensed center.
- c. Two not-for-profit child ~~day~~ care providers.
- d. Two for-profit child ~~day~~ care providers.
- e. Two family ~~day~~ child care home providers.
- f. Two group ~~day~~ child care home providers.
- g. One child ~~day~~ care resource and referral service grantee.
- h. One nongovernmental child advocacy group representative.
- i. One designee of the department of human services ~~or the Iowa department of public health~~.
- j. One designee of the Iowa department of public health.
- k. One designee of the department of education.
- l. One head start program provider.
- l m. Two legislators appointed in a manner so that both major political parties are represented.

Sec. 20. Section 237A.22, Code 1999, is amended to read as follows:
237A.22 DUTIES OF STATE CHILD ~~DAY~~ CARE ADVISORY COUNCIL.

The state child ~~day~~ care advisory council shall do all of the following:

1. Consult with and make recommendations to the department concerning policy issues relating to child ~~day~~ care.

2. Advise the department concerning services relating to child ~~day~~ care, including but not limited to any of the following:

- a. Resource and referral services.
- b. Provider training.

- c. Quality improvement.
 - d. Public-private partnerships.
 - e. Standards review and development.
3. Assist the department in developing an implementation plan to provide seamless service to recipients of public assistance which includes child day care services. For the purposes of this subsection, "seamless service" means coordination, where possible, of the federal and state requirements which apply to child day care.
4. Advise and provide technical services to the director of the department of education or the director's designee, upon request, relating to prekindergarten, kindergarten, and before and after school programming and facilities.

Sec. 21. NEW SECTION. 237A.24 CHILD CARE TRAINING AND DEVELOPMENT SYSTEM.

1. The departments of education, health, and human services shall jointly establish a leadership council for child care training and development in this state. In addition to representatives of the three departments, the leadership council shall include but is not limited to representatives of community colleges, institutions of higher learning under the state board of regents and private institutions of higher education, the Iowa cooperative extension service in agriculture and home economics, and child care resource and referral service agencies.

2. The charge of the council is to develop a proposal for a statewide child care training and development system and to monitor implementation of the proposal. The purpose of the system is to improve support for persons providing or administering child care services. The system shall be developed in a manner so as to incorporate and enhance existing efforts to provide this support.

3. The proposal for the child care training and development system shall include all of the following elements:

- a. Identification of core competencies for providers and administrators that may be incorporated into professional standards.
- b. Establishing levels for professional development.
- c. Implementing a professional experience registry to track the training, educational attainment, and experience of providers and administrators.
- d. Implementing a unified training and technical assistance approach for identifying needs, ensuring equal access, and establishing minimum requirements for training and trainers.
- e. Establishing an articulation process to permit recognition of training provided by entities that do not grant academic credit by entities that do grant academic credit.
- f. Implementing a financing structure to support the training registry.
- g. Identifying other means for enhancing the training and development of persons who provide and administer child care.

4. The proposal shall include an implementation plan and budget provisions and may provide for implementation through a contract with a private nonprofit agency.

Sec. 22. Section 237A.26, Code 1999, is amended to read as follows:

237A.26 STATEWIDE RESOURCE AND REFERRAL SERVICES — GRANTS.

1. The department shall administer a statewide grant program for child day care resource and referral services. Grants shall only be awarded to community-based nonprofit incorporated agencies and public agencies. Grants shall be awarded to facilitate the establishment of regional resource and referral agencies throughout the state, based upon the distribution of the child population in the state.

2. The department shall provide oversight of and annually evaluate an agency which is awarded a grant to provide resource and referral services to a region.

3. An agency which receives a grant to provide resource and referral services shall perform both of the following functions:

a. Organize assistance to ~~family and group day~~ child care homes utilizing training levels based upon the homes' degrees of experience and interest.

b. Operate in partnership with both public and private interests and coordinate resource and referral services with existing community services.

4. An agency, to be eligible to receive a grant to provide resource and referral services, must match the grant with financial resources equal to at least twenty-five percent of the amount of the grant. The financial resources may include a private donation, an in-kind contribution, or a public funding source other than a separate state grant for child care service improvement.

5. An agency, to be eligible to receive a grant to provide resource and referral services, must have a board of directors if the agency is an incorporated nonprofit agency or must have an advisory board if the agency is a public agency, to oversee the provision of resource and referral services. The board shall include providers, consumers, and other persons interested in the provision or delivery of child ~~day~~ care services.

6. An agency which receives a child care resource and referral grant shall provide all of the following services:

a. Assist families in selecting quality child care. The agency must provide referrals to registered and licensed child ~~day~~ care facilities, and to persons providing care, supervision, ~~or~~ and guidance of a child which is not defined as child ~~day~~ care under section 237A.1 and may provide referrals to unregistered providers.

b. Assist child ~~day~~ care providers in adopting appropriate program and business practices to provide quality child care services.

c. Provide information to the public regarding the availability of child ~~day~~ care services in the communities within the agency's region.

d. Actively encourage the development of new and expansion of existing child ~~day~~ care facilities in response to identified community needs.

e. Provide specialized services to employers, including the provision of resource and referral services to employee groups identified by the employer and the provision of technical assistance to develop employer-supported child ~~day~~ care programs.

f. Refer eligible child ~~day~~ care facilities to the federal child care food programs.

g. Loan toys, other equipment, and resource materials to child ~~day~~ care facilities.

h. Administer funding designated within the grant to provide a substitute caregiver program for registered ~~family and group day~~ child care homes to provide substitute care in a home when the home provider is ill, on vacation, receiving training, or is otherwise unable to provide the care.

7. The department may contract with an agency receiving a child ~~day~~ care resource and referral grant to perform any of the following functions relating to publicly funded services providing care, supervision, ~~or~~ and guidance of a child:

a. Determine an individual's eligibility for the services in accordance with income requirements.

b. Administer a voucher, certificate, or other system for reimbursing an eligible provider of the services.

Sec. 23. Section 237A.27, Code 1999, is amended to read as follows:

237A.27 CRISIS CHILD CARE.

The department shall establish a special child care registration or licensure classification for crisis child care which is provided on a temporary emergency basis to a child when there is reason to believe that the child may be subject to abuse or neglect. The special classification is not subject to the definitional restrictions of child ~~day~~ care in this chapter relating to the provision of child ~~day~~ care for a period of less than twenty-four hours per day on a regular basis. However, the provision of crisis child care shall be limited to a period of not more than seventy-two hours for a child during any single stay. A person providing crisis child care must be registered or licensed under this chapter and must be participating or

have previously participated in the federal crisis nursery pilot project. The department shall adopt rules pursuant to chapter 17A to implement this section.

Sec. 24. Section 237A.28, Code 1999, is amended to read as follows:

237A.28 CHILD DAY CARE CREDIT FUND.

A child ~~day~~ care credit fund is created in the state treasury under the authority of the department of human services. The moneys in the fund shall consist of moneys deposited pursuant to section 422.100 and shall be used for child ~~day~~ care services as annually ~~di-rected~~ appropriated by the general assembly.

Sec. 25. Section 237A.29, Code 1999, is amended to read as follows:

237A.29 STATE AND FEDERAL FUNDING OF CHILD DAY CARE.

State funds and federal funds provided to the state in accordance with federal requirements shall not be used to pay for the care, supervision, ~~or~~ and guidance of a child for periods of less than twenty-four hours per day on a regular basis ~~in a place other than the child's home~~ unless the care, supervision, ~~or~~ and guidance is defined as child ~~day~~ care as used in this chapter.

Sec. 26. REPEAL. 1998 Iowa Acts, chapter 1127, section 4, is repealed.

DIVISION II CONFORMING AMENDMENTS

Sec. 27. Section 232.69, subsection 1, paragraph b, subparagraph (7), Code 1999, is amended to read as follows:

(7) An employee or operator of a licensed child care center or registered ~~group day care home or registered family day~~ child care home.

Sec. 28. Section 234.6, subsection 6, paragraph a, Code 1999, is amended to read as follows:

a. ~~Day~~ Child care for children or day care for adults, in facilities which are licensed or are approved as meeting standards for licensure.

Sec. 29. Section 237.1, subsection 4, paragraph d, Code 1999, is amended to read as follows:

d. Child ~~day~~ care furnished by a child care center, ~~group day care home~~, or ~~family day~~ child care home as defined in section 237A.1.

Sec. 30. Section 256.9, subsection 35, unnumbered paragraph 2, Code 1999, is amended to read as follows:

Standards and materials developed shall include materials which employ developmentally appropriate practices and incorporate substantial parental involvement. The materials and standards shall include alternative teaching approaches including collaborative teaching and alternative dispute resolution training. The department shall consult with the child development coordinating council, the state day child care advisory ~~committee~~ council, the department of human services, the state board of regents center for early developmental education, the area education agencies, the department of child development in the college of family and consumer sciences at Iowa state university of science and technology, the early childhood elementary division of the college of education at the university of Iowa, and the college of education at the university of northern Iowa, in developing these standards and materials.

Sec. 31. Section 256C.3, subsection 5, Code 1999, is amended to read as follows:

5. Training, technical assistance, and other support by the family resource center staff to ~~family day~~ child care home providers in the community. The center may serve as an information and referral clearinghouse for other child care needs and services in the community

and shall coordinate the center's information and efforts with any child care delivery systems that may already exist in the community. The center may also provide an adolescent pregnancy prevention program, and other programs as the community determines, for adolescents emphasizing responsible decision making and communication skills.

Sec. 32. Section 692A.13, subsection 3, paragraph c, unnumbered paragraph 1, Code 1999, is amended to read as follows:

For offenders who have been classified as "at-risk" in this state pursuant to an assessment conducted as provided in subsection 6, the department or a criminal or juvenile justice agency may also release the offender's name, a photograph, locations frequented by the offender, and relevant Iowa criminal history information from the registry to public and private schools, child day care centers, ~~family day child care~~ home providers, businesses, and organizations that serve primarily children, women, or vulnerable adults, and neighbors and community groups, or to the public at large. The extent of public disclosure of the information shall be rationally related to the following:

Sec. 33. AMENDMENTS TO TERMS "CHILD DAY CARE" AND "DAY CARE" — DIRECTIVE TO CODE EDITOR.

1. Sections 71.5, 71.7, 10A.202, 137F.1, 232.71D, 232.78, 232.188, 235A.15, 239B.7, 239B.8, 239B.10, 256C.3, 279.49, 279.51, 280.3A, 285.1, 298A.12, and 422.100, Code 1999, are amended by striking from the sections the words "child day care" or "child day-care" and inserting in lieu thereof the words "child care".

2. Sections 15.285, 15.329, 217.12, 232.69, 235C.3, 256A.3, 256C.3, 260C.69, and 279.51, Code 1999, are amended by striking from the sections the words "day care" or "day-care" or "Day care" and inserting in lieu thereof, as appropriate, the words "child care" or "Child care".

3. The Code editor shall substitute the words "child care" for the words "child day care" or "child day-care" anywhere in the Code if there appears to be no doubt as to the intent to refer to child care as defined in chapter 237A, as amended by this Act.

4. The Code editor shall substitute the words "child care" for the words "day care" anywhere in the Code if there appears to be no doubt as to the intent to refer to child care as defined in chapter 237A, as amended by this Act.

DIVISION III SEAMLESS CHILD CARE SYSTEM

Sec. 34. Section 239B.7, subsection 3, Code 1999, is amended by striking the subsection.

Sec. 35. NEW SECTION. 239B.24 STATE CHILD CARE ASSISTANCE ELIGIBILITY.

1. The following persons are deemed to be eligible for benefits under the state child care assistance program administered by the department, notwithstanding the program's eligibility requirements or any waiting list:

a. A participant who is employed.

b. Any other person whose earned income is considered in determining eligibility and benefits for a participant.

c. A person who is participating in activities approved under the JOBS program.

2. A person who is deemed to be eligible for state child care assistance program benefits under this section is subject to all other state child care assistance requirements, including but not limited to provider requirements under chapter 237A, provider reimbursement methodology and rates, and any other requirements established by the department in rule.

Sec. 36. STATE CHILD CARE ASSISTANCE ELIGIBILITY IMPLEMENTATION PROVISIONS.

1. Effective July 1, 1999, to implement the repeal of section 239B.7, subsection 3, in accordance with this division of this Act, the department of human services shall eliminate the

child day care deduction used for determining family investment program eligibility and assistance amounts for program participants and applicants.

2. Any person receiving transitional child care program benefits under section 239B.23, Code Supplement 1997, as of June 30, 1999, shall continue to receive the benefits until the person's eligibility expires or the person fails to meet the program's requirements.

3. Implementation of this division is intended to establish a seamless child day care system by revising state requirements for publicly funded child day care benefits so that the requirements are seamless to those receiving the benefits.

4. The department of human services may adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of this division 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 subsection 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 subsection shall also be published as notice of intended action as provided in section 17A.4.

DIVISION IV

REPEAL — EFFECTIVE DATES — APPLICABILITY TRANSITION

Sec. 37.

1. The following transition exception shall apply to child care home providers registering in pilot project counties under section 237A.3A on or after July 1, 1999, and in lieu of the transition exception authorized in 1998 Iowa Acts, chapter 1127, section 4, for child care homes that were under that transition exception prior to July 1, 1999:

a. If a child care home is providing child care to four infants at the time of registration under section 237A.3A, the child care home may continue to provide child care to those four infants. However, if the child care home no longer provides child care to one or more of the four infants or one or more of the four infants reaches the age of twenty-four months, the exception authorized in this subsection shall no longer apply. This exception does not affect the overall limitation on the number of children for which the child care home is authorized to provide child care.

b. If, at the time of registration under section 237A.3A, a child care home is providing child care to school age children in excess of the number of school age children authorized for the registration level, the child care home may continue to provide child care to those children and the child care home provider may exceed the total number of children authorized for the level of registration by the number of school age children in excess of the number authorized for the registration level. This exception is subject to all of the following:

(1) The child care home must comply with the other requirements relating to number of children for which the child care home is authorized to provide child care at that registration level.

(2) The maximum number of children attributable to the authorization for school age children at the applicable registration level is five.

(3) If more than eight children are present at any one time for more than two hours, the child care home provider shall be assisted by a responsible person who is at least fourteen years of age.

(4) If the child care home no longer provides child care to an individual school age child who was receiving child care from the child care home at the time of registration under section 237A.3A, the excess number of children allowed under this exception shall be reduced accordingly.

2. The department of human services shall pursue every available option to secure federal or other funding that may be used to make available additional home child care consultants to assist in the expanded implementation of section 237A.3A pilot projects, as amended by

this Act. If the department is able to secure additional funding for this purpose, the department may expand home child care consultant assistance provided by child care resource and referral services in pilot project counties accordingly.

3. The department of human services shall report to the governor and general assembly concerning the implementation of the expansion of the child care home registration levels pilot project under section 237A.3A, as amended by this Act. The report shall be submitted in January 2000. The department shall work with child care resource and referral services in obtaining more information regarding the effects of the pilot project, including changes in the quantity of registered and unregistered child care home providers and child care slots, amount of turnover in active child care home providers, and reasons for child care home providers changing their registered and unregistered status. The department may utilize survey, interview, or other means to collect the data for the report.

4. The department may submit a proposal to the general assembly for enactment of administratively applied civil penalties for child care registrant or licensee failure to comply with key standards for the operation and maintenance of a child care facility. In developing the proposal, the department shall consult with the state child care advisory council, child care facility providers, families, and other interested parties. The proposal shall specify the offenses or acts which are subject to a civil penalty and the civil penalty amounts.

5. Section 36 of division III of this Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 38. EFFECTIVE DATE — PROPOSAL SUBMISSION.

1. New Code section 237A.24, as enacted by division I of this Act, being deemed of immediate importance, takes effect upon enactment.

2. The leadership council created pursuant to section 237A.24, as enacted by division I of this Act, shall submit the initial proposal for a child care training and development system to the departments of education, health, and human services by December 31, 1999, so that the three departments may include funding for implementation of the system in the departments' budget recommendations developed for the fiscal year beginning July 1, 2001.

Approved May 27, 1999

CHAPTER 193

FEDERAL BLOCK GRANT APPROPRIATIONS

S.F. 283

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, 1999, and ending September 30, 2000, 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 the state fiscal year beginning July 1, 1998, 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.

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 1999-2000 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, 1999, and ending September 30, 2000, 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 of the department of human services 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, 1999, and ending September 30, 2000, the following amount:

..... \$ 6,969,580

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. 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, 1999, and ending September 30, 2000, the following amount:

..... \$ 2,128,352

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. Of the 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.

3. An amount not exceeding \$94,670 of the remaining funds appropriated in subsections 1 and 2 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.

4. After deducting the funds allocated in subsections 1, 2, and 3, the remaining funds appropriated in subsection 1 shall be used by the department for healthy people 2000 and 2010/healthy Iowans 2000 and 2010 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, 1999, and ending September 30, 2000, the following amount:

..... \$ 5,865,000

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, 1999, and ending September 30, 2000, the following amount:

..... \$ 1,647,000

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, 1999, and ending September 30, 2000, the following amount:

..... \$ 322,049

Funds appropriated in this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under annual federal appropriations which provide 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, 1999, and ending September 30, 2000, the following amount:

..... \$ 514,497

Funds appropriated in this section 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 section 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, 1999, and ending September 30, 2000, the following amount:

..... \$ 5,378,447

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 not 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, 1999, and ending September 30, 2000, the following amount:

..... \$ 29,939,000

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 \$1,397,560 for the federal fiscal year beginning October 1, 1999, 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 \$698,780 for the federal fiscal year beginning October 1, 1999, of funds appropriated in subsection 1 and a matching contribution from the state equal to \$698,780 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, 1999, and ending September 30, 2000, the following amount:

..... \$ 19,951,229

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 \$1,995,122 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, 2000, 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, 1999, and ending September 30, 2000, the following amount:

..... \$ 20,408,465

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 \$1,297,725 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, 1999, for the following programs within the department of human services:

a. Field operations:	\$	7,761,836
b. Child and family services:	\$	1,160,954
c. Local administrative costs and other local services:	\$	823,166
d. Volunteers:	\$	89,964
e. Community-based services:	\$	103,458
f. MH/MR/DD/BI community service (local purchase):	\$	9,171,362

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 FUND. 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, 1999, and ending September 30, 2000, the following amount:

..... \$ 27,142,057

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 fund. 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 2, 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 the amount of moneys 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 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.

4. If the amount of moneys 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 specific grant's appropriation. An annual report listing any such excess appropriations shall be submitted to the fiscal committee of the legislative council.

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, 1999, and ending June 30, 2000, 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, 1999, and ending June 30, 2000, 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, 1999, and ending June 30, 2000:

1. For plant and animal disease and pest control, grant number 10025:	\$	698,457
.....		
2. For assistance for intrastate meat and poultry, grant number 10475:	\$	1,115,943
.....		
3. For farmers market nutrition program, grant number 10577:	\$	140,590
.....		
4. For food and drug — research grants, grant number 13103:	\$	93,000
.....		
5. For surface coal mining regulation, grant number 15250:	\$	153,241
.....		
6. For abandoned mine land reclamation, grant number 15252:	\$	1,514,640
.....		
7. For pesticide enforcement program, grant number 66700:	\$	154,854
.....		
8. For pesticide certification program, grant number 66720:	\$	62,847
.....		
9. For wetlands protection, grant number 66461:	\$	95,194
.....		
10. For USDA, grant number 1000:	\$	35,186
.....		
11. For farmers market nutrition program, grant number 10572:	\$	498,488
.....		
12. For performance partnership grants — pesticide use, grant number 6605:	\$	590,341
.....		

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, 1999, and ending June 30, 2000, 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, 1999, and ending June 30, 2000, 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, 1999, and ending June 30, 2000:

1. For vocational rehabilitation grant number 93802:	\$	20,737
2. For assistive technology information network, grant number 84224:	\$	10,000
3. For rehabilitation services — basic support, grant number 84126:	\$	4,835,026
4. For rehabilitation training, grant number 84265:	\$	19,795
5. For independent living project, grant number 84169:	\$	58,349
6. For older blind, grant number 84177:	\$	195,001
7. For supported employment, grant number 84187:	\$	69,919
8. For blind project, grant number 84235:	\$	194,612

Sec. 22. IOWA STATE CIVIL RIGHTS COMMISSION. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1999, and ending June 30, 2000, 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, 1999, and ending June 30, 2000:

1. For housing and urban development (HUD) discrimination complaints, grant number 14401:	\$	167,300
2. For job discrimination — special projects, grant number 30002:	\$	668,800

Sec. 23. COLLEGE STUDENT AID COMMISSION. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1999, and ending June 30, 2000, 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, 1999, and ending June 30, 2000:

1. For the Stafford loan program, grant number 84032:	\$	33,602,212
2. For student inc., grant number 84069:	\$	275,000

Sec. 24. DEPARTMENT OF COMMERCE. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1999, and ending June 30, 2000, are appropriated to the department of commerce for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 25. DEPARTMENT OF CORRECTIONS. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1999, and ending June 30, 2000, 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.

The following amounts are appropriated to the department of corrections for the fiscal year beginning July 1, 1999, and ending June 30, 2000:

- 1. For violent offender incarceration/truth in sentencing, grant number 16586:
..... \$ 4,800,000
- 2. For criminal alien assistance, grant number 16572:
..... \$ 500,000

Sec. 26. DEPARTMENT OF CULTURAL AFFAIRS. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1999, and ending June 30, 2000, 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, 1999, and ending June 30, 2000:

- 1. For historic preservation grants-in-aid, grant number 15904:
..... \$ 497,395
- 2. For NEA partner, grant number 45025:
..... \$ 504,500

Sec. 27. 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, 1999, and ending June 30, 2000, 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, 1999, and ending June 30, 2000:

- 1. For department of agriculture, grant number 10000:
..... \$ 80,000
- 2. For national Affordable Housing Act, grant number 14239:
..... \$ 9,921,604
- 3. For community service Act funds, grant number 94003:
..... \$ 990,424
- 4. For job opportunities and basic skills program, grant number 13781:
..... \$ 99,648

Sec. 28. 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, 1999, and ending June 30, 2000, 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, 1999, and ending June 30, 2000:

- 1. For school breakfast program, grant number 10553:
..... \$ 7,895,000

2. For school lunch program, grant number 10555:	\$	46,100,000
3. For special milk program for children, grant number 10556:	\$	317,219
4. For child care food program, grant number 10558:	\$	15,179,762
5. For summer food service for children, grant number 10559:	\$	943,138
6. For administration expenses for child nutrition, grant number 10560:	\$	1,284,728
7. For public telecommunication facilities, grant number 11550:	\$	1,500,000
8. For vocational rehabilitation — state supplementary assistance, grant number 13625:	\$	488,609
9. For vocational rehabilitation — FICA, grant number 13802:	\$	12,874,821
10. For nutrition education and training, grant number 10564:	\$	85,233
11. For mine health and safety, grant number 17600:	\$	112,000
12. For veterans education, grant number 64111:	\$	210,055
13. For adult education, grant number 84002:	\$	3,137,437
14. For bilingual education, grant number 84194:	\$	100,000
15. For E.C.I.A. — chapter 1, grant number 84010:	\$	56,626,895
16. For migrant education, grant number 84011:	\$	413,699
17. For education for neglected — delinquent children, grant number 84013:	\$	255,987
18. For handicapped education, grant number 84025:	\$	110,755
19. For handicapped — state grants, grant number 84027:	\$	39,630,465
20. For technology literacy challenge, grant number 84318:	\$	56,821
21. For library services and technology, grant number 45310:	\$	1,500,000
22. For vocational education — state grants, grant number 84048:	\$	10,596,703
23. For rehabilitation services — basic support, grant number 84126:	\$	22,305,458
24. For rehabilitation training, grant number 84129:	\$	49,355
25. For E.E.S.A. Title II, grant number 84281:	\$	2,848,765
26. For emergency immigrant education, grant number 84162:	\$	377,952
27. For independent living project, grant number 84169:	\$	241,644
28. For education of handicapped — incentive, grant number 84173:	\$	3,955,751

29. For education of handicapped — infants and toddlers, grant number 84181:	\$	2,938,956
30. For Byrd scholarship program, grant number 84185:	\$	432,000
31. For drug free schools/communities, grant number 84186:	\$	3,474,029
32. For supported employment, grant number 84187:	\$	298,078
33. For homeless youth and children, grant number 84196:	\$	188,372
34. For even start, grant number 84213:	\$	740,754
35. For E.C.I.A. capital expense, grant number 84216:	\$	177,515
36. For AIDS prevention project, grant number 93938:	\$	247,334
37. For headstart collaborative grant, grant number 93600:	\$	150,000
38. For character education, grant number 84215:	\$	375,000
39. For teacher preparation education, grant number 84243:	\$	1,245,235
40. For goals 2000, grant number 84276:	\$	4,095,236
41. For learn and serve America, grant number 94004:	\$	325,000
42. For star schools grant, grant number 84203:	\$	4,006,250
43. For department of education, grant number 84000:	\$	3,158,655
44. E.S.E.A. Title VI, grant number 84298:	\$	3,406,597
45. For department of labor, grant number 17249:	\$	5,625,000

Sec. 29. 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, 1999, and ending June 30, 2000, 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, 1999, and ending June 30, 2000:

1. For nutrition program for elderly, grant number 10570:	\$	2,247,133
2. For senior community service employment program, grant number 17235:	\$	1,087,112
3. For preventive health, grant number 93043:	\$	184,573
4. For supportive services, grant number 93044:	\$	4,627,099
5. For nutrition, grant number 93045:	\$	6,126,734
6. For frail elderly, grant number 93046:	\$	111,767

7. For health care financing administration, grant number 93779:
 \$ 250,794

Sec. 30. 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, 1999, and ending June 30, 2000, 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. 31. 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, 1999, and ending June 30, 2000, 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. 32. 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, 1999, and ending June 30, 2000, 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. 33. DRUG ENFORCEMENT AND ABUSE PREVENTION COORDINATOR. 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, 1999, and ending June 30, 2000, are appropriated to the office of the governor for the drug enforcement and abuse prevention coordinator 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, 1999, and ending June 30, 2000, 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, 1999, and ending June 30, 2000:

- 1. For juvenile justice and delinquency prevention, grant number 16540:
 \$ 3,887,563
- 2. For weatherization assistance, grant number 81042:
 \$ 2,925,938
- 3. For client assistance, grant number 84161:
 \$ 118,719
- 4. For Title V, delinquency prevention, grant number 16546:
 \$ 191,000

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, 1999, and ending June 30, 2000, 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, 1999, and ending June 30, 2000:

- 1. For food stamps, grant number 10551:
 \$ 2,098,000
- 2. For administration expense for food stamps, grant number 10561:
 \$ 12,490,878

3. For commodity support food program, grant number 10565:	\$	309,557
4. For temporary emergency food assistance, grant number 10568:	\$	332,440
5. For Title XVIII Medicare inspections, grant number 13773:	\$	100,000
6. For foster grandparents program, grant number 72001:	\$	358,718
7. For mental health training, grant number 93244:	\$	706,365
8. For child support enforcement, grant number 93563:	\$	36,051,996
9. For refugee and entrant assistance, grant number 93566:	\$	5,907,775
10. For developmental disabilities basic support, grant number 93630:	\$	935,679
11. For children's justice, grant number 93643:	\$	116,474
12. For child welfare services, grant number 93645:	\$	3,222,880
13. For crisis nursery, grant number 93656:	\$	170,756
14. For foster care Title IV-E, grant number 93658:	\$	26,152,399
15. For adoption assistance, grant number 93659:	\$	13,861,750
16. For child abuse basic, grant number 93669:	\$	259,653
17. For child abuse challenge, grant number 93672:	\$	192,939
18. For Title IV-E independent living, grant number 93674:	\$	455,162
19. For sexually transmitted disease control program, grant number 93777:	\$	2,741,077
20. For medical assistance, grant number 93778:	\$	1,023,483,301
21. For adoption opportunities, grant number 93652:	\$	284,873
22. For empowerment, grant number 93585:	\$	2,895,762
23. For family preservation, grant number 93556:	\$	1,536,873
24. For administration expense for child nutrition, grant number 10560:	\$	13,065
25. For welfare reform research evaluation, grant number 93595:	\$	276,200
26. For social services research and demonstration, grant number 93647:	\$	116,160

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, 1999, and ending June 30, 2000, 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, 1999, and ending June 30, 2000:

1. For assistance for intrastate meat and poultry, grant number 10475:	\$	13,968
.....		
2. For food and drug research grants, grant number 13103:	\$	16,399
.....		
3. For Title XVIII Medicare inspections, grant number 13773:	\$	1,906,069
.....		
4. For state medicaid fraud control unit, grant number 13775:	\$	16,648
.....		
5. For state medicaid fraud control, grant number 93775:	\$	497,091
.....		

Sec. 37. JUDICIAL BRANCH. 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, 1999, and ending June 30, 2000, are appropriated to the judicial branch 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 branch for the fiscal year beginning July 1, 1999, and ending June 30, 2000:

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, 1999, and ending June 30, 2000, 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, 1999, and ending June 30, 2000:

1. For United States department of justice, grant number 16000:	\$	4,092,000
.....		
2. For United States department of health and human services, grant number 13000:	\$	609,478
.....		

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, 1999, and ending June 30, 2000, 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, 1999, and ending June 30, 2000, 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, 1999, and ending June 30, 2000, 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, 1999, and ending June 30, 2000:

1. For forestry incentive program, grant number 10064:	\$	300,000
.....		
2. For cooperative forestry assistance, grant number 10664:	\$	460,000
.....		

3. For fish restoration, grant number 15605:	\$	2,975,179
4. For wildlife restoration, grant number 15611:	\$	3,000,000
5. For acquisition, development, and planning, grant number 15916:	\$	114,000
6. For recreation boating safety financial assistance, grant number 20005:	\$	289,000
7. For consolidated environmental programs support, grant number 66600:	\$	8,808,563
8. For energy conservation, grant number 81041:	\$	1,709,700
9. For Title VI revolving loan fund, grant number 66458:	\$	432,770
10. For disaster assistance, grant number 83516:	\$	1
11. For United States geological survey, soil conservation service, mapping projects, grant number 15808:	\$	89,618
12. For rare and endangered species, grant number 15612:	\$	44,000
13. For highway construction, grant number 20205:	\$	4,949

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, 1999, and ending June 30, 2000, 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, 1999, and ending June 30, 2000, 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, 1999, and ending June 30, 2000, 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, 1999, and ending June 30, 2000:

1. For public assistance grants, grant number 83544:	\$	2,962,636
2. For superfund authorization, grant number 83011:	\$	87,000
3. For hazardous materials grants, grant number 83548:	\$	1,457,609
4. For state disaster preparedness grants, grant number 83505:	\$	50,000
5. For state and local assistance, grant number 83534:	\$	1,438,458
6. For disaster assistance, grant number 83516:	\$	3,822,684

7. For hazardous materials transport, grant number 20703:	\$	104,755
8. For operations and maintenance, grant number 12401:	\$	12,212,864
9. For mitigation assistance program, grant number 83535:	\$	56,570
10. For public-private partnership, grant number 83999:	\$	25,000

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, 1999, and ending June 30, 2000, 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, 1999, and ending June 30, 2000, 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, 1999, and ending June 30, 2000:

1. For women, infants, and children, grant number 10557:	\$	34,324,025
2. For primary care services, grant number 13130:	\$	210,189
3. For health services — grants and contracts, grant number 13226:	\$	215,000
4. For radon control, grant number 66032:	\$	397,264
5. For toxic substance compliance monitoring, grant number 66701:	\$	428,367
6. For drug-free schools — communities, grant number 84186:	\$	855,076
7. For hazardous waste, grant number 66802:	\$	106,850
8. For regional delivery systems, grant number 93110:	\$	220,073
9. For TB control — elimination, grant number 93116:	\$	342,465
10. For physician education, grant number 93161:	\$	424,327
11. For childhood lead abatement, grant number 93197:	\$	817,347
12. For family planning projects, grant number 93217:	\$	626,828
13. For immunization program, grant number 93268:	\$	2,384,503
14. For needs assessment grant, grant number 93283:	\$	719,825
15. For rural health, grant number 93913:	\$	81,719
16. For HIV cares grants, grant number 93917:	\$	1,129,439

17. For preventive health services, grant number 93977:	\$	650,762
18. For AIDS prevention project, grant number 93940:	\$	1,296,949
19. For breast and cervical cancer, grant number 93919:	\$	2,079,092
20. For consumer protection safety, grant number 87001:	\$	1,000
21. For federal emergency medical services for children, grant number 93127:	\$	233,768
22. For refugee and entrant assistance, grant number 93576:	\$	37,634
23. For United States department of health and human services, food and drug administration, grant number 13101:	\$	616,440
24. For federal environmental protection agency lead certification program, grant number 66707:	\$	362,652
25. Loan repayment, grant number 93165:	\$	75,000
26. Primary care services, grant number 93130:	\$	17,750
27. Nutrition education and training, grant number 10564:	\$	49,176
28. Community scholarship, grant number 93931:	\$	38,000
29. For diabetes, grant number 93988:	\$	241,712
30. For abstinence education, grant number 93235:	\$	413,076
31. For AIDS prevention project, grant number 93944:	\$	161,140

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, 1999, and ending June 30, 2000, 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, 1999, and ending June 30, 2000:

1. For department of housing and urban development, grant number 14000:	\$	25,000
2. For department of justice, grant number 16000:	\$	196,291
3. For marijuana control, grant number 16580:	\$	58,000
4. For state and community highway safety, grant number 20600:	\$	2,428,073
5. For narcotics control, grant number 16502:	\$	750,000

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, 1999, and ending June 30, 2000, 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, 1999, and ending June 30, 2000:

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:	\$	8,190
4. For school lunch program, grant number 10555:	\$	211,668
5. For maternal and child health, grant number 13110:	\$	129,559
6. For cancer treatment research, grant number 13395:	\$	9,405
7. For general research, grant number 83500:	\$	222,340,285
8. For handicapped — state grants, grant number 84027:	\$	278,189
9. For rehabilitation services basic support, grant number 84126:	\$	56,700

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, 1999, and ending June 30, 2000, 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, 1999, and ending June 30, 2000, 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, 1999, and ending June 30, 2000, 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, 1999, and ending June 30, 2000, 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, 1999, and ending June 30, 2000, 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, 1999, and ending June 30, 2000, 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. The following amount is appropriated to the treasurer of state for the fiscal year beginning July 1, 1999, and ending June 30, 2000:

For flood control, grant number 90000: \$ 450,000

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, 1999, and ending June 30, 2000, 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, 1999, and ending June 30, 2000:

1. For airport improvement program — federal aviation administration, grant number 20106:

\$ 100,000

2. For highway research, plan and construction, grant number 20205: \$ 250,800,000

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: \$ 12,000,000

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, 1999, and ending June 30, 2000, 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. 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, 1999, and ending June 30, 2000, 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, 1999, and ending June 30, 2000:

1. For trade expansion Act, grant number 11309: \$ 1,310,000

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: \$ 104,398

5. For labor certification, grant number 17202: \$ 108,885

6. For employment service, grant number 17207: \$ 7,274,490

7. For unemployment insurance grant to state, grant number 17225: \$ 13,730,000

8. For occupational safety and health, grant number 17500: \$ 2,155,856

9. For disabled veterans outreach, grant number 17801:	\$	956,101
.....		
10. For local veterans employment representation, grant number 17804:	\$	1,282,797
.....		
11. For unemployment insurance trust receipts, grant number 17998:	\$	184,010,000
.....		
12. For the federal Job Training Partnership Act, grant number 17250:	\$	40,447,660
.....		
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. 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, 1999, 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 March 30, 1999

CHAPTER 194

APPROPRIATIONS — ENERGY CONSERVATION PROGRAMS FUNDING

H.F. 332

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, 1999, and ending June 30, 2000, 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:

a. To be expended first from the office of hearings and appeals second-stage settlement (OHA) fund and the Warner/Imperial fund and the Diamond Shamrock fund and then the Stripper Well fund:

..... \$ 350,000

b. To be expended from the Exxon fund:

..... \$ 210,000

2. To the department of natural resources for the following purposes:

a. For the state energy program, from the Exxon fund:

..... \$ 50,000

b. For the state energy program, from the Stripper Well fund:

..... \$ 40,000

c. For administration of petroleum overcharge programs from the Stripper Well fund, not to exceed the following amount:

..... \$ 175,000

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 30, 1999

CHAPTER 195

APPROPRIATIONS — SUBSTANCE ABUSE AND SEXUAL ABUSE

S.F. 361

AN ACT relating to enforcement, prevention, education, and treatment for substance abuse and sexual abuse, and providing appropriations.

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

DIVISION I

Section 1. **ENFORCEMENT.** There is appropriated from the general fund of the state to the department of public safety, for the fiscal year beginning July 1, 1999, and ending June 30, 2000, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the division of narcotics enforcement:

For the employment of six narcotics enforcement agents, and for not more than the following full-time equivalent positions:

..... \$ 505,000

..... FTEs 6.00

2. For the division of criminal investigation:

For two criminalists for the division's laboratory who will primarily focus on methamphetamine testing, and for not more than the following full-time equivalent positions:

..... \$ 80,956

..... FTEs 2.00

3. For the establishment of a clandestine methamphetamine laboratory emergency response team within the department, and for not more than the following full-time equivalent positions:

.....	\$	980,000
.....	FTEs	13.00

The clandestine methamphetamine laboratory emergency response team established pursuant to this subsection shall consist of five narcotics agents, one fire marshal special agent, five state patrol officers, one division of criminal investigation investigator, and one division of narcotics enforcement technical support employee.

Sec. 2. YOUTH LEADERSHIP MODEL. There is appropriated from the general fund of the state to the Iowa department of corrections 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 youth leadership model programs to help at-risk youth in the judicial district departments of correctional services selected by the department:

.....	\$	100,000
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The department of corrections shall establish criteria for judicial district departments of correctional services to apply for and receive moneys from the department for assistance in implementing a youth leadership model program.

As a part of the program, the judicial district department of correctional services may recruit, to work with at-risk children, college or high school students in the judicial district, regardless of gender, recommended by their respective schools as good role models, including, but not limited to, students who possess ability in one or more of the following areas: intellectual ability, leadership ability, athletic ability, visual arts ability, or performing arts ability.

Sec. 3. DRUG COURT PILOT PROGRAMS. The governor's alliance on substance abuse shall subgrant on a reimbursement basis from moneys received by the alliance under the federal Edward Byrne memorial state and local law enforcement assistance program to the department of corrections 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 expenses associated with establishment of two drug court pilot programs:

.....	\$	60,000
-------	----	--------

The director of the department of corrections shall designate from any appropriation from the general fund of the state to the department for the fiscal year beginning July 1, 1999, and ending June 30, 2000, the amount necessary to provide a match for the expenses associated with the establishment of the two drug court pilot programs and, if a transfer of funds is required, the notice provisions of section 8.39 do not apply.

DIVISION II

Sec. 4. JUVENILE DELINQUENT TREATMENT. There is appropriated from the general fund of the state to the department of human services for the state training school at Eldora, 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 providing treatment programs for every substance abuser and sexual predator placed at the state training school needing treatment:

.....	\$	62,000
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Sec. 5. Section 217.12, subsection 3, paragraph b, Code 1999, is amended to read as follows:

b. Designation of the services to be provided for the families served, including assistance regarding job-seeking skills, family budgeting, nutrition, self-esteem, methamphetamine education, health and hygiene, child rearing, child education preparation, and goal setting.

Grant proposals shall indicate the support groups and support systems to be developed for the families served during the transition between the need for assistance and self-sufficiency.

DIVISION III

Sec. 6. METHAMPHETAMINE TREATMENT. There is appropriated from the general fund of the state to the Iowa department of public health for the fiscal year beginning July 1, 1999, and ending June 30, 2000, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For additional methamphetamine treatment under the substance abuse treatment program:

..... \$ 1,500,000

2. For development of a model substance abuse prevention program based upon the North high school program in Des Moines:

..... \$ 30,000

Information about the model substance abuse prevention program developed under this subsection shall be distributed to schools in this state that have a high percent of students susceptible to substance abuse, particularly methamphetamine abuse, to assist those schools that are submitting applications for competitive grants from the department.

Sec. 7. YOUTH LEADERSHIP CONFERENCE ON MENTORING. 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, 1999, and ending June 30, 2000, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For planning and holding a youth leadership conference on mentoring for individuals who agree to serve as mentors to youth to help reduce substance abuse, especially methamphetamine abuse, in schools:

..... \$ 20,000

Sec. 8. NEW SECTION. 135.16 SPECIAL WOMEN, INFANTS, AND CHILDREN SUPPLEMENTAL FOOD PROGRAM — FUNDING ALLOCATION.

As a component of the federal funding received by the department as the administering agency for the special women, infants, and children supplemental food program, from the United States department of agriculture, food and consumer service, the department shall incorporate a methamphetamine education program into its nutrition and health-related education services. The department shall be responsible for the development of the education program to be delivered, and for the selection of qualified contract agencies to deliver the instruction under the program.

DIVISION IV

Sec. 9. LABOR MANAGEMENT SUBSTANCE ABUSE EDUCATION PROGRAM. The executive council shall transfer from the health insurance surplus account to the department of personnel for the fiscal year beginning July 1, 1999, and ending June 30, 2000, the following amount, or so much thereof as is necessary, which is appropriated to be used for the purpose designated:

For development of a labor management substance abuse education program, with an emphasis on methamphetamine abuse, that can serve as a model to be used by labor and management throughout the state:

..... \$ 30,000

DIVISION V

Sec. 10. STRENGTHENING FAMILIES PROGRAM.

1. The cooperative extension service at Iowa state university, in association with the institute of social and behavioral research at Iowa state university, shall develop a strengthening

families program to provide funding and assistance to communities for families who have children between the ages of 10 and 14 years of age for prevention of substance abuse with an emphasis on prevention of methamphetamine abuse. Communities participating in the program must contract with the cooperative extension service and provide a match for the cooperative extension service to bring the program to the community. However, communities participating in federally funded research activities through the institute for social and behavioral research at Iowa state university on the effective date of this Act are not eligible to participate in the program.

2. The governor's alliance on substance abuse shall subgrant on a reimbursement basis an amount not exceeding \$270,000 of moneys received by the alliance under the federal Edward Byrne memorial state and local law enforcement assistance program to support the strengthening families program. A strengthening families program fund is established in the office of the treasurer of state under the authority of the department of education. The moneys shall be distributed on a first-come, first-served matching funds basis by the department of education to communities participating in the strengthening families program.

Notwithstanding section 8.33, moneys in the fund that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

3. The cooperative extension service shall solicit the assistance of the department of education, the Iowa department of public health, and other public and private agencies providing services to families in promoting the program.

4. There is appropriated from the general fund of the state to the department of education 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 communities to participate in the strengthening families program:

..... \$ 50,000

Sec. 11. Section 279.51, subsection 1, paragraph d, Code 1999, is amended to read as follows:

d. For the fiscal year beginning July 1, 1996, and for each fiscal year thereafter, three million five hundred thousand dollars of the funds appropriated shall be allocated as grants to school districts that have elementary schools that demonstrate the greatest need for programs for at-risk students with preference given to innovative programs for the early elementary school years. School districts receiving grants under this paragraph shall at a minimum provide activities and materials designed to encourage children's self-esteem, provide role modeling and mentoring techniques in social competence and social skills, and discourage inappropriate drug use. The grant allocations made in this paragraph may be renewed for additional periods of time. Of the amount allocated under this paragraph for each fiscal year, seventy-five thousand dollars shall be allocated to school districts which have an actual student population of ten thousand or less and have an actual non-English speaking student population which represents greater than five percent of the total actual student population for grants to elementary schools in those districts.

Sec. 12. Section 279.51, subsection 3, unnumbered paragraph 3, Code 1999, is amended to read as follows:

Programs shall provide at a minimum recreation opportunities; personal skills development; activities and materials designed to encourage children's self-esteem, provide role modeling and mentoring techniques in social competence and social skills, and discourage inappropriate drug use; basic academic skills development; family interaction opportunities; and mentoring. Additional objectives of the programs shall be: to increase the ability of existing agencies within the community to address the multiple problems of children and youth and to coordinate their activities and to facilitate joint planning to make the most economic and innovative use of community resources. Priority shall be given to programs that provide access to a center for children and youth after school, in the evening, and on

weekends, and during the summer and that provide a twenty-four-hour telephone hotline or similar service, and that provide access to day care or on-site child day care. Programs shall at a minimum provide career development services, mental health and family counseling services, and primary health care services that include but are not limited to physical examinations, immunizations, hearing and vision screening, and preventive and primary health care services, in the context of the educational needs of the students. Programs shall not include abortion counseling or the dispensing of contraceptives.

Approved April 6, 1999

CHAPTER 196

**APPROPRIATIONS — SUPPLEMENTAL FUNDING FOR
EMBEDDED CHIPS REPLACEMENT**

S.F. 366

AN ACT making a supplemental appropriation for the fiscal year beginning July 1, 1998, for replacement of certain embedded chips in the technology and equipment of state departments and providing an effective date.

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

Section 1. DEPARTMENT OF GENERAL SERVICES — EMBEDDED CHIPS. There is appropriated from the rebuild Iowa infrastructure fund to the division of information technology services of the department of general services for the fiscal year beginning July 1, 1998, and ending June 30, 1999, to supplement the moneys in the reversion incentive program fund as provided in 1997 Iowa Acts, chapter 210, section 10, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the replacement of noncompliant year 2000 embedded chips in the technology and equipment of state departments, notwithstanding section 8.57, subsection 5, paragraph "c":

..... \$ 2,435,000

Moneys appropriated in this section shall be deposited into the reversion incentive program fund created pursuant to 1997 Iowa Acts, chapter 210, section 10.

Notwithstanding section 8.33, moneys appropriated in this section which remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purpose designated until the close of the fiscal year beginning July 1, 2000, and any unobligated or unencumbered moneys remaining on that date shall be credited to the general fund of the state.

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

Approved April 21, 1999

CHAPTER 197

APPROPRIATIONS — ECONOMIC DEVELOPMENT

H.F. 745

AN ACT appropriating funds to the department of economic development, certain board of regents institutions, the department of workforce development, and the public employment relations board, making related 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, 1999, and ending June 30, 2000, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADMINISTRATIVE SERVICES DIVISION

a. General administration

For salaries, support, maintenance, miscellaneous purposes, for allocating \$250,000 to the world food prize, 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:

.....	\$	1,754,984
.....	FTEs	25.75

b. Film office

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	260,066
.....	FTEs	2.00

2. BUSINESS DEVELOPMENT DIVISION

a. Business development operations

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	4,345,209
.....	FTEs	22.75

Of the amount appropriated in this paragraph "a", \$700,000 shall be allocated to support activities in conjunction with the Iowa manufacturing technology center, and \$150,000 shall be allocated to the graphic arts center.

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:

.....	\$	452,252
.....	FTEs	5.00

c. Federal procurement office

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	106,932
.....	FTEs	3.00

Notwithstanding section 8.33, moneys appropriated in this paragraph "c" that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

d. Workforce recruitment initiative

For workforce recruitment initiative purposes, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	550,000
.....	FTEs	3.00

Of the amount appropriated in this paragraph "d", \$150,000 shall be allocated to a center for new lowans if such a center is created by legislation enacted by the Seventy-eighth General Assembly, 1999 Session.

e. Strategic investment fund

For deposit in the strategic investment fund for salaries, support, and for not more than the following full-time equivalent positions:

.....	\$	6,115,799
.....	FTEs	12.50

The department may allocate from the strategic investment fund up to \$100,000 for the microbusiness rural enterprise assistance program under section 15.114.

Upon enactment, the department may transfer up to \$1,000,000 from the strategic investment fund to the physical infrastructure assistance fund for the purpose of responding to critical transportation gaps affecting economic development in Iowa.*

By January 14, 2000, the department shall provide a report to the members of the joint appropriations subcommittee on economic development and the legislative fiscal bureau on the progress made by the department in making the community economic betterment program a self-sustaining, revolving loan program.

The department may expend up to \$150,000 from the strategic investment fund to enhance or upgrade the human resource recruitment web site.

f. Insurance economic development

There is appropriated from moneys collected by the division of insurance in excess of the anticipated gross revenues under section 505.7, subsection 3, to the department for the fiscal year beginning July 1, 1999, and ending June 30, 2000, the following amount, or so much thereof as is necessary, for insurance economic development and international insurance economic development:

.....	\$	200,000
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g. Value-added agriculture

There is appropriated from the moneys available to support value-added agricultural products and processes, 4 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.

The department shall collaborate with the university of northern Iowa on a strategic initiative to develop ag-based industrial lubrication technology and to create projects to deploy the technology in commercial applications. Notwithstanding the requirements of section 15E.111 and the administrative rules for value-added agricultural products and processes, the department shall allocate \$250,000 for this initiative.

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 board:

.....	\$	848,038
.....	FTEs	10.50

It is the intent of the general assembly that in fiscal years subsequent to the fiscal year beginning July 1, 1999, and ending June 30, 2000, the volunteer office of the governor shall not receive funding from moneys appropriated under this paragraph "a".

* See chapter 208, §72 herein
** Item veto; see message at end of the Act

b. Main street/rural main street program

For salaries and support for not more than the following full-time equivalent positions:

.....	\$	431,937
.....	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, 2000, shall not revert to any fund but shall remain available for expenditure for purposes of the contract during the fiscal year beginning July 1, 2000.

c. Community development program

For salaries, support, maintenance, miscellaneous purposes, and 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:

.....	\$	997,780
.....	FTEs	7.51

There is appropriated from the rural community 2000 program revolving fund established in section 15.287 to provide to Iowa's councils of governments funds for planning and technical assistance to local governments:

.....	\$	150,000
-------	----	---------

There is 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:

.....	\$	370,000
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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, 2000, shall not revert but shall be available for expenditure for purposes of the contract during the fiscal year beginning July 1, 2000.

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:

.....	\$	422,719
.....	FTEs	21.75

e. Housing development and shelter assistance funds

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, and to provide \$400,000 to the shelter assistance fund, and for not more than the following full-time equivalent position:

.....	\$	1,700,000
.....	FTEs	1.00

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, 2000, shall not revert to any fund but shall remain available for obligation and expenditure for purposes of those programs during the fiscal year beginning July 1, 2000.

4. INTERNATIONAL DIVISION

a. International trade operations

For salaries, support, maintenance, miscellaneous purposes, for support of foreign representation and trade offices, and for not more than the following full-time equivalent positions:

.....	\$	2,143,222
.....	FTEs	11.25

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. 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 in this lettered paragraph that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

c. Agricultural product advisory council

For support, maintenance, and miscellaneous purposes:

..... \$ 1,300

d. 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:

..... \$ 125,000

5. TOURISM DIVISION

Tourism operations and advertising

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... \$ 5,062,837

..... FTEs 18.52

Any state-owned interstate welcome center located in suitable, year-round facilities shall be operated on a year-round basis.

The department shall not use the moneys appropriated in this subsection, 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, 1999, and ending June 30, 2000, to the department of economic development for the community 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 workforce development 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 purposes designated:

1. For the target alliance program:

..... \$ 30,000

2. After the appropriation in subsection 1 relating to target alliance, all remaining moneys in the job training fund, including any moneys appropriated or credited to the fund during the fiscal year, shall be transferred to the workforce development fund established pursuant to section 15.343.

Sec. 4. WORKFORCE DEVELOPMENT FUND. There is appropriated from the workforce development fund account created in section 15.342A, to the workforce development fund created in section 15.343, for the fiscal year beginning July 1, 1999, and ending June 30,

2000, the following amount, for the purposes of the workforce development fund, and for not more than the following full-time equivalent positions:

.....	\$	8,800,000
.....	FTEs	4.00

Sec. 5. From funds appropriated or transferred to or receipts credited to the workforce development fund created in section 15.343, up to \$535,000 for the fiscal year beginning July 1, 1999, and ending June 30, 2000, may be used for the administration of workforce development activities.

Sec. 6. 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, 1999, and ending June 30, 2000, 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:

.....	\$	1,248,329
.....	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:

.....	\$	381,380
.....	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:

.....	\$	4,477,948
.....	FTEs	46.42

It is the intent of the general assembly that the industrial 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 in this section that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

Sec. 7. 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, 1999, and ending June 30, 2000, 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:

.....	\$	340,118
.....	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:

.....	\$	272,731
.....	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 and minority leaders 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, 1999.

Sec. 8. 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, 1999, and ending June 30, 2000, 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:

.....	\$	171,996
.....	FTEs	2.60

2. For the institute of decision making, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	746,591
.....	FTEs	8.00

Sec. 9. 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, 1999, and ending June 30, 2000, 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:

.....	\$	3,036,408
.....	FTEs	95.00

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 WORKERS' COMPENSATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	2,436,620
.....	FTEs	34.00

The division of workers' compensation 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.

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:

.....	\$	106,929
.....	FTE	1.00

4. For salaries, support, maintenance, miscellaneous purposes for collection of labor market information, and for not more than the following full-time equivalent position:

.....	\$	67,258
.....	FTEs	1.20

5. WORKFORCE DEVELOPMENT AREAS

For salaries, support, maintenance, and miscellaneous purposes for the development and maintenance of a workforce sufficient in size and skill to meet the occupational demands of each workforce development area, and for workforce development programs, including those provided for in sections 84A.7, 84A.8, and 84A.9. Each region shall be required to provide an equal amount of matching funds from local sources:

.....	\$	1,480,022
.....	FTEs	1.79

Notwithstanding section 8.33, moneys committed to grantees under contract that remain unexpended on June 30, 2000, shall not revert to any fund but shall remain available for expenditure for purposes of the contract during the fiscal year beginning July 1, 2000.

6. LABOR MANAGEMENT COORDINATOR

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent position:

.....	\$	67,759
.....	FTE	0.50

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. It is the intent of the general assembly that the fiscal year beginning July 1, 1999, and ending June 30, 2000, shall be the final year that the labor management coordinator shall be funded. In subsequent fiscal years, the functions and duties of the labor management coordinator shall be assumed by the workforce development state and regional advisory boards.

7. WELFARE-TO-WORK MATCHING FUNDS

For matching funds for welfare-to-work grants authorized through the United States department of labor to provide additional services for the hardest to employ recipients of family investment program benefits and for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	888,633
.....	FTEs	3.55

Notwithstanding section 8.33, moneys appropriated in this subsection which remain unexpended or unobligated on June 30, 2000, shall not revert to the general fund of the state but shall remain available for expenditure for the same purpose during the fiscal year beginning July 1, 2000.

Sec. 10. 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, 1999, and ending June 30, 2000, the following amount, or so much thereof as is necessary, for the purposes designated:

Notwithstanding section 96.7, subsection 12, paragraph "c", for salaries, support, maintenance, conducting labor availability surveys, miscellaneous purposes, for workforce development regional advisory board member expenses, and for not more than the following full-time equivalent positions:

.....	\$	7,500,000
.....	FTEs	133.42

Sec. 11. 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, 1999, and ending June 30, 2000, 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 WORKERS' COMPENSATION

For salaries, support, maintenance, and miscellaneous purposes:
 \$ 175,000

3. UNEMPLOYMENT INSURANCE FILINGS

For purposes of designing an electronic method for mass unemployment insurance filings:
 \$ 100,000

Any additional penalty and interest revenue may be used to accomplish the mission of the department upon notification of the use to the chairpersons and ranking members of the joint appropriations subcommittee on economic development, the department of management, and the legislative fiscal bureau.

Sec. 12. PUBLIC EMPLOYMENT RELATIONS BOARD. There is appropriated from the general fund of the state to the public employment relations board for the fiscal year beginning July 1, 1999, and ending June 30, 2000, 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:

..... \$ 886,407
 FTEs 12.80

Sec. 13. SHELTER ASSISTANCE FUND. In providing moneys from the shelter assistance fund to homeless shelter programs in the fiscal year beginning July 1, 1999, the department of economic development shall explore the potential of allocating moneys to homeless shelter programs based in part on their ability to move their clients toward self-sufficiency.

Sec. 14. 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, 2000.

Sec. 15. By December 31 of each year, the ISCC liquidation corporation shall submit an annual report to the chairpersons and the ranking members of the joint appropriations subcommittee on economic development. The report shall include an update on the financial condition of the corporation relating to the status of any moneys, assets, or contracts currently being held by the corporation or transferred by the corporation during the prior year.

Sec. 16. FEDERAL GRANTS. All federal grants to and the federal receipts of agencies appropriated funds under this Act, not otherwise appropriated, are appropriated for the purposes set forth in the federal grants or receipts unless otherwise provided by the general assembly.

Sec. 17. Notwithstanding section 96.9, subsection 4, paragraph "a", moneys credited to the state by the secretary of the treasury of the United States pursuant to section 903 of the Social Security Act shall be appropriated to the department of workforce development and shall be used by the department for the administration of the unemployment compensation program only. This appropriation shall not apply to any fiscal year after December 31, 2002.

Sec. 18. In lieu of the appropriation made in section 15.365, subsection 3, there is appropriated for the fiscal year beginning July 1, 1999, and ending June 30, 2000, \$100,000, or so

much thereof as is necessary from the general fund of the state to the department of economic development to pay refunds as provided under section 15.365.

Sec. 19. Notwithstanding section 8.33, all unencumbered and unobligated moneys remaining in the economic development deaf interpreters revolving fund established in section 15.108, shall transfer to the rural community 2000 program revolving fund established in section 15.287 on the effective date of this Act.*

Sec. 20. Section 15.108, subsection 7, paragraph j, Code 1999, is amended by striking the paragraph.

Sec. 21. Section 15.313, Code 1999, is amended by adding the following new subsection: NEW SUBSECTION. 2A. The assets of the fund may be used for purposes of administering and operating the entrepreneurial ventures assistance program established in section 15.339.

Sec. 22. Section 15A.1, Code 1999, is amended by adding the following new subsection: NEW SUBSECTION. 4. A state agency shall disburse public moneys used for grants, loans, tax incentives, or other financial assistance for economic development without discrimination or without the use of terms or conditions which are more onerous than those regularly extended to persons of similar economic backgrounds and based on an applicant's age, color, creed, national origin, race, religion, marital status, sex, physical disability, or familial status.

Sec. 23. EFFECTIVE DATES. The following sections of this Act, being deemed of immediate importance, take effect upon enactment:

1. Section 19, relating to the reversion of moneys to the rural community 2000 program revolving fund.
2. Section 20, relating to the economic development deaf interpreters revolving fund.

Approved April 26, 1999, with exception noted.

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 745, an act appropriating funds to the Department of Economic Development, certain Board of Regents institutions, the Department of Workforce Development, and the Public Employment Relations Board, making related statutory changes, and providing an effective date.

I am unable to approve Section 1, subsection 3a, unnumbered paragraph 1. The volunteer office of the Governor is a cornerstone of the Iowa community betterment program. The work performed by volunteers on community and statewide projects is invaluable to Iowa. While I understand the general assembly's concern regarding the manner in which this effort has been funded in the past it is premature for the legislature to rule out possible avenues for funding of these services in the future. It would be better for the department of economic development to work with the Governor's office, the legislature, and volunteer organizations to determine and recommend the most appropriate means for carrying out these services.

For the above reasons, I hereby respectfully approve House File 745 with the exception noted above.

Sincerely,
THOMAS J. VILSACK, *Governor*

* See chapter 208, §68 herein

CHAPTER 198

APPROPRIATIONS — TRANSPORTATION

S.F. 424

AN ACT relating to and making transportation and other infrastructure-related 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 a commercial truck parking study, and providing for the nonreversion of certain moneys and an effective date.

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

STATE DEPARTMENT OF TRANSPORTATION

Section 1. There is appropriated from the general fund of the state to the state department of transportation for the fiscal year beginning July 1, 1999, and ending June 30, 2000, 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 Iowa railway finance authority as provided in chapter 327I:
..... \$ 1,424,672

If loan repayments received by the Iowa railway finance authority for the fiscal year ending June 30, 2000, exceed the amount appropriated in this paragraph, the amount appropriated shall be increased to equal the amount of the loan repayments received.

b. For airport engineering studies and improvement projects as provided in chapter 328:
..... \$ 2,475,000

c. For transfer to the Iowa civil air patrol:
..... \$ 25,000

2. For planning and programming, for salaries, support, maintenance, and miscellaneous purposes:
..... \$ 203,085

Sec. 2. There is appropriated from the road use tax fund to the state department of transportation for the fiscal year beginning July 1, 1999, and ending June 30, 2000, 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 driver's licenses, as defined in section 321.1, subsection 20A:
..... \$ 2,069,000

Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30, 2000, from the appropriation made in this subsection, shall not revert, but shall remain available for the following fiscal years for the purposes specified in this subsection.

2. For salaries, support, maintenance, and miscellaneous purposes:
a. Operations and finance:
..... \$ 5,003,366

The division of information technology services in the department of general services shall submit a report to the legislative fiscal bureau and the joint appropriations subcommittee on transportation, infrastructure, and capitals of the general assembly concerning the use of any moneys paid to the division from moneys appropriated to the operations and finance division of the state department of transportation. The report shall be submitted by January 1, 2000, and shall include an itemized accounting of how the moneys so paid to the division were used to benefit transportation in the state.

b. Administrative services:
..... \$ 915,806

c. Planning and programming:	\$	487,247
d. Motor vehicles:	\$	24,844,723
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:	\$	68,000
7. For reimbursement to the auditor of state for audit expenses as provided in section 11.5B:	\$	38,920
8. For transfer to the department of public safety for operating a system providing toll-free telephone road and weather conditions information:	\$	100,000
9. For improvements to the scale facility in Clarke county:	\$	550,000
Notwithstanding section 8.33, moneys appropriated in this subsection that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purpose designated until the close of the fiscal year that begins July 1, 2002.		
10. For up to the following amount for membership in the North America's superhighway corridor coalition:	\$	50,000

Sec. 3. There is appropriated from the primary road fund to the state department of transportation for the fiscal year beginning July 1, 1999, and ending June 30, 2000, 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:	\$	30,734,963
	FTEs	279.00
b. Administrative services:	\$	5,625,674
	FTEs	95.50
c. Planning and programming:	\$	9,248,580
	FTEs	183.00
d. Project development:	\$	57,822,358
	FTEs	1,128.00
Not more than \$317,000, plus an allocation for salary adjustment, shall be expended from the highway beautification fund for salaries and benefits for not more than 9.00 FTEs.		
e. Maintenance:	\$	103,600,007
	FTEs	1,584.00

f. Motor vehicles:

.....	\$	978,476
.....	FTEs	564.00

2. For deposit in the state department of transportation’s highway materials and equipment revolving fund established by section 307.47 for funding the increased replacement cost of equipment:

.....	\$	4,939,000
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Not more than \$3,510,000 plus an allocation for salary adjustment, from the highway materials and equipment revolving fund, shall be expended for salaries and benefits for not more than 89.00 FTEs.

3. For payments to the department of personnel for expenses incurred in administering the merit system on behalf of the state department of transportation, as required by chapter 19A:

.....	\$	665,000
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4. Unemployment compensation:

.....	\$	328,000
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5. For payments to the department of personnel for paying workers’ compensation claims under chapter 85 on behalf of the employees of the state department of transportation:

.....	\$	1,463,000
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6. For disposal of hazardous wastes from field locations and the central complex:

.....	\$	1,000,000
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7. For payment to the general fund for indirect cost recoveries:

.....	\$	532,000
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8. For reimbursement to the auditor of state for audit expenses as provided in section 11.5B:

.....	\$	239,080
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9. For improvements to upgrade the handling of wastewater at various field facilities throughout the state:

.....	\$	400,000
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10. For replacement of roofs according to the department’s priority list at field facilities throughout the state:

.....	\$	300,000
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11. For planning, design, and construction of field garage facilities throughout the state:

.....	\$	1,050,000
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The state department of transportation may use up to \$800,000 of the funds appropriated in this subsection for the completion of a joint maintenance garage construction project. The department shall enter into the necessary chapter 28E agreements with participating local jurisdictions to implement the project.

12. For the federal Americans With Disabilities Act accessibility improvements to department facilities throughout the state:

.....	\$	200,000
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13. For remodeling the third floor of the administration building in Ames, including the removal of asbestos and the replacement of HVAC and electrical systems:

.....	\$	1,350,000
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14. For replacement of the radiant heating systems in field garage facilities throughout the state:

.....	\$	200,000
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15. For tuckpointing and repair of the brick exteriors of office buildings and field garage facilities throughout the state:

.....	\$	100,000
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16. For roof repairs to department facilities in Ames:

.....	\$	400,000
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17. For assistance in purchasing biodegradable hydraulic fluids manufactured from soybeans pursuant to sections 18.22 and 307.21:

.....	\$	15,000
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18. For assistance in purchasing biodiesel fuel for use in heavy-duty fleet vehicles of the department:

..... \$ 20,000

Notwithstanding section 8.33, moneys appropriated in subsections 9 through 18 that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the fiscal year that begins July 1, 2001.

Sec. 4. Section 321.11, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department shall not sell personal information which is in the form of a person's photograph or digital image or a digital reproduction of a person's photograph, regardless of whether an individual has elected to prohibit disclosure of the information to the general public. This paragraph does not prohibit the department from collecting reasonable fees for copies of records or other services provided pursuant to section 22.3, 321.10, or 622.46.

Sec. 5. HOURS OF SERVICE — STUDY. The state department of transportation shall conduct a study concerning hours of service for drivers of vehicles operated for hire and designed to transport more than six persons, including the driver. The study shall not include hours of service for drivers of vehicles offered to the public for hire that are used principally in intracity operation and that are regulated by local authorities pursuant to section 321.236. The department shall report the findings of the study and make recommendations regarding such findings to the general assembly by January 1, 2000.

Sec. 6. 1998 Iowa Acts, chapter 1212, section 2, subsection 10, is amended to read as follows:

10. For improvements to scale facility in Fremont county:

..... \$ 550,000

Notwithstanding section 8.33, moneys appropriated in this subsection that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purpose designated until the close of the fiscal year that begins July 1, 2001.

Sec. 7. ADOPT-A-HIGHWAY PROGRAM DANGERS — STUDY. The state department of transportation shall conduct a study regarding the possible dangers of eligible activities which may be conducted by sponsors of the adopt-a-highway program and regarding measures which could prevent or minimize harm to the environment or to an individual participating in such activities. The department shall submit a report on the results of the study to the general assembly by January 1, 2000.

Sec. 8. COMMERCIAL TRUCK PARKING — STUDY. The state department of transportation shall, in consultation with interested parties, review public policy issues related to the state provision of commercial truck parking. The department shall report its findings and recommendations to the general assembly by January 1, 2000.

Sec. 9. EFFECTIVE DATE. Section 6 of this Act, amending 1998 Iowa Acts, chapter 1212, being deemed of immediate importance, takes effect upon enactment.

Approved April 27, 1999

CHAPTER 199

APPROPRIATIONS — ADMINISTRATION AND REGULATION

S.F. 460

AN ACT relating to and making appropriations to certain state departments, agencies, funds, and certain other entities, providing for regulatory authority, other properly related matters, and providing effective dates.

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

Section 1. **AUDITOR OF STATE.** There is appropriated from the general fund of the state to the office of the auditor of state for the fiscal year beginning July 1, 1999, and ending June 30, 2000, 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:

.....	\$	1,490,432
.....	FTEs	112.50

The auditor of state may retain additional full-time equivalent positions as is reasonable and necessary to perform governmental subdivision audits which are reimbursable pursuant to section 11.20 or 11.21, to perform audits which are requested by and reimbursable from the federal government, and to perform work requested by and reimbursable from departments or agencies pursuant to section 11.5A or 11.5B. The auditor of state shall notify the department of management, the legislative fiscal committee, and the legislative fiscal bureau of the additional full-time equivalent positions retained.

Sec. 2. **IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD.** There is appropriated from the general fund of the state to the Iowa ethics and campaign disclosure board for the fiscal year beginning July 1, 1999, and ending June 30, 2000, 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:

.....	\$	488,993
.....	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, 1999, and ending June 30, 2000, 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:

.....	\$	1,071,739
.....	FTEs	17.50

The administrative services division 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 administrative services division. The pro rata share shall be determined pursuant to a cost allocation plan established by the administrative services division 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 administrative services division. It is the intent of the general assembly that the director of the department of commerce shall review on a quarterly basis all out-of-state travel for the previous quarter for officers and employees of each division of the department if the travel is not already authorized by the executive council.

2. ALCOHOLIC BEVERAGES DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,534,890
.....	FTEs	24.00

b. For providing education and information to promote compliance with alcoholic beverage laws and rules:

.....	\$	37,000
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Any funds received by the alcoholic beverages division from civil penalties which are collected before July 1, 1999, and remain unobligated or unencumbered shall be credited to the general fund of the state on July 1, 1999.

3. BANKING DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	5,656,563
.....	FTEs	81.00

4. CREDIT UNION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,107,260
.....	FTEs	17.00

5. INSURANCE DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	3,632,350
.....	FTEs	92.50

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.

If 1999 Iowa Acts, Senate File 276, is enacted,* notwithstanding section 505.7, subsection 7, receipts, refunds, and reimbursements generated by the examination function for the fiscal year beginning July 1, 1999, and ending June 30, 2000, may be expended by the division to fund activities required pursuant to 1999 Iowa Acts, Senate File 276,* consumer protection, or both activities for the fiscal year beginning July 1, 1999, and ending June 30, 2000.

6. PROFESSIONAL LICENSING AND REGULATION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	880,796
.....	FTEs	12.00

* Chapter 41 herein

7. UTILITIES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	5,857,407
.....	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. DEPARTMENT OF COMMERCE — PROFESSIONAL LICENSING AND REGULATION. There is appropriated from the housing improvement fund of the Iowa department of economic development to the division of professional licensing and regulation of the department of commerce 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 purposes designated:

For salaries, support, maintenance, and miscellaneous purposes:

.....	\$	62,317
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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, 1999, and ending June 30, 2000, 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:

.....	\$	24,000
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2. NATIONAL CONFERENCE OF STATE LEGISLATURES

For support of the membership assessment:

.....	\$	101,393
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3. AMERICAN LEGISLATIVE EXCHANGE COUNCIL

For support of the membership assessment:

.....	\$	7,500
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State reimbursement for the membership assessment shall be made by application to the chairperson of the state American legislative exchange council.

4. NATIONAL CONFERENCE OF INSURANCE LEGISLATORS

For support of the membership assessment:

.....	\$	5,000
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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, 1999, and ending June 30, 2000, 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:

.....	\$	1,924,097
.....	FTEs	45.85

It is the intent of the general assembly that the department of general services shall determine and recommend to the governor and the general assembly a reimbursement amount, if any, to the city of Des Moines for police and fire protection provided by the city for state-owned buildings and facilities located in the city. The recommendation shall be a cost benefit analysis which shall include the economic benefits to the city derived from the multiplier effect of the salaries of state employees employed in the city and the purchase of goods and services used by state agencies located in the city.

2. PROPERTY MANAGEMENT

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	4,395,293
.....	FTEs	114.00

3. CAPITOL PLANNING COMMISSION

For expenses of the members in carrying out their duties under chapter 18A:

.....	\$	2,000
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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:

.....	\$	1,028,898
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5. UTILITY COSTS

For payment of utility costs:

.....	\$	2,324,489
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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, 2000, but shall remain available for expenditure for the purposes of this subsection during the fiscal year beginning July 1, 2000.

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:

.....	\$	237,130
.....	FTEs	5.00

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, 1999, and ending June 30, 2000, 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:

.....	\$	1,036,542
.....	FTEs	27.30

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, 1999, and ending June 30, 2000, 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:

.....	\$	963,208
.....	FTEs	17.95

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, 1999, and ending June 30, 2000, which are legally payable from this fund.

5. STATE FLEET ADMINISTRATOR

From the state fleet administrator revolving fund established by section 18.119 for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	786,514
.....	FTEs	16.85

6. STATE FLEET ADMINISTRATOR — REMAINDER

The remainder of the state fleet administrator revolving fund is appropriated for the purchase of ethanol blended fuels and other fuels specified in section 18.115, subsection 5, 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, 1999, and ending June 30, 2000, which are legally payable from this fund.

Sec. 8. 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, 1999, and ending June 30, 2000, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. a. 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:

.....	\$	1,367,444
.....	FTEs	17.25

b. For the funding of technology upgrades in the office of governor and lieutenant governor:

.....	\$	45,000
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Of the funds appropriated in this subsection, the sum of \$45,000 is appropriated from funds in the general fund of the state received from civil penalties collected by the alcoholic beverages division of the department of commerce. The funds received from civil penalties collected by the alcoholic beverages division shall be used to fund the appropriation in this subsection only after the appropriation from such civil penalties as provided in section 14, subsection 4, and section 28, subsection 2 of this Act, are fully satisfied. Notwithstanding section 123.53, subsection 5, of the civil penalties collected by the alcoholic beverages division of the department of commerce during the fiscal year beginning July 1, 1998, and ending June 30, 1999, the sum of \$45,000 shall not be expended, obligated, or encumbered for any other purpose than provided in this subsection.

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:

.....	\$	124,356
.....	FTEs	3.00

Of the moneys appropriated and full-time equivalent positions authorized in this subsection, the sum of \$49,042 and 1.00 FTE shall be for an administrative assistant to the first lady.

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:

.....	\$	135,047
.....	FTEs	3.00

4. NATIONAL GOVERNORS ASSOCIATION

For payment of Iowa's membership in the national governors association:	\$	68,800
.....		

5. STATE-FEDERAL RELATIONS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	274,095
.....	FTEs	3.00

Sec. 9. GUBERNATORIAL STATE GENERAL FUND BUDGET REVIEW AND SAVINGS PROCESS. The governor's fiscal year 2000 state budget assumes that the governor's state budgets for the fiscal years 2001 through 2004 will identify and recommend at least \$10 million in state general fund savings for each of the enumerated fiscal years. The governor has recommended a budget review process that includes the auditor of state, the department of management, and state employees in identifying ways to streamline and make state government operate more efficiently.

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, 1999, and ending June 30, 2000, 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:

.....	\$	548,263
.....	FTEs	20.00

2. AUDITS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	474,884
.....	FTEs	12.00

It is the intent of the general assembly that the department of economic development develop a self-reporting process for targeted small businesses to report on state government procurement compliance. The compliance program for targeted small businesses shall include state departments, agencies, commissions, education institutions under the state board of regents, area education agencies, community colleges, and K-12 school districts. The department of economic development may expend moneys available in the Iowa strategic investment fund created pursuant to section 15.313, to develop the self-reporting process as provided in this paragraph. The department of economic development shall report on the results of the compliance program for targeted small businesses for the fiscal year beginning July 1, 1999, to the chairpersons and members of the joint subcommittee on administration and regulation and the legislative fiscal bureau not later than October 1, 2000.

3. APPEALS AND FAIR HEARINGS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	454,779
.....	FTEs	30.00

4. INVESTIGATIONS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	965,905
.....	FTEs	40.00

5. HEALTH FACILITIES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	2,241,150
.....	FTEs	102.00

It is the intent of the general assembly that a conditional license pursuant to section 135C.12 shall not be imposed by the department of inspections and appeals if the failure of full compliance by a health care facility is to result in a single class I citation that is not determined to be an immediate jeopardy.

It is the intent of the general assembly that the department of inspections and appeals institute educational programs for inspectors relating to reporting on actions taken in accordance with physician's orders. The department shall report on the success of the education program to the chairpersons and members of the joint subcommittee on administration and regulation and the legislative fiscal bureau not later than January 15, 2000.

6. INSPECTIONS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	647,150
.....	FTEs	12.00

7. EMPLOYMENT APPEAL BOARD

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	35,178
.....	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:

.....	\$	778,508
.....	FTEs	18.75

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, 1999, and ending June 30, 2000, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes for the regulation of pari-mutuel racetracks, and for not more than the following full-time equivalent positions:

.....	\$	2,094,194
.....	FTEs	22.36

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, 1999, and ending June 30, 2000, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

* See chapter 208, §69 herein

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:

.....	\$	1,432,906
.....	FTEs	25.05

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, 1999, and ending June 30, 2000, the commission may expend no more than \$120,349 for no more than 2.00 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.

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, to the appeals and fair hearings division of the department of inspections and appeals for the fiscal year beginning July 1, 1999, and ending June 30, 2000, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes:

.....	\$	1,075,028
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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, 1999, and ending June 30, 2000, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. GENERAL OFFICE

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	2,242,430
.....	FTEs	30.00

The department of management shall report to the chairpersons and ranking members of the joint appropriations subcommittee on administration and regulation and the legislative fiscal bureau concerning the recommendations received from the \$300,000 fleet management services study received by the department, the recommendations implemented by state agencies, increased service levels attained due to implementation, recommendations to be implemented during the fiscal year ending June 30, 2000, and the savings realized from the recommendations which have been implemented. The report submitted to the joint appropriations subcommittee on administration and regulation and the legislative fiscal bureau shall be for the fiscal year ending June 30, 1999, and shall be submitted not later than January 1, 2000.

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
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3. COUNCIL OF STATE GOVERNMENTS

For support of the membership assessment:

.....	\$	84,033
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4. STATE STRATEGIC PLAN

For expenses related to the completion of a state strategic plan:

.....	\$	130,000
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Of the funds appropriated in this subsection, the sum of \$30,000 is appropriated from funds in the general fund of the state received from civil penalties collected by the alcoholic beverages division of the department of commerce. The funds received from civil penalties collected by the alcoholic beverages division shall be used first to fund the appropriation

provided in this subsection. Notwithstanding section 123.53, subsection 5, of the civil penalties collected by the alcoholic beverages division of the department of commerce during the fiscal year beginning July 1, 1998, and ending June 30, 1999, the sum of \$30,000 shall not be expended, obligated, or encumbered for any other purpose than provided for in this subsection.

It is the intent of the general assembly that documents and records of the names of donors and the amounts and in-kind contributions donated in conjunction with other support services from other departments for a state strategic plan are public records as defined in section 22.1. It is the belief of the general assembly that an additional \$150,000 of support services will be provided by state agencies and departments.

As a condition of the appropriation in this subsection, the director of the department of management shall, in cooperation with the state auditor's office and representatives of state employee groups, develop recommendations for creating and fostering efficiencies in state government. The director of the department of management shall report on the progress of its efficiency efforts and make recommendations to the joint appropriations subcommittee on administration and regulation by February 1, 2000.

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, 1999, and ending June 30, 2000, 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

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, 1999, and ending June 30, 2000, 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:

..... \$ 1,523,928
..... FTEs 19.42

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:

..... \$ 1,370,734
..... FTEs 32.15

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:

..... \$ 1,702,825
..... FTEs 37.80

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.

It is the intent of the general assembly that members of the general assembly serving as members of the deferred compensation advisory board shall be entitled to receive per diem and necessary travel and actual expenses pursuant to section 2.10, subsection 5, while carrying out their official duties as members of the board.

Sec. 17. HEALTH INSURANCE REFORM PROGRAM. There is transferred from the surplus funds in the health insurance operating account to the department of personnel 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 purposes designated:

For the salary and support costs for the insurance reform program and administration costs associated with the health insurance reform effort in Iowa:

.....	\$	831,655
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Of the amount appropriated in this section, \$240,000 shall be considered a nonrecurring appropriation. Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30, 2000, from the funds transferred in this section, shall revert to the health insurance operating account on June 30, 2000.

Sec. 18. READY TO WORK PROGRAM COORDINATOR. There is transferred from the surplus funds in the health insurance operating account and the workers' compensation trust fund to the department of personnel 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 purposes designated:

For the salary, support, and miscellaneous expenses for the ready to work program and coordinator, and for not more than the following full-time equivalent positions:

.....	\$	181,290
.....	FTEs	1.00

The moneys transferred pursuant to this section shall be taken in equal proportions from the health insurance operating account and the workers' compensation trust fund.

Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30, 2000, from the funds transferred in this section, shall revert in equal proportions to the health insurance operating account and the workers' compensation trust fund on June 30, 2000.

Sec. 19. HEALTH INSURANCE OVERSIGHT PROGRAM. There is transferred from the employer's share of the surplus funds in the health insurance operating account to the department of personnel 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 purposes designated:

For the salary and support costs to provide reporting and oversight of health care purchasing in Iowa, and for not more than the following full-time equivalent positions:

.....	\$	112,000
.....	FTEs	2.00

Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30, 2000, from the funds transferred in this section, shall revert to the health insurance operating account on June 30, 2000.

Sec. 20. IPERS. There is appropriated from the Iowa public employees' retirement system fund to the department of personnel for the fiscal year beginning July 1, 1999, and ending June 30, 2000, 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 other operational purposes to pay the costs of the Iowa public employees' retirement system division:

.....	\$	5,231,679
.....	FTEs	77.57

2. IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM MANAGEMENT INFORMATION SYSTEM

For salaries, support, maintenance, and other operational purposes to pay one-time funding for the first year of a two-year project to reengineer the Iowa public employees' retirement

system information management system and for not more than the following full-time equivalent positions:

.....	\$	1,477,832
.....	FTEs	11.00

3. INVESTMENT PROGRAM STAFFING

It is the intent of the general assembly that the Iowa public employees' retirement system division employ sufficient staff within the appropriation provided in this section to meet the developing requirements of the investment program.

Sec. 21. PRIMARY ROAD FUND APPROPRIATION. There is appropriated from the primary road fund to the department of personnel 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 purposes designated:

For salaries, support, maintenance, and miscellaneous purposes to provide personnel services for the state department of transportation:

.....	\$	410,100
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Sec. 22. 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, 1999, and ending June 30, 2000, 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:

.....	\$	66,760
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Sec. 23. 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, 1999, and ending June 30, 2000, 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
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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.

It is the intent of the general assembly that any funds received by the department of personnel for workers' compensation purposes other than funds appropriated in this section shall be used for the payment of workers' compensation claims and administrative costs.

Sec. 24. 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, 1999, and ending June 30, 2000, 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	525.00
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1. COMPLIANCE

For salaries, support, maintenance, and miscellaneous purposes:

.....	\$	10,740,725
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2. STATE FINANCIAL MANAGEMENT

For salaries, support, maintenance, and miscellaneous purposes: \$ 11,690,329

3. INTERNAL RESOURCES MANAGEMENT

For salaries, support, maintenance, and miscellaneous purposes: \$ 6,210,493

4. COLLECTION COSTS AND FEES

For payment of collection costs and fees pursuant to section 422.26: \$ 45,000

5. 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. 25. LOTTERY. There is appropriated from the lottery fund to the department of revenue and finance 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 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:

\$ 8,218,127
FTEs 117.00

It is the intent of the general assembly that the lottery shall establish a licensee compliance program for education to enhance their compliance on prohibition of sales to persons under 21 years of age. The education program shall include training, marketing, monitoring, and reporting activities in coordination with lottery licensees. The results of the program shall be reported to the chairperson, vice chairpersons, ranking members, and members of the joint appropriations subcommittee on administration and regulation not later than January 15, 2000.

Sec. 26. MOTOR VEHICLE FUEL TAX APPROPRIATION. There is appropriated from the motor fuel tax fund created by section 452A.77 to the department of revenue and finance 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 purposes designated:

For salaries, support, maintenance, and miscellaneous purposes for administration and enforcement of the provisions of chapter 452A and the motor vehicle use tax program:

\$ 1,033,417

Sec. 27. 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, 1999, and ending June 30, 2000, 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:

\$ 704,269
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.

2. BUSINESS SERVICES

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

\$ 1,815,117
FTEs 32.00

3. OFFICIAL REGISTER

For costs incurred in the printing of the official register:	\$	45,000
.....		

4. STUDENT CITIZENSHIP

For expenses relating to the implementation of a student citizenship program:	\$	30,000
.....		

It is the intent of the general assembly that the secretary of state invite the legislators representing local school districts to join with the secretary in citizenship forums to educate students of the importance of participating in the political process.

Sec. 28. 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, 1999, and ending June 30, 2000, 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:

.....	\$	1,022,742
.....	FTEs	26.80

2. OFFICE FURNISHINGS

For the funding for carpet and drapes for the office of treasurer of state:	\$	25,000
.....		

Of the funds appropriated in this subsection, the sum of \$25,000 is appropriated from funds in the general fund of the state received from civil penalties collected by the alcoholic beverages division of the department of commerce. The funds received from civil penalties collected by the alcoholic beverages division shall be used to fund the appropriation in this subsection only after the appropriation from such civil penalties as provided in section 14, subsection 4, is fully satisfied. Notwithstanding section 123.53, subsection 5, of the civil penalties collected by the alcoholic beverages division of the department of commerce during the fiscal year beginning July 1, 1998, and ending June 30, 1999, the sum of \$25,000 shall not be expended, obligated, or encumbered for any other purpose than provided for in this subsection.

The office of treasurer of state shall supply clerical and secretarial support for the executive council.

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.

Sec. 30. 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, 1998, and ending June 30, 1999, to supplement the appropriations made in 1998 Iowa Acts, chapter 1217, section 5, subsection 4, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

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:

.....	\$	67,500
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Sec. 31. GOVERNOR AND LIEUTENANT GOVERNOR. There is appropriated from the general fund of the state to the offices of the governor and lieutenant governor for the fiscal year beginning July 1, 1998, and ending June 30, 1999, to supplement the appropriations made in 1998 Iowa Acts, chapter 1217, section 7, subsection 1, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

* Item veto; see message at end of the Act

GENERAL OFFICE

For salaries, support, maintenance, and miscellaneous purposes, including vacation and leave payout for departing staff, for the general office of the governor and the general office of the lieutenant governor:

.....	\$	237,000
.....	FTEs	0.30

Of the funds appropriated in this section, not more than \$12,000 may be used for the salary, support, maintenance, and miscellaneous purposes, for an administrative assistant for the first lady.

Sec. 32. Section 123.53, subsection 5, Code 1999, is amended to read as follows:

5. ~~Notwithstanding section 8.33, civil~~ Civil penalties imposed and collected by the division shall ~~not revert be credited~~ to the general fund of the state. The moneys from the civil penalties ~~are appropriated for use~~ shall be used by the division, subject to appropriation by the general assembly, for the purposes of providing educational programs, information and publications for alcoholic beverage licensees and permittees, local authorities, and law enforcement agencies regarding the laws and rules which govern the alcoholic beverages industry, and for promoting compliance with alcoholic beverage laws and rules.

Sec. 33. EFFECTIVE DATES.

1. Section 8, subsection 1, paragraph "b" of this Act, being deemed of immediate importance, takes effect upon enactment.

2. Section 14, subsection 4, of this Act, being deemed of immediate importance, takes effect upon enactment.

3. Section 28, subsection 2, of this Act, being deemed of immediate importance, takes effect upon enactment.

4. Sections 30 and 31 of this Act, being deemed of immediate importance, take effect upon enactment.

Approved May 6, 1999, with the exception of Sec. 29 which is disapproved.

THOMAS J. VILSACK, Governor

Dear Mr. Secretary:

I hereby transmit Senate File 460, an act relating to and making appropriations to certain state departments, agencies, funds, and certain other entities, providing for regulatory authority, other properly related matter, and providing effective dates, which is hereby approved and transmitted to you in accordance with Article III, Section 16, of the Constitution of the State of Iowa, with the exception of Section 29, which is hereby disapproved.

I am unable to approve Section 29 in its entirety.

I am concerned that the language in Section 29 would create a different standard for the departments and agencies funded in this bill than others in state government. While I share the Legislature's concern with vacant unfunded positions in state government, I believe that we must develop an enterprise-wide approach to this issue. I have asked the director of the department of management to study issues relating to vacant positions in state government. I intend to make recommendations to the Legislature to address this issue next year.

For the above reasons, I hereby respectfully approve Senate File 460 with the exception noted above.

Sincerely,
THOMAS J. VILSACK, Governor

CHAPTER 200

COMPENSATION FOR PUBLIC EMPLOYEES

H.F. 781

AN ACT relating to the compensation and benefits for public officials and employees, providing for related matters, making appropriations, and including effective and retroactive applicability provisions.

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, 1999, effective for the pay period beginning June 25, 1999, 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 branch from the salary adjustment fund or if the appropriation is not sufficient, from the funds appropriated to the judicial branch 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, 1999, effective with the pay period beginning June 25, 1999, and for subsequent pay periods.

a. Chief justice of the supreme court:	\$	114,000
.....		
b. Each justice of the supreme court:	\$	109,900
.....		
c. Chief judge of the court of appeals:	\$	109,800
.....		
d. Each associate judge of the court of appeals:	\$	105,700
.....		
e. Each chief judge of a judicial district:	\$	104,800
.....		
f. Each district judge except the chief judge of a judicial district:	\$	100,500
.....		
g. Each district associate judge:	\$	87,600
.....		
h. Each associate juvenile judge:	\$	87,600
.....		
i. Each associate probate judge:	\$	87,600
.....		
j. Each judicial magistrate:	\$	25,400
.....		
k. Each senior judge:	\$	5,800
.....		

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 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, 1999, 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, 1999, effective with the pay period beginning June 25, 1999:

SALARY RANGES	<u>Minimum</u>	<u>Maximum</u>
(1) Range 1	\$ 8,800	\$ 28,200
(2) Range 2	\$ 32,200	\$ 56,800
(3) Range 3	\$ 44,100	\$ 66,200
(4) Range 4	\$ 53,100	\$ 75,700
(5) Range 5	\$ 62,400	\$ 85,200

2. The following are range 1 positions: There are no range 1 positions for the fiscal year beginning July 1, 1999.

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, and administrator of the division of professional licensing and regulation of the department of commerce.

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, executive director of the commission of veterans affairs, 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, vice chairperson, and members of the board of parole.

6. The following are range 5 positions: consumer advocate, labor commissioner, workers' compensation 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, 1999, effective with the pay period beginning June 25, 1999:

SALARY RANGES	<u>Minimum</u>	<u>Maximum</u>
(1) Range 6	\$ 48,200	\$ 75,700
(2) Range 7	\$ 66,000	\$ 85,900
(3) Range 8	\$ 70,800	\$ 99,700
(4) Range 9	\$ 79,000	\$ 118,900

8. The following are range 6 positions: director of the department of human rights, director of the Iowa state civil rights commission, executive director of the college student aid commission, director of the department for the blind, and executive 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, 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, director of public health, 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, 1999, with the pay period beginning June 25, 1999, 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:	\$	66,700
.....		
b. Two members of the public employment relations board:	\$	62,100
.....		

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, 1999, and ending June 30, 2000, the amount of \$52,800,000, or so much thereof as may be necessary, to fully fund the following annual pay adjustments, expense reimbursements, and related benefits:

1. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the blue collar bargaining unit.
2. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the public safety bargaining unit.
3. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the security bargaining unit.
4. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the technical bargaining unit.
5. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the professional fiscal and staff bargaining unit.

6. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the university of northern Iowa faculty bargaining unit.

7. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the clerical bargaining unit.

8. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the professional social services bargaining unit.

9. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the community-based corrections bargaining unit.

10. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the judicial branch of government bargaining unit.

11. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the patient care bargaining unit.

12. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the science bargaining unit.

13. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the state university of Iowa graduate student bargaining unit.

14. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the state university of Iowa hospital and clinics tertiary health care bargaining unit.

15. 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, 1999, 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, 1999, shall be increased by 3 percent for the pay period beginning June 25, 1999.

b. In addition to the increases specified in this subsection, for the fiscal year beginning July 1, 1999, 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 4.6(3).

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, 1999, and ending June 30, 2000, 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:

..... \$ 987,954

2. There is appropriated from the primary road fund to the salary adjustment fund, for the fiscal year beginning July 1, 1999, and ending June 30, 2000, the following amount, or so much thereof as may be necessary, to be used for the purpose designated:

To supplement other funds appropriated by the general assembly:

..... \$ 5,632,153

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 transfer an amount, as determined by the department of management, from the health insurance surplus account to the health insurance premium operating account for the fiscal year beginning July 1, 1999, to reduce insurance premiums. Any amount remaining in the health insurance premium operating account at the end of the fiscal year beginning July 1, 1999, shall be transferred to the health insurance surplus account.

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, 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.

Sec. 15. SALARY MODEL ADMINISTRATOR/COORDINATOR. Of the funds appropriated by section 6 of this Act, \$133,800 for the fiscal year beginning July 1, 1999, 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 7H.1, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For the fiscal year beginning July 1, 1999, commencing with the first pay period which ends during the new fiscal year in July, the annual

salaries of the attorney general, auditor of state, secretary of agriculture, and treasurer of state shall be increased by three percent over their annual salaries existing for the preceding fiscal year. The annual salaries determined for the elected state officials as provided in this paragraph for the fiscal year beginning July 1, 1999, shall remain in effect for subsequent fiscal years until otherwise provided by the general assembly.

Sec. 17. Section 19A.8, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The director shall render monthly a statement to each state department or agency for a pro rata share of the cost of administration of the state employee flexible spending accounts. The expense shall be paid by the state department or agency in the same manner as other expenses of that state department or agency are paid and all moneys received for administration costs shall be deposited in the appropriate fund.

Sec. 18. **NEW SECTION.** 19A.35 STATE EMPLOYEE HEALTH FLEXIBLE SPENDING ACCOUNT TRUST FUND.

1. The director shall establish for state employees a health flexible spending account plan which offers multiple benefits to state employees. The state's health flexible spending account plan shall be established to meet the conditions of section 125 of the Internal Revenue Code of 1986.

2. There is created in the state treasury a special trust fund known as the Iowa state employee health flexible spending account trust fund. The trust fund consists of all moneys appropriated to the fund and any other assets directed to be held in trust for the exclusive benefit of participants in the state's health flexible spending account plan. Notwithstanding section 12C.7, interest and earnings from moneys in the trust fund shall be credited to the trust fund and shall be used exclusively for the benefit of plan participants.

3. The director shall serve as trustee of the trust fund and has the authority to direct expenditures as deemed appropriate to the exclusive benefit of the plan participants.

Sec. 19. Section 432.13, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Premiums received for benefits acquired by the department of personnel on behalf of state employees pursuant to section 19A.1, subsection 2, are exempt from premium tax.

Sec. 20. Section 509A.1, Code 1999, is amended to read as follows:
509A.1 AUTHORITY OF GOVERNING BODY.

The governing body of the state, school district, or any institution supported in whole or in part by public funds may establish plans for and procure group insurance, ~~or~~ health or medical service, or health flexible spending accounts as described in section 125 of the Internal Revenue Code of 1986 for the employees of the state, school district, or tax-supported institution.

Sec. 21. Section 509A.13A, subsection 1, paragraph b, subparagraph (3), Code 1999, is amended to read as follows:

(3) The eligible retired state employee has received retirement benefits under the retirement system established in chapter 602, article 9, ~~based upon either of the following:~~

~~(a) Meeting the requirements for receiving an annuity which equals fifty percent of the basic annual salary which the judge was receiving at the time that the judge became separated from service, if the judge did not participate in the senior judge program.~~

~~(b) Meeting the requirements for receiving an annuity which equals or exceeds fifty percent of the basic annual salary which the judge was receiving at the time that the judge separated from service prior to serving as a senior judge.~~

Sec. 22. Section 602.9204, subsection 1, Code 1999, is amended to read as follows:

1. A judge who retires on or after July 1, 1994, and who is appointed a senior judge under section 602.9203 shall be paid a salary as determined by the general assembly. A senior judge or retired senior judge shall be paid an annuity under the judicial retirement system in the manner provided in section 602.9109, but computed under this section in lieu of section 602.9107, as follows: The annuity paid to a senior judge or retired senior judge shall be an amount equal to three percent of the basic senior judge salary, multiplied by the judge's years of service prior to retirement as a judge of one or more of the courts included under this article, for which contributions were made to the system, except the annuity of the senior judge or retired senior judge shall not exceed fifty percent of the basic senior judge salary used in calculating the annuity. However, following the twelve-month period during which the senior judge or retired senior judge attains seventy-eight years of age, the annuity paid to the person shall be an amount equal to three percent of the basic senior judge salary cap, multiplied by the judge's years of service prior to retirement as a judge of one or more of the courts included under this article, for which contributions were made to the system, except that the annuity shall not exceed fifty percent of the basic senior judge salary cap. A senior judge or retired senior judge shall not receive benefits calculated using a basic senior judge salary established after the twelve-month period in which the senior judge or retired senior judge attains seventy-eight years of age. ~~In addition, if a senior judge is under sixty five years of age at the time the judge becomes a senior judge, the state shall pay the state's share of the senior judge's medical insurance premium until the judge attains age sixty five. The state shall provide, regardless of age, to an active senior judge or a senior judge with six years of service as a senior judge and to the judge's spouse, and pay for medical insurance until the judge attains the age of seventy-eight years.~~

Sec. 23. EFFECTIVE DATE. Section 19 of this Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 1999.

Approved May 17, 1999

CHAPTER 201

APPROPRIATIONS — HEALTH AND HUMAN RIGHTS

H.F. 737

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, 1999, and ending June 30, 2000, 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:

.....	\$	1,736,308
.....	FTEs	103.50

Sec. 2. CIVIL RIGHTS COMMISSION. There is appropriated from the general fund of the state to the Iowa state civil rights commission for the fiscal year beginning July 1, 1999, and ending June 30, 2000, 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:

.....	\$	1,189,494
.....	FTEs	38.50

If the anticipated amount of federal funding from the federal equal employment opportunity commission and the federal department of housing and urban development exceeds \$715,000 during the fiscal year beginning July 1, 1999, the Iowa state civil rights commission may exceed the staffing level authorized in this section 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, 1999, and ending June 30, 2000, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

1. For aging programs and for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	4,965,799
.....	FTEs	29.00

a. Of the funds appropriated in this subsection, \$4,285,598 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.

b. 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 moneys 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.

c. 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.

d. The department shall maintain policies and procedures regarding Alzheimer's support and the retired senior volunteer program.

2. The department may grant an exception for a limited period of time, determined by the department to be reasonable, to allow for compliance by persons regulated by the department or applicants for assisted living certification with any part of chapter 104A relative to buildings in existence on July 1, 1998. The determination of the period of time allowed for compliance shall be commensurate with the anticipated magnitude of expenditure, disruption of services, and the degree of hazard presented. The department shall also be authorized to modify the accessibility requirements otherwise applicable to such applicants for buildings in existence on July 1, 1998, if the department determines that compliance with the requirements would be unreasonable, but only if it is determined that noncompliance with the requirements would not present an unreasonable degree of danger.

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, 1999, and ending June 30, 2000, 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:

.....	\$	471,354
.....	FTEs	13.00

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, 1999, and ending June 30, 2000, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADDICTIVE DISORDERS

For reducing the prevalence of use of tobacco, alcohol, and other drugs, and treating individuals affected by addictive behaviors, including gambling, and for not more than the following full-time equivalent positions:

.....	\$	8,399,406
.....	FTEs	15.75

a. The department 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.

b. The commission on substance abuse, in conjunction with the department, 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.

2. ADULT WELLNESS

For maintaining or improving the health status of adults, with target populations between the ages of 18 to 60, and for not more than the following full-time equivalent positions:

.....	\$	783,855
.....	FTEs	19.80

Of the funds appropriated in this subsection, 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.

3. CHILD AND ADOLESCENT WELLNESS

For promoting the optimum health status for children and adolescents from birth through 21 years of age, and for not more than the following full-time equivalent positions:

.....	\$	1,559,456
.....	FTEs	39.55

a. Of the funds appropriated in this subsection, \$61,693 shall be allocated to the state university of Iowa hospitals and clinics under the control of the state board of regents for the statewide perinatal program.

b. Of the funds appropriated in this subsection, \$261,187 shall be allocated for the physician care for children program.

The program's 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 established as of July 1, 1998.

c. Of the funds appropriated in this subsection, \$75,000 shall be allocated for primary and preventive health care for children.

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 and for a continuum of health care for children with special health care needs 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.

d. Of the funds appropriated in this subsection, 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.

e. Of the funds appropriated in this subsection, 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.

4. CHRONIC CONDITIONS

For serving individuals identified as having chronic conditions or special health care needs, and for not more than the following full-time equivalent positions:

.....	\$	1,841,486
.....	FTEs	6.45

a. Of the funds appropriated in this subsection, \$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.

b. Of the funds appropriated in this subsection, at least \$587,865 shall be allocated by the department 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. 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.

c. Of the funds appropriated in this subsection, 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:

(1) Mobile and regional child health specialty clinics:

.....	\$	392,931
-------	----	---------

Of the funds allocated in this subparagraph, \$97,937 shall be used for a specialized medical home care program providing care planning and coordination of community support services for children who require technical medical care in the home.

(2) Muscular dystrophy and related genetic disease programs:

..... \$ 115,613

5. COMMUNITY CAPACITY

For strengthening the health care delivery system at the local level, and for not more than the following full-time equivalent positions:

..... \$ 1,586,221

..... FTEs 23.55

a. Of the funds appropriated in this subsection, \$350,000 shall be allocated to and used by local boards of health to ensure that core public health functions are maintained and to support essential services in their communities.

b. Of the funds appropriated in this subsection, \$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.

c. Of the funds appropriated in this subsection, \$235,000 shall be allocated for primary care provider recruitment and retention endeavors.

6. ELDERLY WELLNESS

For optimizing the health of persons over 55 years of age:

..... \$ 10,932,737

7. ENVIRONMENTAL HAZARDS

For reducing the public's exposure to hazards in the environment, primarily chemical hazards, and for not more than the following full-time equivalent positions:

..... \$ 165,721

..... FTEs 7.25

Of the funds appropriated in this subsection, \$39,547 shall be used for the lead abatement program.

8. INFECTIOUS DISEASES

For reducing the incidence and prevalence of communicable diseases, and for not more than the following full-time equivalent positions:

..... \$ 1,346,770

..... FTEs 34.55

9. INJURIES

For providing support and protection to victims of abuse or injury, or programs that are designed to prevent abuse or injury, and for not more than the following full-time equivalent positions:

..... \$ 1,863,449

..... FTEs 8.20

10. PUBLIC PROTECTION

For protecting the health and safety of the public through establishing standards and enforcing regulations, and for not more than the following full-time equivalent positions:

..... \$ 6,179,446

..... FTEs 124.25

a. Of the funds appropriated and full-time equivalent positions authorized in this subsection, not more than \$342,504 and 5.00 FTEs shall be used for salaries, support, maintenance, and miscellaneous purposes for operating the state board of dental examiners.

b. Of the funds appropriated and full-time equivalent positions authorized in this subsection, not more than \$1,261,392 and 19.00 FTEs shall be used for salaries, support, maintenance, and miscellaneous purposes for operating the state board of medical examiners.

c. Of the funds appropriated and full-time equivalent positions authorized in this subsection, not more than \$1,069,817 and 18.00 FTEs shall be used for salaries, support, maintenance, and miscellaneous purposes for operating the state board of nursing examiners.

d. Of the funds appropriated and full-time equivalent positions authorized in this subsection, not more than \$761,948 and 12.00 FTEs shall be used for salaries, support, maintenance, and miscellaneous purposes for operating the state board of pharmacy examiners.

e. Of the funds appropriated and full-time equivalent positions authorized in this subsection, not more than \$1,119,627 and 16.00 FTEs shall be used for salaries, support, maintenance, and miscellaneous purposes for the operation of the bureau of professional licensure.

The director of public health, when estimating expenditure requirements for the boards funded under this lettered 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, 1999, shall not exceed 5 percent of the average annual fees generated by the boards for the previous two fiscal years.

f. The department shall retain fees collected from the certification of lead inspectors and lead abaters pursuant to section 135.105A to support the certification program; and shall retain fees collected from the licensing, registration, authorization, accreditation, and inspection of x-ray machines used for mammographically guided breast biopsy, screening, and diagnostic mammography, pursuant to section 136C.10 to support the administration of the chapter. The department shall also retain any new or increased fees implemented by the department pursuant to legislation enacted by the general assembly in 1999 for activities not otherwise funded by amounts appropriated in this section.

g. The department may retain and expend not more than \$361,000 for moving expenses and \$444,000 for lease and maintenance expenses for the relocation of licensure boards from the executive hills state office building from fees collected pursuant to section 147.80 by the board of dental examiners, the board of pharmacy examiners, the board of medical examiners, and the board of nursing examiners in the fiscal year beginning July 1, 1999, and ending June 30, 2000.

h. If a person in the course of responding to an emergency renders aid to an injured person and becomes exposed to bodily fluids of the injured person, that emergency responder shall be entitled to hepatitis testing and immunization in accordance with the latest available medical technology to determine if infection with hepatitis has occurred. The person shall be entitled to reimbursement from the EMS funds available under this subsection only if the reimbursement is not available through any employer or third-party payor.

i. 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.

j. 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. RESOURCE MANAGEMENT

For establishing and sustaining the overall ability of the department to deliver services to the public, and for not more than the following full-time equivalent positions:

.....	\$	1,274,956
.....	FTEs	48.95

12. The state university of Iowa hospitals and clinics shall not receive indirect costs from the funds appropriated in this section.

13. 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.

The department shall prepare a report on the compliance of grantees receiving funds pursuant to 1998 Iowa Acts, chapter 1221, section 5, subsection 4, paragraph "c", regarding the coordination of services by local health care providers or nonprofit health care organizations with other local entities providing similar services, as described in this subsection. Grantees shall assist the department in obtaining the information necessary to complete the report. The department shall provide a copy of the completed report to each member of the joint appropriations subcommittee on health and human rights by January 1, 2000.

14. a. The department shall apply for available federal funds for sexual abstinence education programs in accordance with the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, § 912.

b. It is the intent of the general assembly to comply with the United States congress' intent to provide education that promotes abstinence from sexual activity outside of marriage and reduces pregnancies, by focusing efforts on those persons most likely to bear children out of wedlock.

c. Any sexual abstinence education program awarded moneys under the grant program shall meet the definition of abstinence education in the federal law. Grantees shall be evaluated based upon the extent to which the abstinence program successfully communicates the goals set forth in the federal law.

Sec. 6. DEPARTMENT OF HUMAN RIGHTS. There is appropriated from the general fund of the state to the department of human rights for the fiscal year beginning July 1, 1999, and ending June 30, 2000, 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:

.....	\$	238,121
.....	FTEs	6.60

2. DEAF SERVICES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	319,149
.....	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:

.....	\$	181,078
.....	FTEs	3.00

4. LATINO AFFAIRS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	156,599
.....	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:

.....	\$	419,505
.....	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:

.....	\$	129,500
.....	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:

.....	\$	412,421
.....	FTEs	9.72

Of the full-time equivalent positions allocated in this subsection, one and one-half positions are contingent upon the appropriation of funding for a justice data warehouse.

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 in section 232.190, 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	2.32

9. SHARED STAFF. The divisions of the department of human rights shall retain their individual administrators, but shall share staff to the greatest extent possible.

10. STATUS OF ASIAN PACIFIC ISLANDERS STUDY. The department of human rights shall conduct a study of the status of persons of Asian Pacific Islander descent in the state of Iowa. The study shall focus on the areas of education, language development, employment, human rights, health, housing, and social welfare. The director of the department of human rights shall submit a report of findings and recommendations based on the study to the general assembly by January 1, 2000.

Sec. 7. COMMISSION OF VETERANS AFFAIRS. There is appropriated from the general fund of the state to the commission of veterans affairs for the fiscal year beginning July 1, 1999, and ending June 30, 2000, 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:

.....	\$	307,168
.....	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:
..... \$ 6,000

3. IOWA VETERANS HOME

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... \$ 43,420,253
..... FTEs 891.94

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, 1999, and ending June 30, 2000, 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.

c. Any Iowa veterans home successor contractor shall not consider employees of a state institution or facility to be new employees for purposes of employee wages, health insurance, or retirement benefits.

d. The chairpersons and ranking members of the joint appropriations subcommittee on health and human rights shall be notified by January 15 of any calendar year during which a request for proposals is anticipated to be issued regarding any Iowa veterans home contract involving employment, for purposes of providing legislative review and oversight.

e. Of the full-time equivalent positions authorized pursuant to this subsection, filling 88.30 full-time equivalent positions shall be contingent upon the termination of the existing Iowa veterans home contract for dietary services, and the hiring of state employees to perform dietary services at the Iowa veterans home.

Sec. 8. NEW SECTION. 35A.11 VETERANS LICENSE FEE FUND.

A veterans license fee fund is created in the state treasury under the control of the commission. The fund shall include the fees credited by the treasurer of state from the sale of special veteran license plates pursuant to section 321.34, subsection 13, paragraph "d". Notwithstanding section 12C.7, interest or earnings on moneys in the veterans license fee fund shall be credited to the veterans license fee fund. Moneys in the fund are appropriated to the commission to be used to fulfill the responsibilities of the commission.

Sec. 9. Section 99E.10, subsection 1, paragraph a, Code 1999, is amended to read as follows:

a. An amount equal to three-tenths of one percent of the gross lottery revenue shall be deposited in a gambling treatment fund in the office of the treasurer of state. ~~The director of the Iowa department of public health shall administer the fund and shall provide that receipts are allocated on a monthly basis to fund administrative costs and to provide programs which may include, but are not limited to, outpatient and follow-up treatment for persons affected by problem gambling, rehabilitation and residential treatment programs, information and referral services, education and preventive services, and financial management services.~~

Sec. 10. Section 216A.2, subsection 9, Code 1999, is amended by striking the subsection.

Sec. 11. Section 216A.2, unnumbered paragraph 2, Code 1999, is amended to read as follows:

The governor shall appoint the administrators of each of the divisions, ~~except for the division of persons with disabilities~~, subject to confirmation by the senate. Each administrator shall serve at the pleasure of the governor and is exempt from the merit system provisions of chapter 19A. The governor shall set the salary of the division administrators within the ranges set by the general assembly.

Sec. 12. Section 216A.71, subsection 1, Code 1999, is amended to read as follows:

1. "Administrator" means the administrator of the division of persons with disabilities of the department of human rights.

Sec. 13. Section 216A.92A, subsection 2, Code 1999, is amended to read as follows:

2. Commission members shall serve three-year terms which shall begin and end pursuant to section 69.19, and shall serve the entire term even if the member experiences a change in the status which resulted in their appointment under subsection 1. Vacancies on the commission shall be filled for the remainder of the term of the original appointment. Members whose terms expire may be reappointed. Members of the commission shall receive actual expenses for their services. Members may also be eligible to receive compensation as provided in section 7E.6. Members as specified under subsection 1, paragraph "c", however, shall receive per diem compensation as provided in section 7E.6 and actual expenses. The membership of the commission shall also comply with the political party affiliation and gender balance requirements of sections 69.16 and 69.16A.

Sec. 14. GAMBLING TREATMENT FUND — APPROPRIATION.

1. For the fiscal year beginning July 1, 1999, and ending June 30, 2000, amounts deposited in the gambling treatment fund established in the office of the treasurer of state pursuant to section 99E.10 are appropriated to the Iowa department of public health.

2. Of the funds appropriated in subsection 1, \$525,000 shall be allocated for the addictive disorders program, to be utilized for the benefit of persons with addictions.

3. Of the funds appropriated in subsection 1, \$20,000 shall be transferred to the office of the auditor of state to perform an audit of the gambling treatment program. The results of the audit shall be reported to the members of the general assembly by January 1, 2000.

4. Funds which remain after the allocations in subsections 2 and 3, if any, shall be allocated for funding of administrative costs and to provide programs which may include, but are not limited to, outpatient and follow-up treatment for persons affected by problem gambling, rehabilitation and residential treatment programs, information and referral services, education and preventive services, and financial management services.

Sec. 15. GAMBLING TREATMENT FUND DEPOSITS.* For the fiscal year beginning July 1, 1999, and ending June 30, 2000, an amount of the tax revenue received by the state racing and gaming commission pursuant to section 99D.15, subsections 1, 3, and 4, equal to three-tenths of one percent of the gross sum wagered by the pari-mutuel method is appropriated to the Iowa department of public health for the sole purpose of funding the position of deputy state medical examiner, contingent upon the passage of 1999 Iowa Acts, Senate File 376** or similar legislation transferring the office of the state medical examiner from the department of public safety to the Iowa department of public health. The full-time equivalent position authorizations in this Act for the Iowa department of public health shall be increased by 1.00 FTE position if 1999 Iowa Acts, Senate File 376,** or similar legislation transferring the office of the state medical examiner from the department of public safety to the Iowa department of public health, is enacted. Moneys appropriated in this section that remain unencumbered or unobligated at the close of the fiscal year shall be credited to the general fund of the state.

* The headnote "Deputy medical examiner — funding" probably intended

** Senate File 376 not enacted

Sec. 16. DEPARTMENT OF PUBLIC HEALTH. There is appropriated from the general fund of the state to the board of dental examiners of the department of public health 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 board of dental examiners to pay the necessary expenses of the members of the dental hygiene committee created in section 153.33A and administrative costs relating to the committee:

..... \$ 42,000

Sec. 17. 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, as amended by 1997 Iowa Acts, chapter 203, section 9, and as amended by 1998 Iowa Acts, chapter 1221, section 9, shall be extended until June 30, 2000, and the increased fees to be collected pursuant to that project shall continue to be collected until June 30, 2000.

Sec. 18. COMMUNITY ACTION AGENCY STUDY. The legislative council is requested to establish an interim study committee to evaluate and review whether community action agencies are maximizing opportunities to match funding for community service block grants received by the division of community action agencies of the department of human rights pursuant to Code chapter 216A.

Sec. 19. OPERATING A MOTOR VEHICLE WHILE INTOXICATED COURSE REQUIREMENT STUDY. The legislative council is requested to establish an interim study committee to evaluate courses required for persons who have committed an operating a motor vehicle while intoxicated offense. The study should include a review of courses offered through the community colleges, either alone or in conjunction with local licensed substance abuse agencies, and include consideration of the practice of combining juveniles and adults in the same course, authorizing, and ensuring the availability of expertise to offer separate courses geared toward juveniles and adults, the potential mixed message sent to recovering alcohol or drug abusers who should be receiving a zero tolerance for use directive, enrollment procedures, course fees and costs, and course evaluation.

Sec. 20. EFFECTIVE DATES. Section 16 of this Act, relating to a supplemental appropriation for the board of dental examiners of the Iowa department of public health, being deemed of immediate importance, takes effect upon enactment. Section 17 of this Act, relating to the vital records modernization project, being deemed of immediate importance, takes effect upon enactment.

Approved May 18, 1999

CHAPTER 202
APPROPRIATIONS — JUSTICE SYSTEM
S.F. 468

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, 1999, and ending June 30, 2000, 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:

.....	\$	8,192,153
.....	FTEs	190.50

2. For the prosecuting attorney training program for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	298,825
.....	FTEs	6.00

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, 1999, and ending June 30, 2000, an amount not exceeding \$200,000 to be used for the enforcement of the Iowa competition law. The funds appropriated in this subsection are contingent upon receipt by the general fund of the state of an amount at least equal to the expenditure amount from either 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 amounts received as a result of these judgments are in excess of \$200,000, the excess amounts 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, 1999, and ending June 30, 2000, 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 funds appropriated in this subsection are contingent upon receipt by the general fund of the state of an amount at least equal to the expenditure amount 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:

.....	\$	1,935,806
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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 sections 8.33 and 8.39, moneys appropriated in this subsection that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain 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:

.....	\$	128,302
.....	FTEs	2.00

7. The balance of the victim compensation fund established in section 915.94 may be used to provide salary and support of not more than 17.00 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, 2000, pursuant to section 8.23, shall include a report of funding from sources other than amounts appropriated directly from the general fund of the state to the department of justice or to the office of consumer advocate. These funding sources shall include, but are not limited to, reimbursements from other state agencies, commissions, boards, or similar entities, and reimbursements from special funds or internal accounts within the department of justice. The department of justice shall report actual reimbursements for the fiscal year commencing July 1, 1998, and actual and expected reimbursements for the fiscal year commencing July 1, 1999.

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, 2000.

10. For legal services for persons in poverty grants as provided in section 13.34:

..... \$ 700,000

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 \$250,000, to the department of justice for use as legal services for persons in poverty grants as provided in section 13.34.

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, 2000, 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.

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, 1999, and ending June 30, 2000, 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 funds appropriated in this section are 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 that remain unexpended or unobligated at the close of the fiscal year shall not revert to the environmental crime fund but shall remain available for expenditure for the purpose designated until the close of 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, 1999, and ending June 30, 2000, 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:

.....	\$	2,623,170
.....	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, 1999, and ending June 30, 2000, 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, reimbursement of counties for certain confinement costs, and federal prison reimbursement, 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:

.....	\$	28,459,808
.....	FTEs	502.00

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:

.....	\$	23,133,514
.....	FTEs	394.25

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:

.....	\$	19,962,613
.....	FTEs	338.80

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:

.....	\$	22,013,346
.....	FTEs	392.25

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:

.....	\$	20,529,274
.....	FTEs	337.26

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:

.....	\$	6,912,836
.....	FTEs	121.00

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:

.....	\$	17,440,368
.....	FTEs	292.75

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:

.....	\$	10,844,420
.....	FTEs	198.96

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:

.....	\$	21,715,253
.....	FTEs	350.04

j. 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
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k. For federal prison reimbursement, reimbursements for out-of-state placements, and miscellaneous contracts:

.....	\$	341,334
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The department of corrections shall use funds appropriated in this subsection to continue to contract for the services of a Muslim imam.

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. *It is the intent of the general assembly that the department of corrections shall timely fill correctional positions authorized for correctional facilities pursuant to this section.**

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, 1999, and ending June 30, 2000, 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:

.....	\$	4,416,916
.....	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, 1999, for the privatization of services performed by the department using state employees as of July 1, 1999, or for the

* Item veto; see message at end of the Act

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.

It is the intent of the general assembly that each lease negotiated by the department of corrections with a private corporation for the purpose of providing private industry employment of inmates in a correctional institution shall prohibit the private corporation from utilizing inmate labor for partisan political purposes for any person seeking election to public office in this state and that a violation of this requirement shall result in a termination of the lease agreement.

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 lease or contractual agreement pursuant to section 904.809 with a private corporation for the use of building space for the purpose of providing inmate employment without providing that the terms of the lease or contract establish safeguards to restrict, to the greatest extent feasible, access by inmates working for the private corporation to personal identifying information of citizens.

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 any new agreement with a private for-profit agency or corporation for the purpose of transferring inmates under the custody of the department to a jail or correctional facility or institution in this state which is established, maintained, or operated by a private for-profit agency or corporation without prior approval by the general assembly.

2. 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:

.....	\$	486,847
.....	FTEs	8.07

3. For annual payment relating to the financial arrangement for the construction of expansion in prison capacity as provided in 1990 Iowa Acts, chapter 1257, section 24:

.....	\$	3,180,815
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4. For educational programs for inmates at state penal institutions:

.....	\$	3,294,775
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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.

To maximize the funding for educational programs, the department shall establish guidelines and procedures to prioritize the availability of educational and vocational training for inmates based upon the goal of facilitating an inmate's successful release from the correctional institution.

Notwithstanding section 8.33, moneys appropriated in this subsection that remain unobligated or unexpended at the close of the fiscal year shall not revert but shall remain available for expenditure only for the purposes designated in this subsection until the close of the succeeding fiscal year.

5. The department of corrections shall submit a report to the general assembly on January 1, 2000, concerning progress made in implementing the requirements of section 904.701, concerning hard labor by inmates.

6. 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, 1999, shall not enter into any rental agreement or contract concerning any farmland under the control of the department that is not subject to a rental agreement or contract as of January 1, 1999, without prior legislative approval, and shall further attempt to provide job opportunities at the farms for inmates. The department shall attempt to provide job opportunities at the farms for inmates by encouraging labor-intensive farming or gardening where appropriate, using inmates to grow produce and meat for institutional consumption, researching the possibility of instituting food canning and cook-and-chill operations, and exploring opportunities for organic farming and gardening, livestock ventures, horticulture, and specialized crops.

7. The department of corrections shall submit a report to the general assembly by January 1, 2000, concerning moneys recouped from inmate earnings for the reimbursement of operational expenses of the applicable facility during the fiscal year beginning July 1, 1998, for each correctional institution and judicial district department of correctional services. In addition, each correctional institution and judicial district department of correctional services shall continue to submit a report to each member of the joint appropriations subcommittee on the justice system and the legislative fiscal bureau on a monthly basis concerning moneys recouped from inmate earnings for the reimbursement of operational expenses for each correctional institution and district department during the previous calendar month.

8. The department of corrections shall submit a report to the general assembly by January 10, 2000, concerning the medical treatment of inmates at the Fort Madison correctional facility. The study shall examine the current method of providing medical treatment and care to inmates through a contract with a private entity and shall particularly study the costs associated with providing care through the private contract and the level of care provided to inmates pursuant to that contract. The department shall compare the costs and care provided at Fort Madison with the costs and care provided at other correctional facilities that do not provide the care through a private contract. In addition, the department shall solicit input from medical care professionals, including those professionals within the department and others, if applicable, concerning the level of care provided to inmates at Fort Madison and to solicit suggestions for providing a high level of care at the facility at reasonable cost. The study shall include a report of the findings and recommendations of the department.

9. It is the intent of the general assembly that the department of corrections, in submitting its proposed budget request for the fiscal year beginning July 1, 2000, exclude requests for full-time equivalent positions, and the moneys for those positions, which would otherwise be included for the sole purpose of providing the department with additional moneys to operate the department and not for the purpose of providing additional full-time equivalent positions. In addition, the department of corrections shall submit a report to the general assembly by January 31, 2000, listing full-time equivalent positions authorized by this Act and not filled during the period from July 1, 1999, to January 1, 2000. For any position that is unfilled as of January 1, 2000, the department shall indicate why the position remains unfilled, whether the department intends to fill the position, and, if applicable, what efforts are being made, or will be made, to fill the position.

Sec. 6. DEPARTMENT OF CORRECTIONS — PRISON INFRASTRUCTURE 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, 1999, \$1,500,000 of the unused balance of moneys in the Iowa prison infrastructure fund created in section 602.8108A, to

* Item veto; see message at end of the Act

the department of corrections and the moneys transferred are appropriated to be used for the purposes designated:

1. For one-time start-up costs for equipment and furnishings at the Iowa correctional institution for women:

..... \$ 500,000

2. For one-time start-up costs for equipment and furnishings at the Fort Dodge correctional facility:

..... \$ 1,000,000

Sec. 7. DEPARTMENT OF CORRECTIONS — SUPPLEMENTAL APPROPRIATIONS. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 1998, and ending June 30, 1999, to supplement the appropriation made in 1998 Iowa Acts, chapter 1222, section 4, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For payment of contracts to house female prisoners out of state: \$ 547,000

2. For the establishment of a 100-bed special needs unit for women at the Mt. Pleasant correctional facility:

..... \$ 284,000

3. For offset of revenue budgeted for private sector employment of inmates: \$ 762,756

Sec. 8. 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, 1999, and ending June 30, 2000, 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:

..... \$ 8,286,344

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:

..... \$ 6,671,873

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:

..... \$ 4,003,837

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:

..... \$ 3,096,242

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:

..... \$ 11,493,706

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:

..... \$ 8,619,394

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:

..... \$ 5,094,102

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:

..... \$ 4,899,801

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. Each judicial district department of correctional services shall continue programs and plans established within that district to provide for intensive supervision, sex offender treatment, diversion of low-risk offenders to the least restrictive sanction available, job development, and expanded use of intermediate criminal sanctions.

3. The department of corrections shall continue to contract with a judicial district department of correctional services to provide for the rental of electronic monitoring equipment which shall be available statewide.

4. Each judicial district department of correctional services and the department of corrections shall continue the treatment alternatives to street crime programs established in 1989 Iowa Acts, chapter 225, section 9.

5. The 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.

6. 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, 2000.

7. In addition to the requirements of section 8.39, the department of corrections shall not make an intradepartmental transfer of moneys appropriated to the department, unless notice of the intradepartmental transfer is given prior to its effective date to the legislative fiscal bureau. The notice shall include information on the department's rationale for making the transfer and details concerning the work load and performance measures upon which the transfers are based.

8. Each judicial district department of correctional services shall submit a report to the general assembly by January 8, 2000, concerning what action, if any, the district department has taken in order to implement, or not implement, an intermediate criminal sanctions program as provided by section 901B.1. If the district department has implemented such a program, the report shall include information as to the effectiveness of the program.

Sec. 9. CORRECTIONAL INSTITUTIONS — VOCATIONAL TRAINING.

1. 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, 2000.

2. 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, 2000, concerning the efforts made by each correctional facility in maintaining vocational education programs for inmates.

Sec. 10. 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 branch, 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, 2000, 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, 1998, and ending June 30, 1999.

Sec. 11. 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, 1999, and ending June 30, 2000, the following amount, or so much thereof as is necessary, for the purposes designated:

..... \$ 33,790,652

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:

..... \$ 13,389,276
..... FTEs 201.00

2. For the fees of court-appointed attorneys for indigent adults and juveniles, in accordance with section 232.141 and chapter 815:

..... \$ 20,401,376

Sec. 12. JUDICIAL BRANCH. There is appropriated from the general fund of the state to the judicial branch for the fiscal year beginning July 1, 1999, and ending June 30, 2000, 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, 1999, and maintenance, equipment, and miscellaneous purposes:

..... \$ 105,040,435

a. The judicial branch, 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 branch shall submit monthly financial statements to the legislative fiscal bureau and the department of management containing all appropriated accounts in the same manner as provided in the monthly financial status reports and personal services usage reports of the department of revenue and finance. The monthly financial statements shall include a comparison of the dollars and percentage spent of budgeted versus actual revenues and expenditures on a cumulative basis for full-time equivalent positions and dollars.

c. The judicial branch shall continue to assist in the development and implementation of a justice data warehouse which shall include in the Iowa court information system starting with appointments of counsel made on or after July 1, 1999, the means to identify any case where the court has determined indigence, and whether the case is handled by a public defender or other court-appointed counsel.

d. Of the funds appropriated in this subsection, not more than \$1,897,728 may be transferred into the revolving fund established pursuant to section 602.1302, subsection 3, to be used for the payment of jury and witness fees and mileage.

e. The judicial branch shall focus efforts upon the collection of delinquent fines, penalties, court costs, fees, surcharges, or similar amounts.

f. 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.

g. In addition to the requirements for transfers under section 8.39, the judicial branch shall not change the appropriations from the amounts appropriated to the branch 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 branch's rationale for making the changes and details concerning the work load and performance measures upon which the changes are based.

h. The judicial branch shall provide to the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system and to the legislative fiscal bureau by January 15, 2000, an annual report concerning the operation and use of the Iowa court information system and any recommendations to improve the utilization of the system. The annual report shall include information specifying the amounts of fines, surcharges, and court costs collected using the system and how the system is used to improve the collection process. The report shall also include information concerning efforts made by the judicial branch to facilitate the sharing of vital sentencing and other information with other state departments and governmental agencies involved in the criminal justice system through the Iowa court information system. In addition, the judicial branch shall submit a semiannual update to the co-chairpersons and ranking members specifying the amounts of fines, surcharges, and court costs collected using the Iowa court information system since the last report.

i. Of the funds appropriated in this subsection, the judicial branch shall use not more than \$679,843 for an additional 4 district court judges, 4 court reporters, 3 court attendants, and 1 legal assistant. The additional district court judges shall be authorized and assigned as follows:

(1) Beginning July 1, 1999, three of the additional district court judges shall be authorized and shall be assigned, one each, to judicial election subdistricts one-B and five-C and to judicial election district 7.

(2) Beginning January 1, 2000, one of the additional district court judges shall be authorized and shall be assigned to judicial election subdistrict five-C.

j. The judicial branch shall provide a report to the general assembly by January 1, 2000, 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, 1998, and ending June 30, 1999, and the plans for expenditures from each fund during the fiscal year beginning July 1, 1999, and ending June 30, 2000.

k. The judicial branch shall conduct a study on the method of allocating district court judges and district associate judges and shall submit a report to the general assembly by January 1, 2000, with its findings and recommendations. In conducting its study, the judicial branch shall examine the current method of allocating district court judges and district associate judges as provided in Code sections 602.6201 and 602.6301, and shall make findings and recommendations as to whether or not the methods provided in those sections represent the best mechanism for allocating judges amongst judicial districts and counties.

2. For the juvenile victim restitution program:

..... \$ 210,291

Sec. 13. ENHANCED COURT COLLECTIONS FUND. Notwithstanding section 602.1304, subsection 2, for the fiscal year beginning July 1, 1999, and ending June 30, 2000, the maximum deposit amount for the enhanced court collections fund shall be \$5,000,000. For succeeding fiscal years, the maximum deposit amount shall be determined in accordance with section 602.1304, subsection 2, and the maximum deposit amount shall not be increased due to the increase made in this section.

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, 1999, and ending June 30, 2000, 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:

..... \$ 4,202,697

Sec. 15. INDIGENT DEFENSE COSTS. The supreme court shall submit a written report for the preceding fiscal year no later than January 1, 2000, 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 branch 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. IOWA CORRECTIONS OFFENDER NETWORK DATA SYSTEM. The department of corrections shall submit a report to the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system and the legislative fiscal bureau, on or before January 15, 2000, concerning the development and implementation of the Iowa corrections offender network (ICON) data system. The report shall include a description of the system and functions, a plan for implementation of the system, including a timeline, resource and staffing requirements for the system, and a current status and progress report concerning the implementation of the system. In addition, the report shall specifically address the ability of the system to receive and transmit data between prisons, community-based corrections district departments, the judicial branch, board of parole, the criminal and juvenile justice planning division of the department of human rights, the department of public safety, and other applicable governmental agencies. The report should include a detailed discussion of the cooperation with other state agencies and the judicial branch in the development and implementation of the system.

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,

1999, and ending June 30, 2000, 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:	\$	1,329,629
.....	FTEs	30.55

It is the intent of the general assembly that the Iowa law enforcement academy may provide training of state and local law enforcement personnel concerning the recognition of and response to persons with Alzheimer's disease.

2. The Iowa law enforcement academy may select at least five automobiles of the department of public safety, division of the Iowa state patrol, prior to turning over the automobiles to the state fleet administrator 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 the Iowa state patrol.

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, 1999, and ending June 30, 2000, 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:

.....	\$	1,018,547
.....	FTEs	18.00

A portion of the funds appropriated in this section shall be used to continue 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, 1999, and ending June 30, 2000, 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:

.....	\$	4,696,387
.....	FTEs	224.76

If there is a surplus in the general fund of the state for the fiscal year ending June 30, 2000, 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:

.....	\$	898,541
.....	FTEs	25.25

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, 1999,

and ending June 30, 2000, 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:

.....	\$	2,474,051
.....	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:

.....	\$	11,759,610
.....	FTEs	227.50

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 July 1, 1999, and one special agent for each racing facility which becomes operational during the fiscal year which begins July 1, 1999. 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:

.....	\$	2,845,587
.....	FTEs	48.00

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:

.....	\$	1,629,621
.....	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:

.....	\$	1,307,615
.....	FTEs	27.00

6. For the division of the Iowa state patrol of the department of public safety, 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:

.....	\$	37,090,282
.....	FTEs	574.25

7. For costs associated with the maintenance of the automated fingerprint information system (AFIS):

..... \$ 269,425

8. An employee of the department of public safety who retires after July 1, 1999, but prior to June 30, 2000, 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 subsection shall not operate to reduce any retirement benefits an employee may have earned under other collective bargaining agreements or retirement programs.

9. For costs associated with the training and equipment needs of volunteer fire fighters and for not more than the following full-time equivalent positions:

..... \$ 709,405
..... FTEs 1.00

Notwithstanding section 8.33, moneys appropriated in this subsection that remain unobligated or unexpended at the close of the fiscal year shall not revert but shall remain available for expenditure only for the purpose designated in this subsection until the close of the succeeding fiscal year.

10. For the state medical examiner and for not more than the following full-time equivalent positions:

..... \$ 357,036
..... FTEs 4.00

Any fees collected by the department of public safety, or the department of public health, if applicable, for autopsies performed by the office of the state medical examiner shall be deposited in the general fund of the state.

If 1999 Iowa Acts, Senate File 376, or other legislation transferring the medical examiner office and associated appropriations, is enacted,* the moneys appropriated in this subsection shall instead be appropriated as provided in that Act.

11. The department of public safety shall conduct a study, and submit a report of its findings and recommendations, to the general assembly by January 10, 2000, concerning the feasibility of providing members of the Iowa state patrol with cellular, or other similar wireless, telephones and accompanying service. In conducting its study, the department shall examine and include findings on the cost of providing the telephones and service to members of the state patrol and on what type of telephone and service would be the most effective in assisting members of the state patrol. The department shall consult with members of the Iowa state patrol in conducting its study.

Sec. 21. Section 423.24, subsection 2, Code 1999, is amended to read as follows:

2. Notwithstanding any other provision of this section that provides that all revenue derived from the use tax on motor vehicles, trailers, and motor vehicle accessories and equipment as collected pursuant to section 423.7 shall be deposited and credited to the road use tax fund, twenty percent of the revenues shall be credited and deposited as follows: one-half to the road use tax fund and one-half to the primary road fund to be used for the commercial and industrial highway network, ~~except to the extent that the department directs that moneys are deposited in the highway safety patrol fund created in section 80.41 to fund the appropriations made from the highway safety patrol fund in accordance with the provisions of section 80.41. The department shall determine the amount of moneys to be credited under this subsection to the highway safety patrol fund and shall deposit that amount into the highway safety patrol fund.~~

Sec. 22. Section 602.6201, subsection 10, Code 1999, 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 ~~twelve~~ sixteen during the period commencing July 1, ~~1997~~ 1999.

* Senate File 376 not enacted

*Sec. 23. Section 904.508A, Code 1999, is amended to read as follows:
904.508A INMATE TELEPHONE REBATE FUND.

The department is authorized to establish and maintain an inmate telephone rebate fund in each institution for the deposit of moneys received for inmate telephone rebates. All funds deposited in this fund shall be used for the benefit of inmates. The director shall adopt rules providing for the disbursement of moneys from the fund. The rules shall provide that all disbursements of moneys from the fund shall be subject to approval, in writing, by a committee comprised of the director, a deputy director for the department as designated by the director, and the citizens' aide, or designee of the citizens' aide.*

Sec. 24. 1995 Iowa Acts, chapter 220, section 20, subsection 4, is amended by striking the subsection.

Sec. 25. 1998 Iowa Acts, chapter 1101, section 15, subsection 2, is amended to read as follows:

2. a. There is appropriated from surcharge moneys received by the E911 administrator and deposited into the wireless E911 emergency communications fund, for the fiscal year beginning July 1, 1998, and ~~ending June 30, for the fiscal year beginning July 1, 1999~~, an amount not to exceed two hundred thousand dollars to be used for the implementation, support, and maintenance of the functions of the E911 administrator. The amount appropriated in this paragraph includes any amounts necessary to reimburse the division of emergency management of the department of public defense pursuant to paragraph "b".

b. Notwithstanding the distribution formula in section 34A.7A, as enacted in this Act, and prior to any such distribution, of the initial surcharge moneys received by the E911 administrator and deposited into the wireless E911 emergency communications fund, for the fiscal year beginning July 1, 1998, and ~~ending June 30, for the fiscal year beginning July 1, 1999~~, an amount shall be transferred to the division of emergency management of the department of public defense as necessary to reimburse the division for amounts expended for the implementation, support, and maintenance of the E911 administrator, including the E911 administrator's salary.

Sec. 26. 1998 Iowa Acts, chapter 1222, section 25, subsection 3, is amended to read as follows:

3. For the installation of perimeter fencing and physical plant improvements at the Mt. Pleasant correctional facility:

..... \$ 300,000

Sec. 27. Section 80.41, Code 1999, is repealed.

Sec. 28. EFFECTIVE DATES.

1. Section 7 of this Act, providing for supplemental appropriations to the department of corrections, being deemed of immediate importance, takes effect upon enactment.

2. Section 26 of this Act, amending 1998 Iowa Acts, chapter 1222, being deemed of immediate importance, takes effect upon enactment.

Approved May 21, 1999, with exceptions noted.

THOMAS J. VILSACK, Governor

Dear Mr. Secretary:

I hereby transmit Senate File 468, an act relating to and making appropriations to the justice system and providing effective dates.

* Item veto; see message at end of the Act

I am unable to approve the items designated as Section 4, subsection 3, and Section 5, subsection 9 in their entirety. Section 4, subsection 3 requires the Department of Corrections to timely fill all correctional positions and Section 5, subsection 9 requires the Department of Corrections to exclude positions and money in the proposed budget for fiscal year 2001 that would otherwise be for operation of the department. This language fails to account for the difficult circumstances that necessitate flexibility for the department in managing its operations to maintain public safety.

I am unable to approve the item designated as Section 23, in its entirety. This item would create a new committee, and include the Citizens' Aide/Ombudsman in the disbursements of moneys from the fund created in Iowa Code 904.508A. Having a centralized committee to approve all expenditures may indeed provide for a better overall departmental use and reporting of the funds. However, this language may also create a future conflict of interest with regards to the statutory role of the Citizens' Aide/Ombudsman and a separation of power issue between the Executive and Legislative branches. Therefore, I have asked the Iowa Board of Corrections to examine the issue and implement a future policy direction that would ensure both the correct use and reporting of these funds.

For the above reasons, I hereby respectfully approve Senate File 468 with the exceptions noted above.

Sincerely,
THOMAS J. VILSACK, Governor

CHAPTER 203

APPROPRIATIONS — HUMAN SERVICES

H.F. 760

AN ACT relating to appropriations for the department of human services and including other provisions and appropriations involving human services and health care, and providing effective dates.

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

DIVISION I — APPROPRIATIONS

Section 1. **SOCIAL SERVICES BLOCK GRANT SUPPLEMENTATION.** There is appropriated from the fund created in section 8.41 to the department of human services for the fiscal year beginning July 1, 1998, and ending June 30, 1999, from moneys received under the federal temporary assistance for needy families block grant, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For supplementation of the federal social services block grant appropriation in 1998 Iowa Acts, chapter 1210, section 12, due to the federal reduction in this block grant and the corresponding decrease pursuant to 1998 Iowa Acts, chapter 1210, section 16:

..... \$ 3,239,179

The moneys appropriated in this section are allocated for the indicated programs and functions within the department as follows:

1. General administration:
..... \$ 205,971

2. Field operations:	\$	1,231,939
3. Child and family services:	\$	184,262
4. Local administrative costs and other local services:	\$	130,650
5. Volunteers:	\$	14,279
6. Community-based services:	\$	16,421
7. MH/MR/DD/BI community services (local purchase):	\$	1,455,657

Sec. 2. EARLY CHILDHOOD FISCAL YEAR 1999-2000. The appropriation made in 1998 Iowa Acts, chapter 1218, section 2, from the fund created in section 8.41 to the department of human services for the fiscal year beginning July 1, 1999, and ending June 30, 2000, from moneys received under the federal temporary assistance for needy families block grant shall be used for funding of community-based programs targeted to children from birth through five years of age, developed by community empowerment areas as provided in this section.

1. The department may transfer federal temporary assistance for needy families block grant funding allocated in this section to the child care and development block grant in accordance with federal law as necessary to comply with the provisions of this section. The funding shall then be provided to community empowerment areas for the fiscal year beginning July 1, 1999, in accordance with all of the following:

a. The area must be approved as a community empowerment area by the Iowa empowerment board.

b. The maximum funding amount a community empowerment area is eligible to receive shall be determined by applying the area's percentage of the state's average monthly family investment program population in the preceding fiscal year to the total amount appropriated in this section for fiscal year 1999-2000. If the community empowerment board's request for funding is received by the Iowa empowerment board on or after August 1, 1999, the maximum funding amount shall be prorated for the fiscal year and rounded up to the nearest full month.

c. A community empowerment area receiving funding shall comply with any federal reporting requirements associated with the use of that funding and other results and reporting requirements established by the Iowa empowerment board. The department shall provide technical assistance in identifying and meeting the federal requirements.

d. The availability of funding provided under this section is subject to changes in federal requirements and amendments to Iowa law.

2. The moneys distributed in accordance with this section shall be used by communities for the purposes of enhancing quality child day care capacity in support of parent capability to obtain or retain employment. The moneys shall be used with a primary emphasis on low-income families and children from birth to five years of age. Moneys shall be provided in a flexible manner to communities, and shall be used to implement strategies identified by the communities to achieve such purposes. The strategies may include but are not limited to developing capacity for regular child day care, sick child care, night shifts child care, and emergency child care; enhancing linkages between the head start and early head start programs, early childhood development programs, and child day care assistance programs; and implementing other strategies to enhance access to child day care. The moneys may be used to either build capacity or for support of ongoing efforts. In addition to the full-time equivalent positions funded in this Act, 1.00 full-time equivalent position is authorized and the department may use funding appropriated in this section for provision of technical

assistance and other support to communities developing and implementing strategies with moneys distributed in accordance with this section.

3. Moneys which are subject to this section which are not distributed to a community empowerment area or otherwise remain unobligated or unexpended at the end of the fiscal year shall revert to the fund created in section 8.41 to be available for appropriation by the general assembly in a subsequent fiscal year.

Sec. 3. 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, 1999, and ending June 30, 2000, 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 family investment program assistance under chapter 239B:

..... \$ 34,330,000

1. The department of workforce development, in consultation with the department of human services, shall continue to utilize 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 utilized and the results of the utilization to the general assembly by January 1, 2000.

2. It is the intent of the general assembly that the department of human services shall continue to 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.

3. Of the funds appropriated in this section, \$9,564,352 is allocated for the JOBS program.

4. The department shall continue to 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 chapter 239B, may receive assistance while living in an alternative setting other than with their parent or legal guardian.

*5. *The department, in consultation with the welfare reform advisory group established by the department, shall submit a report to the general assembly by January 1, 2000, recommending categories of families to be eligible for the hardship exemption from the lifetime limit of receipt of assistance, as authorized by 42 U.S.C. § 608(a)(7).**

Sec. 4. 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, 1999, and ending June 30, 2000, 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 federally appropriated for the federal fiscal years beginning October 1, 1997, and ending September 30, 1998, beginning October 1, 1998, and ending September 30, 1999, and beginning October 1, 1999, and ending September 30, 2000, the following amounts, or so much thereof as is necessary, 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, 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, 2000, 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:

* Item veto; see message at end of the Act

1. To be credited to the family investment program account and used for assistance under the family investment program under chapter 239B:	\$ 51,830,229
2. To be credited to the family investment program account and used for the job opportunities and basic skills (JOBS) program, and implementing family investment agreements, in accordance with chapter 239B:	\$ 19,980,113
3. For field operations:	\$ 12,232,764
4. For general administration:	\$ 3,121,071
5. For local administrative costs:	\$ 2,079,733
6. For state child care assistance:	\$ 16,782,891
7. For emergency assistance:	\$ 2,694,544
8. For mental health and developmental disabilities community services:	\$ 3,867,402
9. For child and family services:	\$ 23,491,419
10. For pregnancy prevention grants on the condition that family planning services are funded:	\$ 1,958,979
11. For technology needs and other resources necessary to meet federal welfare reform reporting, tracking, and case management requirements:	\$ 1,000,000
12. For supervised community treatment under child and family services:	\$ 300,000
13. For volunteers:	\$ 37,935
14. For individual development accounts under chapter 541A:	\$ 200,000

Of the amounts appropriated in this section, \$10,201,116 for the fiscal year beginning July 1, 1999, shall be transferred to the appropriation of the federal social services block grant for that fiscal year.

It is the intent of the general assembly that eligible funding available under the federal temporary assistance for needy families block grant that is not appropriated or not otherwise expended is considered reserved for economic downturns and welfare reform purposes and is subject to further state appropriation to support families in their movement toward self-sufficiency.

The department shall report quarterly, any changes in allocations of temporary assistance for needy families moneys, to the legislative fiscal bureau and to the chairpersons and ranking members of the joint appropriations subcommittee on human services.

Sec. 5. FAMILY INVESTMENT PROGRAM ACCOUNT.

1. Moneys credited to the family investment program (FIP) account for the fiscal year beginning July 1, 1999, and ending June 30, 2000, shall be used in accordance with the following requirements:

- a. The department shall provide assistance in accordance with chapter 239B.
- b. The department shall continue the special needs program under the family investment program.
- c. The department shall continue to comply with federal welfare reform data requirements pursuant to the appropriations made for that purpose.

* Item veto; see message at end of the Act

d. The department shall continue expansion of the electronic benefit transfer program as necessary to comply with federal requirements. Notwithstanding 1998 Iowa Acts, chapter 1218, section 5, subsection 1, paragraph "d", the target date for statewide implementation of the program is October 1, 2002.

e. The department shall continue to 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.

g. For family investment agreements entered into on or after July 1, 1996, the maximum allowable time period for supported postsecondary education is limited to a total of twenty-four months. The twenty-four-month allowance shall only be available for a period of thirty-six consecutive months.

2. The department may use a portion of the moneys credited to the family investment account under this section, as necessary for salaries, support, maintenance, and miscellaneous purposes for not more than the following full-time equivalent positions:

.....	FTEs	11.00
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3. 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, 1999, 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.

4. Moneys appropriated in this Act and credited to the family investment program account for the fiscal year beginning July 1, 1999, and ending June 30, 2000, are allocated as follows:

a. For the food stamp employment and training program:

.....	\$	250,000
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b. For the family development and self-sufficiency grant program as provided under section 217.12:

.....	\$	5,697,829
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(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.

(4) The department shall continue to implement the family development and self-sufficiency grant program statewide during FY 1999-2000.

c. For income maintenance reengineering:

.....	\$	700,000
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d. For the diversion program and incentive grants as follows:

(1) For the diversion subaccount of the family investment program account:

.....	\$	3,200,000
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Moneys allocated to the diversion subaccount shall be used to continue the pilot initiative of providing incentives to assist families who meet income eligibility requirements for the

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family investment program in obtaining or retaining employment, to assist participant families in overcoming barriers to obtaining employment, and to assist families in stabilizing employment and in reducing the likelihood of the family returning to the family investment program. 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 attempt to assess and screen individuals who would most likely benefit from the services. The department shall expand the diversion initiative in the fiscal year 1999-2000. In addition to the full-time equivalent positions authorized in this Act, 1.00 FTE is authorized and the department may use up to \$50,000 to facilitate community investment in welfare reform and to support expansion of the diversion program. The department may grant diversion moneys to the level of the entity operating an initiative. The department may adopt additional eligibility criteria as necessary for compliance with federal law and for screening those families who would be most likely to become eligible for the family investment program if diversion incentives would not be provided.

(2) For continuation of innovative strategies on a statewide or pilot project basis for supporting job retention, family structure, or both, including services to noncustodial parents and young parents:

..... \$ 500,000

(3) Of the moneys allocated in subparagraph (2), not more than \$100,000 shall be used to develop or continue community-level parental obligation pilot projects. A pilot project shall be operated with the goal of assisting parents who are living apart in meeting their parental obligations and in supporting their children. Any pilot project shall maximize the use of existing community resources for family counseling, legal services, mediation, job training and job skills development, substance abuse treatment and prevention, health maintenance, and personal mentoring. Local communities shall also be encouraged to provide financial resources.

(a) Notwithstanding any other provision of law to the contrary, the department shall develop procedures for the pilot projects to expedite all of the following:

- (i) The establishment and adjustment of support obligations, with the consent of both parents, in a manner which may deviate from the child support guidelines.
- (ii) Changes in income withholding orders based on individual case circumstances.
- (iii) Satisfaction of a portion of support amounts owed to the state based on cooperation and compliance by the noncustodial parent with project requirements.
- (iv) Adjustment of visitation and shared custody arrangements in a manner which enhances the ability of each parent to meet parental obligations.

(b) The department shall adopt rules for the development, operation, and monitoring of a project; to establish the minimum required amount of community support; to establish expedited procedures; and to establish other criteria and procedures as appropriate.

(c) The department shall use the funds authorized in this subparagraph to employ one full-time equivalent position to manage the pilot project or projects. The department shall also use the authorized funds to employ other full-time equivalent positions or to provide services, as necessary, to assist in the coordination, development, and operation of community-level pilot projects and to achieve the expedited procedures established. Any full-time equivalent positions authorized in this subparagraph subdivision are in addition to any other full-time equivalent positions authorized by law.

(d) The department shall submit a report regarding any community level parental obligation pilot projects developed or continued under this subparagraph. The report shall be submitted on or before December 15, 1999, to the persons designated by this Act for report submission.

(4) Of the moneys allocated in subparagraph (2), not more than \$200,000 shall be used to continue to study the impact that moving unemployed family investment program parents into employment has on the well-being of the children, the parent, and the family. The

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department shall include in this well-being study a method of actual contact with the families and children, and shall consider broad-based impacts, such as educational achievement, health status, housing stability, family stability, and use of supportive social services. The department shall also seek funding through foundations and the federal government in order to supplement the funding for this study. The results of the study shall be submitted to the persons required by this Act to receive reports.

(5) Of the moneys allocated in subparagraph (2), not more than \$100,000 shall be used for providing additional incentive payments to contracted agencies who demonstrate success at completing well-being visits for families terminated from the family investment program under a limited benefit plan. The department shall use these funds to increase payments to agencies who complete a higher percentage of well-being visits, who achieve a significant percentage of visits in a face-to-face format, or who are able to observe and interact with the children during a significant percentage of visits.

**e. From moneys appropriated in this Act from the federal temporary assistance for needy families block grant and credited to the family investment program account, for a pilot project for diversion from the family investment program of persons adjudicated to receive child welfare services who become 18 years of age and may be at risk of becoming dependent upon government benefits, in accordance with this paragraph:*

..... \$ 100,000

*The pilot project shall be a cooperative effort involving a local office of the department and a local service provider that is the recipient of a grant and that provides local, private matching funds for the project. Under the pilot project, the local service provider shall provide housing and services to persons participating in the project, and the local sources of matching funds shall cover some of these expenses as well as providing employment opportunities and other assistance. The department shall provide funding for staff expenses. The persons participating in the project shall provide payment for housing and other services, based upon ability to pay. A goal of the pilot project is for participants to transition out of the pilot project within a year.**

5. Of the child support collections assigned under the family investment program, an amount equal to the federal share of support collections shall be credited to the child support recovery appropriation. The remainder of the assigned child support collections received by the child support recovery unit shall be credited to the family investment program account.

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 and the chairpersons and ranking members of the joint appropriations subcommittee on human services.

7. The department may continue to streamline and simplify the employer verification process for applicants, participants, and employers in the administration of the department's programs. The department may contract with companies collecting data from employers when the information is needed in the administration of these programs. The department may limit the availability of the initiative on the basis of geographic area or number of individuals.

8. Notwithstanding 1998 Iowa Acts, chapter 1218, section 5, subsection 7, moneys appropriated to the department of human services in 1995 Iowa Acts, chapter 220, section 11, for purposes of costs associated with the development of the X-PERT computer system shall not revert at the close of the fiscal year beginning July 1, 1998, but shall remain available until the close of the fiscal year beginning July 1, 1999, to be used as provided in this subsection. Notwithstanding section 8.57, subsection 5, paragraph "c", of these moneys, \$350,000 shall be used for the purpose of reviewing and decreasing the error rate of the food stamp program in order to meet federal requirements for food stamp payment accuracy, \$7,445 shall be used for welfare reform system improvements, \$212,846 shall be used for a technology initiative to provide a buy-in option under the medical assistance program for persons with disabilities

* Item veto; see message at end of the Act

if Senate File 211 is enacted by the Seventy-eighth General Assembly, 1999 Session,* and \$129,709 shall be used for county billing system improvements. The department shall submit a report of the food stamp program error rate review and findings of the review to the general assembly on or before December 15, 1999.

Sec. 6. 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, 1999, and ending June 30, 2000, 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:

..... \$ 10,000

1. The emergency assistance provided for in this section and federal moneys appropriated for this purpose in this Act 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, 1999, the department shall continue the process for the state to receive refunds of utility and rent deposits, including any accrued interest, for emergency assistance recipients which were paid by persons other than the state. The department shall also receive refunds, including any accrued interest, of assistance paid with funding available under this program. 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 or federal 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. Notwithstanding 1998 Iowa Acts, chapter 1218, section 6, subsection 2, the requirements of this subsection shall apply retroactively to all such refunds received by the department in the state fiscal year beginning July 1, 1998.

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, 1999. The community voice mail program shall submit semiannual reports to the department which, at a minimum, specify, on a county basis, the unduplicated number of households participating in the program for the previous six-month period. The first six-month period for which a report shall be submitted begins July 1, 1999, and the report shall be submitted no later than the last business day of the month immediately following the end of the six-month period.

Sec. 7. 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, 1999, and ending June 30, 2000, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

* See chapter 94 herein

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:

..... \$ 415,455,590

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 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.

5. Of the funds appropriated to the Iowa department of public health for substance abuse grants, \$950,000 for the fiscal year beginning July 1, 1999, shall be transferred to the department of human services for an integrated substance abuse managed care system.

6. The department shall aggressively implement 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 be limited in application to persons with physical disabilities who reside in a medical institution at the time of applying for assistance. The range for the number of persons to be served under this waiver at any one time is at least 35 and not more than 100 persons. Of the number of persons served, a maximum of 10 persons with physical disabilities who are at imminent risk of placement in a medical institution shall be approved for waiver services.

7. 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.

8. 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.

9. The department shall continue a medical assistance home and community-based services waiver to allow children with mental retardation, who would otherwise require ICF/MR care, to be served in out-of-home settings of up to eight beds which meet standards established by the department. If the waiver is not approved, up to \$1,487,314 of the funds appropriated in this section may be transferred to the appropriation in this Act for child and family services, to be used for group foster care maintenance and services.

10. Notwithstanding section 8.33, moneys appropriated in 1998 Iowa Acts, chapter 1218, section 29, for the purpose of developing a county billing system, that remain unencumbered or unobligated at the close of the fiscal year beginning July 1, 1998, shall not revert, but shall remain available for the purpose designated until the close of the succeeding fiscal year.

11. If funding is available through nonstate and nonfederal sources to provide matching funds for federal funds, the department may add not more than five full-time equivalent positions, in addition to those authorized in this Act, for out-stationing of eligibility determination staff. If such funding is provided by a provider of medical assistance services, the full-time equivalent position shall be out-stationed at that provider's location.

12. The department shall convene representatives of interest groups to identify ways to improve home and community-based waiver services offered through the medical assistance program and to assess the feasibility of implementing such identified improvements. The assessment shall include an estimate of the costs associated with any recommendations for improvement and a time frame for implementation of the recommendations. Interest group representatives shall include but are not limited to representatives of consumers of services, family members of consumers, advocacy groups for persons with disabilities eligible for such services, counties, and providers of services. The department shall submit a report of the findings and recommendations of the group to the general assembly on or before December 15, 1999.

13. The nonfederal share of moneys refunded to the department from the managed mental health and substance abuse care plan shall be credited to this medical assistance

* Item veto; see message at end of the Act

appropriation. Up to \$350,000 of the refunded moneys may be transferred to be used as matching funds for a children’s mental health grant managed by the division of mental health and developmental disabilities.

14. The department shall work with county representatives in aggressively taking the steps necessary to implement the rehabilitation option for services to persons with chronic mental illness under the medical assistance program through use of county funding as a match for the federal funding.

15. Of the funds appropriated in this section, the department may use up to \$207,000 to implement a disease-specific pharmaceutical case management study, beginning January 1, 2000, to measure the effects of case management for medical assistance recipients identified by the department as being at high risk for medication-related problems. The funds shall be used to equally reimburse physician-pharmacist teams for participation in the study. An advisory committee whose membership consists of representatives of the Iowa medical society, the Iowa pharmacy association, and the department of human services shall establish and implement the pharmaceutical case management study. The university of Iowa colleges of medicine and pharmacy shall perform an evaluation of the study at no cost to the state and shall submit a final report of the findings of the evaluation and any recommendations to the general assembly by December 15, 2002. The department shall submit a progress report relating to the program by December 15, 2001, and a final report by December 15, 2002, to the general assembly. The department may adopt emergency rules to implement the provisions of this subsection.

16. Notwithstanding any provision to the contrary and if allowed under federal law and regulation, for the fiscal year beginning July 1, 1999, \$65,000 of the penalties collected as authorized by section 249A.19 shall not be deposited in the general fund of the state but are appropriated and shall be used by the department to continue to fund the recruitment and retention strategies to provide additional training and support for certified nurse aides, employed by nursing facilities, as a means of reducing staff turnover.

17. The department shall evaluate the feasibility and fiscal impact of implementing twelve-month continuous eligibility for children eligible for medical assistance pursuant to chapter 249A. If in accordance with federal law, the department may implement the twelve-month continuous eligibility policy on a less than a statewide basis. **The department shall submit a report of its evaluation of the fiscal impact of the proposed policy and recommendations to the general assembly by October 1, 1999.**

18. The department shall develop a process for enrollment that eliminates the face-to-face interview for children eligible for medical assistance only. The department may adopt emergency rules to implement this subsection.

19. The department may adopt emergency rules to implement section 249A.3, subsection 5A, as enacted by this Act.

Sec. 8. 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, 1999, and ending June 30, 2000, 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, and for not more than the following full-time equivalent positions:	\$	397,000
.....	FTEs	17.00

Sec. 9. CHILDREN’S HEALTH INSURANCE PROGRAM. There is appropriated from the general fund of the state to the department of human 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:

* Item veto; see message at end of the Act

For maintenance of the healthy and well kids in Iowa program pursuant to chapter 514I for receipt of federal financial participation under Title XXI of the federal Social Security Act, which creates the state children's health insurance program:

..... \$ 10,250,000

1. The department may transfer funds appropriated in this Act for medical assistance to be used for the purpose of expanding health care coverage to children under the medical assistance program. The department shall provide periodic updates to the general assembly of expenditures of funds appropriated in this section.

2. Notwithstanding section 8.33, moneys appropriated in this section and in 1998 Iowa Acts, chapter 1218, section 9, that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall be credited to the HAWK-I trust fund and are appropriated and shall be used for the children's health insurance program.

*3. *The HAWK-I board shall conduct a study of the costs of providing family coverage under the state children's health insurance program and shall submit a report of the findings of the study and any recommendations by December 15, 1999, to the persons designated under this Act to receive reports.**

Sec. 10. 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, 1999, and ending June 30, 2000, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For medical contracts:

..... \$ 7,659,250

1. The department shall expand the drug prior authorization requirement to reduce costs to the medical assistance program for prescription drugs. The department shall adopt emergency rules to implement this subsection.

2. The department shall ensure that the drug utilization review commission conducts its meetings in accordance with chapter 21 and that the commission incorporates term limits for physician and pharmacist members in its membership policy.

3. In any managed care contract for mental health or substance abuse services entered into by the department on or after July 1, 1999, the request for proposals shall provide for coverage of dual diagnosis mental health and substance abuse treatment. To the extent possible, the department shall also amend any such contract existing on July 1, 1999, to provide for such coverage.

4. Notwithstanding section 8.33, \$10,750 of the moneys appropriated to the department of human services in 1998 Iowa Acts, chapter 1218, section 10, that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated in this section until the close of the succeeding fiscal year.

Sec. 11. 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, 1999, and ending June 30, 2000, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For state supplementary assistance, funeral assistance, and the medical assistance home and community-based services waiver rent subsidy program:

..... \$ 20,500,000

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, 1999, the department projects that state supplementary assistance expenditures for a calendar year will not meet the federal

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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, 1999, 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 a medical assistance home and community-based services (HCBS) waiver.

b. Were discharged from a medical institution in which they have resided or were at risk of institutional placement, not to exceed 100 slots. Within available funding and demonstrated need, the department may make subsidy funds available to HCBS waiver-eligible adults meeting criteria in paragraph "a" and this paragraph at any time on or after July 1, 1995.

The goal of the subsidy program shall be to encourage and assist in enabling persons who currently reside in a medical institution 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. 12. 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, 1999, and ending June 30, 2000, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For child care programs:

..... \$ 5,050,750

1. Of the funds appropriated in this section, \$4,407,073 shall be used for state child care assistance.

2. 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. Based upon the availability of the funding provided in section 4, subsection 2, and other funding appropriated for state child care assistance, 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 28 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 140 percent of the federal poverty level whose members are employed at least 28 hours per week.

d. Families with an income at or below 175 percent of the federal poverty level whose members are employed at least 28 hours per week with a special needs child as a member of the family.

3. Nothing in this section shall be construed or is intended as, or shall imply, a grant of entitlement for services to persons who are eligible for assistance due to an income level consistent with the requirements of this section. Any state obligation to provide services pursuant to this section is limited to the extent of the funds appropriated in this section.

4. Of the funds appropriated in this section, \$636,641 is allocated for the statewide program for child day care resource and referral services under section 237A.26.

5. The department may use any of the funds appropriated in this section as 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.

6. During the 1999-2000 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.

Sec. 13. 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, 1999, and ending June 30, 2000, 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:

.....	\$	6,750,000
.....	FTEs	243.22

1. The director of human services, within the limitations of the moneys appropriated in this section, or moneys transferred from the family investment program account 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 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

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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 branch, the child support recovery unit shall continue to work with the judicial branch 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 branch 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, 1999, 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. 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.

Sec. 14. 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, 1999, and ending June 30, 2000, 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:	\$	15,748,000
.....	FTEs	356.45

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:

.....	\$	6,220,000
.....	FTEs	136.54

It is the intent of the general assembly that beginning in the fiscal year commencing on July 1, 2000, the Iowa juvenile home at Toledo will serve only females. In preparation for this change, the department shall develop service options to appropriately place males for whom placement at the Iowa juvenile home would otherwise be appropriate. The principal option considered in placing males shall be placement at existing state facilities. Of the funding appropriated in this section, not more than \$50,000 shall be used for expert assistance to prepare for this change and to improve the educational curriculum and other services to females placed at the Iowa juvenile home.

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:

.....	\$	9,528,000
.....	FTEs	219.91

Of the funding allocated in this subsection, \$40,000 is designated for aftercare services for persons who were placed at the state training school at Eldora.

3. During the fiscal year beginning July 1, 1999, the population levels at the state juvenile institutions shall not exceed the population guidelines established under 1990 Iowa Acts, chapter 1239, section 21, as adjusted for additional beds developed at the institutions.

4. A portion of the moneys appropriated in this section shall be used by the state training school and by the Iowa juvenile home for grants for adolescent pregnancy prevention activities at the institutions in the fiscal year beginning July 1, 1999.

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.

6. Notwithstanding section 8.33, \$378,114 of the moneys appropriated to the department of human services in 1998 Iowa Acts, chapter 1218, section 14, for a new cottage at the state training school at Eldora shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

Sec. 15. 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, 1999, and ending June 30, 2000, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For child and family services:

..... \$ 107,450,000

1. The department may transfer funds 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. **Transfers made under this subsection remain subject to the notice provision of section 8.39, subsections 3 and 4.**

2. a. Of the funds appropriated in this section, up to \$28,510,211 is allocated as the state-wide expenditure target under section 232.143 for group foster care maintenance and services.

b. (1) If at any time after September 30, 1999, annualization of a region's current expenditures indicates a region is at risk of exceeding its group foster care expenditure target under section 232.143 by more than five percent, the department and juvenile court services shall examine all group foster care placements in that region in order to identify those which might be appropriate for termination. In addition, any aftercare services believed to be needed for the children whose placements may be terminated shall be identified. The department and juvenile court services shall initiate action to set dispositional review hearings for the placements identified. In such a dispositional review hearing, the juvenile court shall determine whether needed aftercare services are available and whether termination of the placement is in the best interest of the child and the community.

(2) The department shall provide quarterly reports to the judicial branch, juvenile court services, the legislative fiscal bureau, and decategorization boards on the number of children placed in group foster care and the amount of expenditure for group foster care by county.

c. (1) Of the funds appropriated in this section, not more than \$6,492,887 is allocated as the state match funding for psychiatric medical institutions for children.

(2) The department may transfer all or a portion of the amount allocated in this lettered 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.

d. Of the funds allocated in this subsection, \$1,360,045 is allocated as the state match funding for 50 highly structured juvenile program beds. If the number of beds provided for in this lettered paragraph is not utilized, the remaining funds allocated may be used for group foster care.

e. For the fiscal year beginning July 1, 1999, the requirements of section 232.143 applicable to the juvenile court and to representatives of the juvenile court shall be applicable instead to juvenile court services and to representatives of juvenile court services. The

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representatives appointed by the department of human services and by juvenile court services 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. Funds for a child placed in group foster care shall be considered encumbered for the duration of the child's projected or actual length of stay, whichever is applicable.

f. The funding allocation in this subsection provides additional funding, compared to the prior fiscal year, in an amount equal to the cost of 41 group foster care beds. It is the intent of the general assembly that the additional funding allow for the availability of at least 20 additional beds to be available for placement of females.

3. The department shall continue the 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. A portion of the funding 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.

6. Notwithstanding section 234.35, subsection 1, for the fiscal year beginning July 1, 1999, state funding for shelter care paid pursuant to section 234.35, subsection 1, paragraph "h", shall be limited to \$7,160,257.

7. Of the funding appropriated in this section, not more than \$517,546 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.

8. Of the funding appropriated in this section, up to \$689,791 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.

9. Of the funds appropriated in this section, not more than \$830,784 shall be expended to implement a subsidized guardianship program to provide financial assistance to guardians of children who have a permanency order under section 232.104, subsection 2, paragraph "d", subparagraph (1), and for whom all of the following apply:

- a. The option of reunification has been eliminated and termination of parental rights is not appropriate.
- b. The child has lived in foster care for at least 12 months.
- c. The child is either 14 years of age or older, or if the child is under 14 years of age, is part of a sibling group which precludes availability for adoption.
- d. The placement does not require departmental supervision.

The financial assistance provided under this subsection shall be in an amount equal to that provided for family foster care. For the purposes of medical assistance and child support recovery, the payments are considered foster care payments.

10. 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.

11. 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.

12. Federal funds received by the state during the fiscal year beginning July 1, 1999, 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, 2001, notwithstanding section 8.33.

13. In addition to the report for group foster care placements, the department shall continue to 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.

14. The department and juvenile court services shall continue to 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, 2000.**

15. Of the moneys appropriated in this section, not more than \$565,859 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.

16. Of the funding appropriated in this section, \$3,696,286 shall be used for protective child day care assistance.

17. Of the moneys appropriated in this section, up to \$3,290,000 is allocated for the 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.

a. Notwithstanding section 232.141 or any other provision of law, the amount allocated in this subsection shall be distributed to the judicial districts as determined by the state court administrator. The state court administrator shall make the determination of the distribution amounts on or before June 15, 1999.

b. (1) 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.

(2) 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.

c. The department of human services shall develop policies and procedures to ensure that the funds allocated in this subsection 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:

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(1) 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.

(2) Recover payments from any third-party insurance carrier which is liable for coverage of the services, including health insurance coverage.

(3) Pursue development of agreements with regularly utilized out-of-state service providers which are intended to reduce per diem costs paid to those providers.

d. The department of human services, in consultation with the state court administrator and the judicial district planning groups, shall compile a report detailing the expenditure categories for the spending in the judicial districts for court-ordered services for juveniles in fiscal year 1998-1999. The report shall include utilization of medical assistance funding. The report shall be submitted on or before October 15, 1999, to the persons designated by this Act to receive reports.

e. 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 distribution amount to pay for the service. The chief juvenile court officer shall work with the judicial district planning group to encourage use of the funds allocated in this subsection 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 distribution amounts and shall cooperatively request the state court administrator to transfer funds between the districts' distribution amounts as prudent.

f. 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.

g. Of the funding allocated in this subsection, not more than \$100,000 may be used by the judicial branch for administration of the requirements under this subsection and for travel associated with court-ordered placements which are a charge upon the state pursuant to section 232.141, subsection 4.

18. The department shall evaluate the recidivism rates of the public and private treatment programs for juveniles, and shall submit an annual report of the evaluation, by December 15, 1999, to the persons designated in this Act for receipt of reports.

19. Of the funding appropriated in this section, \$3,458,000 is allocated to provide school-based supervision of children adjudicated under chapter 232, including not more than \$580,000 from the allocation in this section for court-ordered services. Not more than \$15,000 of the funding allocated in this subsection may be used for the purpose of training.

To the extent possible, the personnel providing school-based services shall be prepared with training or experience relating to gender-specific programming to best intervene with youth at risk of being found delinquent or determined to be a child in need of assistance.

20. a. As determined by the department of management, a necessary amount of the balance of moneys received by the department for the fiscal year beginning July 1, 1999, from the federal government, for the supplemental disproportionate share and supplemental indirect medical education adjustment applicable to state-owned acute care hospitals with more than 500 beds, that were transferred by such a hospital and deposited with the appropriation in this Act for medical assistance which are in excess of the state share for medical assistance, shall not be credited to the general fund of the state but instead shall be credited to the appropriation made in this section for use only as provided in this subsection.

b. The moneys credited to this appropriation shall be used if there is any reduction in the federal financial participation amount for rehabilitation treatment services from the amount projected by the department in creating its budget.

c. Upon the approval of the director of the department of management, up to an additional \$550,000 of the transferred moneys may be credited to the appropriation in this section to

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implement the recommendations of the legislative council's child welfare services work group that are approved by the director of human services. If approved by the director, the recommendations to be implemented shall include but are not limited to securing additional federal financial participation under Title IV-E of the federal Social Security Act, and developing an outcome-based data management system. The department shall seek to obtain additional federal financial participation under Titles XIX and IV-E of the federal Social Security Act for activities eligible to draw federal funding and shall coordinate with the work group in implementing this and other recommendations of the work group.

d. Of the moneys appropriated in this section, up to \$50,000 may be used to support the child welfare services work group.

21. Of the funds appropriated in this section, \$450,000 shall be used to provide day treatment and aftercare services to juvenile females based upon a total of 100 slots, with an average cost of \$41 per day, for the school year and summer school period.

22. The department shall maximize the capacity to draw federal funding under Title IV-E of the federal Social Security Act *and shall submit a quarterly report regarding such maximization to the legislative fiscal bureau, commencing with a report of the quarter beginning July 1, 1999**.

Sec. 16. 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, 1999, and ending June 30, 2000, 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. 17. 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, 1999, and ending June 30, 2000, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For community-based programs, on the condition that family planning services are funded, including salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

..... \$ 1,009,000
..... FTEs 1.00

1. Funds appropriated in this section shall be used to provide adolescent pregnancy prevention grants which comply with the requirements provided in 1997 Iowa Acts, chapter 208, section 14, subsections 1 and 2, and shall emphasize programs which target the middle school level.

2. It is the intent of the general assembly that the department of human services and the Iowa department of public health shall continue to 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 the matching of federal funds.

3. Funds appropriated in this section, shall also be used by the department to provide child abuse prevention grants.

Sec. 18. 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, 1999, and ending June 30, 2000, 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:

..... \$ 42,740,000
..... FTEs 856.39

* Item veto; see message at end of the Act

1. The funds appropriated and full-time equivalent positions authorized in this section are allocated as follows:

a. State mental health institute at Cherokee:

.....	\$	12,580,000
.....	FTEs	249.24

The amount allocated in this subsection is sufficient for the mental health institute to make budget adjustments in order to continue funding of the inmate labor program and the work services center contract, and to retain the nurse positions that were in the final hiring stage in the spring of 1999 and other permanent positions.

b. State mental health institute at Clarinda:

.....	\$	7,010,000
.....	FTEs	138.59

c. State mental health institute at Independence:

.....	\$	17,710,000
.....	FTEs	358.73

The state mental health institute at Independence shall continue the 30 psychiatric medical institution for children (PMIC) beds authorized in section 135H.6, in a manner which results in no net state expenditure amount in excess of the amount allocated in this lettered paragraph. Counties are not responsible for the costs of PMIC services described in this subparagraph. Subject to the approval of the department, with the exception of revenues required under section 249A.11 to be deposited in the appropriation in this Act for medical assistance, revenues attributable to the PMIC beds established under this subparagraph for the fiscal year beginning July 1, 1999, and ending June 30, 2000, shall be deposited in the institute's account, including but not limited to any of the following revenues:

- (1) The federal share of medical assistance revenue received under chapter 249A.
- (2) Moneys received through client participation.
- (3) Any other revenues directly attributable to the PMIC beds.

d. State mental health institute at Mount Pleasant:

.....	\$	5,440,000
.....	FTEs	109.83

(1) Funding is provided in this lettered paragraph for the mental health institute at Mount Pleasant to continue the dual diagnosis mental health and substance abuse program on a net budgeting basis in which 50 percent of the actual per diem and ancillary services costs are chargeable to the patient's county of legal settlement or as a state case, as appropriate. Subject to the approval of the department, revenues attributable to the dual diagnosis program for the fiscal year beginning July 1, 1999, and ending June 30, 2000, shall be deposited in the institute's account, including but not limited to all of the following revenues:

- (a) Moneys received by the state from billings to counties under section 230.20.
- (b) Moneys received from billings to the Medicare program.
- (c) Moneys received from a managed care contractor providing services under contract with the department or any private third party payer.
- (d) Moneys received through client participation.
- (e) Any other revenues directly attributable to the dual diagnosis program.

(2) The following additional provisions are applicable in regard to the dual diagnosis program:

- (a) A county may split the charges between the county's mental health, mental retardation, and developmental disabilities services fund and the county's budget for substance abuse expenditures.
- (b) If an individual is committed to the custody of the department of corrections at the time the individual is referred for dual diagnosis treatment, the department of corrections shall be charged for the costs of treatment.
- (c) Prior to an individual's voluntary admission for dual diagnosis treatment, the individual shall have been screened through a county's single entry point process to determine the appropriateness of the treatment.

(d) A county shall not be chargeable for the costs of treatment for an individual enrolled in and authorized by or decertified by a managed behavioral care plan under the medical assistance program.

(3) The department of human services, in cooperation with the department of corrections, shall develop a proposal to provide the option of treatment at the mental health institute at Mount Pleasant or another existing state-owned facility rather than incarceration of an individual who is convicted of use of methamphetamine. The proposal shall identify a payment source other than counties for such treatment. The departments shall submit a report which includes the proposal and any findings or recommendations to the persons designated by this Act to receive reports on or before December 15, 1999.

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.

4. Each state mental health institute shall continue the net budgeting 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. Each mental health institute shall submit a status report in October 1999 to the governor and to the persons required to be submitted reports by this Act. The status report shall identify advantages and disadvantages of utilizing the net budgeting approach and any changes in policy or statute recommended to improve implementation of the approach.

Sec. 19. 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, 1999, and ending June 30, 2000, 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:

.....	\$	4,549,284
.....	FTEs	1,554.51

1. The funds appropriated and full-time equivalent positions authorized in this section are allocated as follows:

a. State hospital-school at Glenwood:

.....	\$	2,783,504
.....	FTEs	877.75

b. State hospital-school at Woodward:

.....	\$	1,765,780
.....	FTEs	676.76

2. a. The department shall continue operating the hospital-schools at Glenwood and Woodward with a net general fund appropriation. The amounts allocated in this section are the net amounts of state moneys projected to be needed for the state hospital-schools. The purposes of operating with a net general fund appropriation are to encourage the hospital-schools to operate with increased self-sufficiency, to improve quality and efficiency, and to support collaborative efforts between the hospital-schools and counties and other funders of services available from the hospital-schools. The hospital-schools shall not be operated under the net appropriation 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-schools. Moneys allocated in subsection 1 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-schools may temporarily draw more than the amount allocated, provided the amount allocated is not exceeded at the close of the fiscal year.

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b. For purposes of calculating the hospital-schools' August 31, 2000, year-end balance at the close of the 1999-2000 fiscal year, the department shall include county receivables billed but not yet received. However, only receipts received within 120 days of being billed for fiscal year 1999-2000 services shall be included. The state hospital-schools may draw upon the general fund of the state in an amount equal to the receivables amount which is not received.

c. Subject to the approval of the department, except for revenues under section 249A.11, revenues attributable to the state hospital-schools for the fiscal year beginning July 1, 1999, shall be deposited into each hospital-school's account, including but not limited to all of the following:

- (1) Moneys received by the state from billings to counties under section 222.73.
- (2) The federal share of medical assistance revenue received under chapter 249A.
- (3) Federal Medicare program payments.
- (4) Moneys received from client financial participation.
- (5) Other revenues generated from current, new, or expanded services which the state hospital-school is authorized to provide.

d. In the 1999-2000 fiscal year, a hospital-school's report shall include a listing detailing the items for which depreciation reimbursement funds would have been utilized if the depreciation reimbursement had been retained by the institution. This listing shall be included with the report submitted pursuant to this subsection.

e. For the purposes of allocating the salary adjustment fund moneys appropriated in another Act, the state hospital-schools shall be considered to be funded entirely with state moneys.

f. Notwithstanding section 8.33, up to \$500,000 of a state hospital-school's revenues that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available to be used in the succeeding fiscal year.

g. Each state hospital-school and the department shall submit a status report in October 1999 to the governor and the joint appropriations subcommittee on human services.

3. 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.

4. The department may continue to bill for state hospital-school services utilizing a scope of services approach used for private providers of ICFMR 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.

5. The state hospital-schools may expand the time limited assessment and respite services during the fiscal year.

During the fiscal year beginning July 1, 1999, the state hospital-school at Glenwood shall unbundle pharmaceutical costs from the per diem charges for services at the hospital-school. County billings under section 222.73 shall be reduced in an amount equivalent to pharmaceutical costs separately charged to medical assistance as a result of the unbundling.

6. Notwithstanding section 8.33, up to \$500,000 of a state hospital-school's revenues generated by and moneys appropriated to a state hospital-school pursuant to 1998 Iowa Acts, chapter 1218, section 20, that remain unencumbered or unobligated at the close of the fiscal year, shall not revert to any fund but shall remain available for expenditure by the state hospital-school in the succeeding fiscal year.

Sec. 20. 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, 1999, and ending June 30, 2000, 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 continue the financing for existing community-based facilities and the financing for the development of affordable

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community-based housing facilities. The department shall assure that clients are referred to the housing as it is developed.

2. The funds appropriated in this section are to provide funds for construction and start-up costs to develop community living arrangements to provide for persons with mental illness who are homeless. These funds may be used to match federal Stewart B. McKinney Homeless Assistance Act grant funds.

Sec. 21. 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, 1999, and ending June 30, 2000, 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:

..... \$ 1,787,000

The department may use up to \$267,000 of the moneys appropriated in this section to continue the children-at-home program in current counties and to expand to two new counties, of which not more than \$20,000 shall be used for administrative costs.

Sec. 22. 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, 1999, and ending June 30, 2000, 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.**

The department shall issue a request for proposals for developmental disabilities basic support and advocacy grants.

Sec. 23. 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, 1999, and ending June 30, 2000, 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:

..... \$ 10,090,000

1. 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.

2. Of the moneys appropriated in this section, up to \$174,000 is allocated for the costs of the reimbursement increase provided in the reimbursement section of this Act for sheltered work, work activity, supported employment, supported work training, supported community living services, and adult residential services paid by the state or county under a state or county purchase of social services contract.

Sec. 24. REIMBURSEMENT — SOCIAL SERVICES. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning

* Item veto; see message at end of the Act

July 1, 1999, and ending June 30, 2000, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For the costs of a reimbursement increase in accordance with this section for sheltered work, work activity, supported employment, job placement, enclave, adult day care, transportation, community supervised apartment living arrangements, and adult residential services paid by a county under a state purchase of service (POS) or county contract:

..... \$ 2,000,000

1. A fiscal year 1997-1998 spending amount for the POS or county contract services designated above shall be determined for each county by identifying the amount expended for the services for fiscal year 1997-1998 in the county's expenditure report submitted by December 1, 1998, pursuant to section 331.439, subsection 1, paragraph "a". The individual county spending amounts shall be combined by the department to identify a statewide spending amount. The moneys appropriated in this section shall be distributed to counties based on a county's proportion of the statewide spending amount.

2. A county shall utilize the distributed moneys to increase reimbursement of those POS or county contract providers whose reimbursement is below the provider's cost or who utilize the reimbursement increase to enhance service staff compensation. A county shall include a progress report describing the county's usage of the distributed moneys as an addendum to the county's expenditure report submitted by December 1, 1999, pursuant to section 331.439, subsection 1, paragraph "a", and a final report describing the usage as an addendum to the expenditure report submitted by December 1, 2000. It is the intent of the general assembly that any amount that is not utilized for the required purposes shall be recovered in the fiscal year beginning July 1, 2000, by reducing the county's social services block grant local purchase allocation in an equivalent amount.

Sec. 25. 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, 1999, and ending June 30, 2000, 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:

..... \$ 17,560,000

1. Of the funds appropriated in this section, \$17,530,000 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. 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 the county's approved county management plan. A county without an approved county management plan shall not receive allocated funds until the county's management plan is approved.

c. 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.

5. A county is eligible for funds under this section if the county qualifies for a state payment as described in section 331.439.

Sec. 26. 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, 1999, and ending June 30, 2000, 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

1. 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.

2. 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 training, 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.

3. Notwithstanding section 8.33, moneys appropriated in this section that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available to provide personal assistance payments until the close of the succeeding fiscal year.

Sec. 27. 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, 1999, and ending June 30, 2000, 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:

..... \$ 49,160,000

..... FTEs 2,071.00

If a resignation, retirement, or dismissal reducing the number of full-time equivalent positions responsible for mental health or mental retardation services in a local office of the department causes the county to which the local office is assigned to assume responsibilities previously performed by the department's positions, the department shall reimburse the county for the increase in costs connected with the responsibilities assumed.

Sec. 28. 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, 1999, and ending June 30, 2000, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

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For general administration, including salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

.....	\$	14,032,000
.....	FTEs	366.00

1. Of the funds appropriated in this section, \$57,000 is allocated for the prevention of disabilities policy council established in section 225B.3.

2. Of the funds appropriated in this section, \$129,971 for the fiscal year beginning July 1, 1999, shall be transferred to the state university of Iowa for the university-affiliated program for the support of Iowa creative employment options (CEO).

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, state-wide supported employment programs.

4. Moneys appropriated in this section and in the appropriation for field services that are budgeted for employee salaries and associated benefit costs shall not be obligated or encumbered for any other purpose.

5. The department shall submit a quarterly report, commencing with the quarter beginning July 1, 1999, to the legislative fiscal bureau specifying the number and type of full-time equivalent positions in the department that are funded but vacant.

Sec. 29. VOLUNTEERS. There is appropriated from the general fund of the state to the department of human 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 development and coordination of volunteer services:

.....	\$	118,500
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Sec. 30. SEXUALLY VIOLENT PREDATORS. There is appropriated from the general fund of the state to the department of human 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 costs associated with the commitment and treatment of sexually violent predators including costs of legal services and other associated costs, including salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

.....	\$	1,531,000
.....	FTEs	20.00

Sec. 31. SEXUALLY VIOLENT PREDATORS — FY 1998-1999. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1998, and ending June 30, 1999, to supplement the appropriation made in 1998 Iowa Acts, chapter 1218, section 31, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For costs associated with the commitment and treatment of sexually violent predators and for salaries and support for not more than the following full-time equivalent positions:

.....	\$	115,023
.....	FTEs	6.63

Notwithstanding section 8.62 or any other provision of law to the contrary, moneys appropriated in this section that remain unencumbered or unobligated at the close of the fiscal year shall revert in accordance with section 8.33.

Sec. 32. REACTIVE ATTACHMENT DISORDER — TRAINING. There is appropriated from the general fund of the state to the department of human services for the fiscal year

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beginning July 1, 1999, and ending June 30, 2000, the following amount, or so much thereof as is necessary, to develop a reactive attachment disorder training program for implementation by July 1, 2000:

..... \$ 60,000

The purpose of the program is to provide training and education to therapists and others who provide services through the department to children with reactive attachment disorder. The department shall consult with persons familiar with such training which includes clinically accepted techniques in the development of the training and education. Notwithstanding section 8.33, moneys appropriated in this section that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year. For the purposes of this section, "reactive attachment disorder" means a disorder resulting from the lack of reasonable care and nurturance, usually in the early years of life, which results in the inability to establish normal, stable attachments to caregivers and others.

Sec. 33. MEDICAL ASSISTANCE, STATE SUPPLEMENTARY ASSISTANCE, AND SOCIAL SERVICE PROVIDERS REIMBURSED UNDER THE DEPARTMENT OF HUMAN SERVICES.

1. a. For the fiscal year beginning July 1, 1999, the rate for skilled nursing facilities shall be increased by 2 percent over the rates in effect on June 30, 1999.

b. For the fiscal year beginning July 1, 1999, the dispensing fee for pharmacists shall be increased by 2 percent over the rate in effect on June 30, 1999. The reimbursement policy for drug product costs shall be in accordance with federal requirements.

c. For the fiscal year beginning July 1, 1999, reimbursement rates for inpatient and outpatient hospital services shall be increased by 2 percent over the rates in effect on June 30, 1999. 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, hospices, and acute mental hospitals shall be increased in accordance with increases under the federal Medicare program or as supported by their Medicare audited costs.

e. Reimbursement rates for home health agencies shall be limited to a 2 percent increase over the rate in effect on June 30, 1999.

f. Federally qualified health centers shall receive cost-based reimbursement for 100 percent of the reasonable costs for the provision of services to recipients of medical assistance.

g. Beginning July 1, 1999, the reimbursement for dental services shall be increased by 2 percent over the rates in effect on June 30, 1999.

h. Beginning July 1, 1999, the reimbursement rate for community mental health centers shall be increased by 5 percent over the rates in effect on June 30, 1999.

i. For the fiscal year beginning July 1, 1999, unless otherwise specified in this Act, all noninstitutional medical assistance provider reimbursements shall be increased by 2 percent over the rates in effect on June 30, 1999.

2. a. 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, 1999, unaudited compilation of cost and statistical data submitted by each facility on medical assistance cost reports. A facility which does not have a current cost report on file with the department as of June 30, 1999, shall continue to receive the per diem rate in effect for that facility on June 30, 1999, until the facility's costs are above that rate or until June 30, 2000, whichever is earlier. A facility shall submit semiannual cost reports beginning July 1, 1999, or after, based on the closing date of the facility's fiscal year.

b. 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 the fiscal year beginning July 1, 1999, and within the appropriation for medical assistance as a whole for the fiscal year beginning July 1, 1999, the department shall adjust the maximum medical assistance reimbursement for nursing facilities to the 70th percentile, as calculated from the December 31, 1999, unaudited compilation of cost and statistical data for only those nursing facilities which provide additional written documentation in a cost report which demonstrates increased expenditures for direct care in the form of wages during a cost reporting period in that fiscal year. In order to be eligible for the increased reimbursement, a nursing facility must submit the cost report with the additional documentation by June 30, 2000. To the extent possible, the additional written documentation shall be obtained from the expanded cost report information submitted by nursing facilities in accordance with paragraph "c". Any adjustment shall take effect January 1, 2000.

c. The department of human services shall adopt emergency rules requiring all nursing facilities to submit a medical assistance cost report on or after July 1, 1999, that incorporates the additional documentation specified in this lettered paragraph. Initially, the additional documentation shall provide baseline information by describing the status of the facility with reference to the information requested as of July 1, 1999, and subsequently the additional documentation shall describe the status of the facility for the period of the cost report. The additional documentation to be incorporated in the cost reports shall include all of the following information:

(1) Information concerning staffing costs including the number of hours of care provided per resident per day on all of the following: nursing services provided by registered nurses, licensed practical nurses, certified nurse aides, restorative aides, certified medication aides, and contracted nursing services; other care services; administrative functions; housekeeping and maintenance; and dietary services.

(2) The starting and average hourly wage for each class of employees.

d. The information submitted under paragraph "c" shall be compiled by the department and provided to the general assembly and any legislative committee designated to consider human services reimbursement rates and methodologies.

3. For the fiscal year beginning July 1, 1999, the maximum cost reimbursement rate for residential care facilities reimbursed by the department shall not be less than \$23.83 per day for the time period of July 1, 1999, through December 31, 1999, and shall not be less than \$24.26 per day for the time period of January 1, 2000, through June 30, 2000. The flat reimbursement rate for facilities electing not to file semiannual cost reports shall not be less than \$17.05 per day for the time period of July 1, 1999, through December 31, 1999, and shall not be less than \$17.36 per day for the time period of January 1, 2000, through June 30, 2000. For the fiscal year beginning July 1, 1999, the maximum reimbursement rate for providers reimbursed under the in-home health-related care program shall not be less than \$458.20 per month for the time period of July 1, 1999, through December 31, 1999, and shall not be less than \$466.49 per month for the time period of January 1, 2000, through June 30, 2000.

4. 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, 1998.

5. Notwithstanding section 234.38, in the fiscal year beginning July 1, 1999, the foster family basic daily maintenance rate and the maximum adoption subsidy rate for children ages 0 through 5 years shall be \$13.79, the rate for children ages 6 through 11 years shall be \$14.54, the rate for children ages 12 through 15 years shall be \$16.28, and the rate for children ages 16 and older shall be \$16.32.

6. For the fiscal year beginning July 1, 1999, the maximum reimbursement rates for adoption and independent living services shall be increased by 2 percent over the rates in effect on June 30, 1999. The maximum reimbursement rates for other social service providers

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shall be the same as the rates in effect on June 30, 1999. However, the rates may be adjusted under any of the following circumstances:

a. If a new service was added after June 30, 1999, 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.

7. 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.

8. Of the moneys appropriated in this Act for child and family services, \$2,652,296 is allocated to provide for a reimbursement increase to rehabilitative treatment and support services providers effective July 1, 1999.

9. For the fiscal year beginning July 1, 1999, 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 \$79.70 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 \$79.70, the department shall readjust the provider's reimbursement rate to the maximum reimbursement rate.

10. For the fiscal year beginning July 1, 1999, the department shall calculate reimbursement rates for intermediate care facilities for persons with mental retardation at the 80th percentile.

11. For the fiscal year beginning July 1, 1999, 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.

12. Effective July 1, 1999, the maximum reimbursement rate for psychiatric medical institutions for children (PMICs) shall be increased to \$145.74 per day, based on per day rates for actual costs on June 30, 1999.

13. The department may adopt emergency rules to implement this section.

Sec. 34. STATE-COUNTY ASSISTANCE TEAM — FULL-TIME EQUIVALENT POSITIONS. Of the full-time equivalent positions authorized in this Act for the state-county assistance team, 1.00 FTE shall work with the state-county management committee, 1.00 FTE shall work with the county single entry point process or coordinators, and 4.00 FTEs shall provide technical assistance for community empowerment areas.

Sec. 35. MOTOR VEHICLE LICENSE REINSTATEMENT PENALTY — DEPOSIT AND APPROPRIATION. Notwithstanding the deposit provisions of sections 321.218A and 321A.32A, moneys collected during the fiscal year beginning July 1, 1999, and ending June 30, 2000, by the state department of transportation pursuant to those sections shall be deposited to the credit of the department of human services for the fiscal year beginning July 1, 1999, and ending June 30, 2000, and are appropriated as follows:

For the establishment, improvement, operation, and maintenance of county or multicounty juvenile detention homes. Moneys appropriated in this section shall be allocated among eligible detention homes, prorated on the basis of an eligible detention home's proportion of the costs of all eligible detention homes in the current fiscal year. Notwithstanding section 232.142, subsection 3, the financial aid payable by the state under that provision for the

* Item veto; see message at end of the Act

fiscal year beginning July 1, 1999, shall be limited to the amount appropriated in this subsection.

Sec. 36. 1998 Iowa Acts, chapter 1218, section 33, is amended by striking the section and inserting in lieu thereof the following:

SEC. 33. DEPARTMENT OF HUMAN SERVICES — MOTOR VEHICLE LICENSE RE-INSTATEMENT PENALTY — DEPOSIT AND APPROPRIATION. Notwithstanding the deposit provisions of sections 321.218A and 321A.32A, the moneys collected during the fiscal year beginning July 1, 1998, and ending June 30, 1999, by the state department of transportation pursuant to those sections shall be deposited to the credit of the department of human services for the fiscal year beginning July 1, 1998, and ending June 30, 1999, and are appropriated as follows:

For the establishment, improvement, operation, and maintenance of county or multicounty juvenile detention homes.

Moneys appropriated in this section shall be allocated among eligible detention homes, prorated on the basis of an eligible detention home's proportion of the costs of all eligible detention homes in the previous fiscal year. Notwithstanding section 232.142, subsection 3, the financial aid payable by the state under that provision for the fiscal year beginning July 1, 1998, shall be limited to the amount appropriated in this section.

**Sec. 37. STATE INSTITUTIONS — COOPERATIVE EFFORTS.*

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, 2000, 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.**

Sec. 38. TRANSFER AUTHORITY. Subject to the provisions of section 8.39, for the fiscal year beginning July 1, 1999, 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 and appropriations in law for the federal social services block grant 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.
7. MH/MR/DD/BI community services (local purchase).

This section shall not be construed to prohibit existing state transfer authority for other purposes.

* Item veto; see message at end of the Act

Sec. 39. FRAUD AND RECOUPMENT ACTIVITIES. During the fiscal year beginning July 1, 1999, notwithstanding the restrictions in section 239B.11, the department of human services may expend recovered moneys generated through fraud and recoupment activities for additional fraud and recoupment activities performed by the department of human services or the department of inspections and appeals, and may add not more than five full-time equivalent positions, in addition to those authorized in this Act, subject to both of the following conditions:

1. The director of human services or the director of inspections and appeals determines that the investment can reasonably be expected to increase recovery of assistance paid in error, due to fraudulent or nonfraudulent actions, in excess of the amount recovered in the fiscal year beginning July 1, 1997.

2. The amount expended for the additional fraud and recoupment activities shall not exceed the amount of the projected increase in assistance recovered.

Sec. 40. 1998 Iowa Acts, chapter 1218, section 5, subsection 4, is amended to read as follows:

4. Of the child support collections assigned under the family investment program, an amount equal to the federal share of support collections shall be credited to 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 credited to the family investment program account. The appropriation in this Act from the general fund of the state to the department for child support recovery for the fiscal year is reduced by an amount equal to the state share of incentives received by the child support recovery unit and a like amount is added to the appropriation in this Act from the general fund of the state to the department for the family investment program.

Sec. 41. FINANCIAL ASSISTANCE SERVICES.

1. For purposes of this section, "financial assistance services" means services or other assistance provided under one or more of the following programs administered by the department of human services: family investment program, PROMISE JOBS program, medical assistance program, food stamp program, state child care assistance program, refugee cash assistance program, emergency assistance program, and child support recovery program.

2. During the fiscal year beginning July 1, 1999, and ending June 30, 2000, the department of human services may continue to conduct a pilot program or pilot programs for provisions of financial assistance services.

3. Any pilot program conducted in accordance with this section shall be designed to meet one or more of the following financial assistance services goals:

- a. A reduction in paperwork for applicants and recipients of services, or staff, or both.
- b. Streamlining or expediting the eligibility determination process, to decrease the length of time it takes to inform applicants for financial assistance services as to the disposition of their request for the services.
- c. Streamlining or expediting the referral process for family investment program applicants and recipients to other financial assistance services such as PROMISE JOBS or child support recovery, so that referrals can be initiated in a more timely manner in order to help move applicants and recipients more quickly to economic self-sufficiency or toward reduced reliance on government assistance.

d. Improved coordination of the management of financial assistance services as applicants for and recipients of the services work toward economic self-sufficiency.

e. Identification of policies, procedures, and practices that could be altered or eliminated without materially affecting the desired results for the family assistance services.

4. Any pilot program conducted in accordance with this section is subject to the following limitations and parameters:

a. Notwithstanding any administrative rule, that is not based in federal law, the department may alter policies, procedures, and practices to waive the administrative rule, that are

based in state law, provided that the alterations do not decrease an applicant's or recipient's choice of, or ability to obtain, financial assistance services from the department in comparison with the financial assistance services that would otherwise be available. The department may operate one or more pilot projects under this paragraph, in not more than eight counties.

b. If the department obtains a waiver of federal law or regulation, the department may alter policies, procedures, and practices that are based in federal law, provided that the alterations do not decrease an applicant's or recipient's choice of, or ability to obtain, financial assistance services from the department in comparison with the financial assistance services that would otherwise be available. The department may operate one or more projects under this paragraph, in not more than eight counties.

c. In order to facilitate rapid implementation, except as provided in paragraph "d", any pilot program authorized under this section is exempt from the rulemaking procedures and rulemaking requirements of chapter 17A. **However, following development of the pilot program, the department shall provide a list of the laws or rules being waived to the chairpersons and ranking members of the joint appropriations subcommittee on human services, the administrative rules review committee, the administrative rules coordinator, the legislative fiscal bureau, and the legislative service bureau.** In implementing a pilot program under this section, the department shall take steps to make applicants and recipients of services aware of their choices, expectations, rights, and responsibilities.

d. The department shall adopt emergency rules establishing a framework for the pilot projects implemented under this section. The rules shall identify the participating counties, the maximum duration of each pilot project, and generally describe the scope and nature of each pilot project. Within this framework, the department retains broad discretion to revise a pilot project without further rulemaking describing the revision.

Sec. 42. REVIEW OF HUMAN SERVICES PROVIDER REIMBURSEMENTS AND ADMINISTRATIVE RULES. The legislative council is requested to authorize the following concerning the department of human services:

1. Establishment of a task force to review the methodologies and distribution mechanisms used to reimburse providers of medical assistance, state supplementary assistance, social services, and other services funded in the department's budget. The task force should be directed to consider the findings of previous studies; options for funding of services appropriate to individual needs; options for implementation of the resource-based relative value system methodology to determine medical provider reimbursement under the medical assistance program; implementation of waivers, state plan changes, and other approaches allowed by the federal government; options for using tobacco settlement moneys; the option of resource-based reimbursement; review of nursing facility cost reports, including additional written documentation, compiled by the department of human services and submitted pursuant to requirements in the reimbursement section of this Act; and other approaches for improving reimbursement equity between providers and in the amounts reimbursed.

2. An independent review of the department's administrative rules and their impact upon services and staff, with support from foundation or other private funding.

Sec. 43. SERVICES FOR PERSONS WITH BRAIN INJURY AND PERSONS WITH AUTISM. The state-county management committee shall review the statewide availability of services and funding for persons with brain injury and for persons with autism compared to the availability of mental health and developmental disability services. In addition, the committee shall review current approaches for meeting the needs of persons with mental retardation who are aging, to identify possible improvements. The committee shall make findings and recommendations for actions which may be taken to appropriately address the needs of persons with such disabilities. The findings and recommendations shall be included in the committee's annual report to be submitted by January 1, 2000.

* Item veto; see message at end of the Act

Sec. 44. **HUMAN SERVICES RESTRUCTURING.** The legislative council is requested to authorize a human services restructuring task force to consider existing and proposed initiatives for improving the provision of human services and other public services. If created, the task force should be directed to review the community empowerment initiative; the county management provisions for mental health, mental retardation, and developmental disabilities services, referred to as Senate File 69* and the adult mental health and developmental disabilities funding decategorization; child welfare funding decategorization and the service bundling proposal developed by the legislative council's child welfare work group; and other proposals for improving local management of essential public services. The task force should be directed to report its findings and recommendations to the persons in this Act designated for receipt of reports prior to the convening of the general assembly in the year 2000.

Sec. 45. **CHILD PROTECTION EVALUATION.** Notwithstanding the requirements of 1997 Iowa Acts, chapter 176, section 23, the independent evaluation of the child protection system shall be completed in the fiscal year which begins July 1, 2000.

Sec. 46. **ADOPTION SPECIAL SERVICES — FOSTER CHILD.** The department shall review and shall submit recommendations by December 15, 1999, to the general assembly regarding all of the following:

1. The addition of respite care to the category of special services provided to a child with physical or mental disabilities or an older or otherwise hard-to-place child who is adopted. The review and recommendations shall include an estimate of the cost of the addition and possible funding sources.

2. The continuation of special services to a foster child following the filing of an adoption petition and for a reasonable time following issuance of an adoption decree relating to the child. The reasonable time may be limited to not less than twenty days following issuance of the adoption decree to allow the adoptive parents to provide documentation of efforts to obtain special services free of cost or under the adoptive parent's insurance policy. The review and recommendations shall include an estimate of the cost of such continuation and possible funding sources.

Sec. 47. **EMERGENCY RULES.** If specifically authorized by a provision of this Act, the department of human services or the mental health and developmental disabilities 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. 48. **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.

DIVISION II

Sec. 49. **NEW SECTION. 237A.30 HIGH QUALITY CHILD DAY CARE PROVIDERS.**

1. The department shall accept nationally recognized accreditations in identifying and listing high quality child day care providers. Any registered family or group home or licensed child day care provider in this state that is accredited in good standing by the national

* 1995 Iowa Acts, chapter 206

association for the education of young children or the national association for family child care shall be included in the listing.

2. Providers included in the listing which remain in good standing with the accrediting body and with state regulation shall be designated as a gold seal quality child day care provider. Any provider included in the listing may publicly utilize the designation as a gold seal quality child day care provider. Child day care resource and referral services shall be encouraged to make use of the providers holding this designation as a resource in quality improvement efforts and to identify these providers in making referrals to the public.

3. Holders of the gold seal quality designation shall be recognized annually in April during the week of national recognition of young children. A recognition event shall be hosted during that week by a committee which may include but is not limited to the governor, legislative leaders, department staff and other child care experts, and the chairpersons and ranking members of the legislative committees involved with regulation or funding of child day care.

4. Subject to the availability of funding, an eligible holder of the gold seal quality designation receiving an initial or renewal national accreditation may receive a one-time cash award in the year of initial or renewal accreditation on or after July 1, 1999. Holders of the designation who received funding assistance to obtain the initial or renewal national accreditation under a grant administered by the child development coordinating council or as part of being a federal head start program are not eligible for the cash award. Eligible holders of the designation may receive a cash award of two hundred fifty dollars for registered family and group day care home providers and five hundred dollars for licensed centers.

Sec. 50. Section 249A.3, Code 1999, is amended by adding the following new subsection: **NEW SUBSECTION.** 5A. In determining eligibility for children under subsection 1, paragraphs "b", "f", "g", "j", "k", "n", and "s"; subsection 2, paragraphs "a", "c", "d", "f", and "g"; and subsection 5, paragraph "b", all resources of the family, other than monthly income, shall be disregarded.

Sec. 51. Section 249A.18, Code 1999, is amended to read as follows:

249A.18 COST-BASED REIMBURSEMENT — RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CLINICS CENTERS.

Rural health clinics and federally qualified health ~~clinics centers~~ shall receive cost-based reimbursement for ~~one hundred percent of the reasonable costs for~~ the provision of services to recipients of medical assistance, ~~subject to limitations and exclusions based on federal law and regulations as determined by the director.~~

Sec. 52. **NEW SECTION.** 514I.11 HAWK-I TRUST FUND.

1. A HAWK-I trust fund is created in the state treasury under the authority of the department of human services, in which all appropriations and other revenues of the program such as grants, contributions, and participant payments shall be deposited and used for the purposes of the program. The moneys in the fund shall not be considered revenue of the state, but rather shall be funds of the program.

2. The trust fund shall be separate from the general fund of the state and shall not be considered part of the general fund of the state. The moneys in the trust fund are not subject to section 8.33 and shall not be transferred, used, obligated, appropriated, or otherwise encumbered, except to provide for the purposes of this chapter. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the trust fund shall be credited to the trust fund.

DIVISION III MISCELLANEOUS PROVISIONS

Sec. 53. **EFFECTIVE DATE.** The following provisions of this Act, being deemed of immediate importance, take effect upon enactment:

1. Section 1, relating to the social services block grant supplementation.
2. Section 5, subsection 8, relating to the X-PERT computer system.
3. Section 6, subsection 2, relating to refunds of utility and rent deposits for emergency assistance recipients.
4. Section 7, subsection 10, relating to development of a county billing system.
5. Section 9, subsection 2, relating to reversion of appropriations for the healthy and well kids in Iowa program.
6. Section 10, subsection 4, relating to the reversion of moneys appropriated for medical contracts in 1998 Iowa Acts, chapter 1218, section 10.
7. Section 14, subsection 6, relating to reversion of moneys appropriated for the state training school at Eldora in 1998 Iowa Acts, chapter 1218, section 14.
8. Section 15, subsection 2, paragraph "e", relating to requirements of section 232.143, for the 1999-2000 fiscal year.
9. Section 15, subsection 17, relating to determining allocation of court-ordered services funding.
10. Section 19, subsection 6, relating to fiscal year 1998-1999 revenues at the state hospital-schools.
11. Section 31, providing a fiscal year 1998-1999 appropriation for costs associated with treatment and commitment of sexually violent predators.
12. Section 36, amending 1998 Iowa Acts, chapter 1218, section 33.
13. Section 40, amending 1998 Iowa Acts, chapter 1218, section 5.

Approved May 21, 1999, with exceptions noted.

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 760, an Act relating to appropriations for the Department of Human Services and including other provisions and appropriations involving human services and health care, and providing effective dates.

The human services appropriations bill is a vitally important measure for literally hundreds of thousands of Iowans. For many of our neighbors, family members and friends it provides the services they most need to maintain families, assure basic health care for children, nursing home care for senior citizens, treatment for those with mental illness, and assistance for those with mental retardation or developmental disabilities.

In our state, we have a long and proud tradition of neighbor helping neighbor and friend and family looking out for those in need of assistance. I fear, however, that this tradition is being eroded by decisions contained within this appropriations bill. That troubles me.

When I presented my budget recommendations to the Legislature, I focused most of my efforts on a core set of priorities, many of which were directed at children. One priority, for example, was to extend health insurance coverage to as many Iowa children as the federal government would cover under their new children's health insurance program (CHIP). Unfortunately, the Legislature did not provide the funding necessary to carry out this effort. I also sought to improve the level of care in our state's nursing homes by improving the salaries of those who provide direct care to nursing home patients. The Legislature did not follow through on that recommendation.

In total, the legislature reduced the resources available for services provided by this budget by over \$8.5 million compared to my budget recommendations. This is going to have a real impact on Iowans and the services that they need. At the same time, the legislature placed

over 25 different requirements for studies and reports on the department — while radically cutting the department's field and administrative staff. These requirements, if approved, would also reduce the level of services that can be provided to the citizens of our state, and I cannot in good conscience approve them.

I have directed the Department of Human Services to become a results-oriented agency and to develop systems that focus on health, safety, and self-sufficiency. While several of the requested studies or reports may provide useful information that could improve services, the patchwork nature in which they are made promote a fragmented system of service delivery. We need to use a more comprehensive approach to review our service delivery system. My decision to veto all of the unfunded reports and studies contained in House File 760 is done with the expectation that the Department of Human Services will continue to provide to the General Assembly information or reports that are critical to the legislative process. However, it would be detrimental to the state as a whole to expend resources for reports that may sit unread on a legislator's desk while children make do without adequate health care.

There are, no doubt, studies or reports item vetoed in this bill that would benefit many of the Iowans served by this bill. I would ask that representatives of these groups join with me in creating a public debate on the human services needs in our state. Only through such discussion and deliberation can we improve services for those most in need in our state. I pledge to work toward that goal in the years to come. I would ask that the Legislature make a similar pledge to work with me to accomplish this goal.

House File 760 is, therefore, approved on this date with the following exceptions, which I hereby disapprove.

I am unable to approve the item designated as Section 3, subsection 5, in its entirety. This item requires the department to consult with the welfare reform advisory group to establish eligible hardship exemptions for the family investment program and report to the General Assembly by January 1, 2000. The department may undertake this action, but absent an appropriation to accomplish this task, the state will benefit more from utilizing appropriations for services that directly affect Iowa children and families.

I am unable to approve the last unnumbered paragraph of Section 4. This requires the department to report quarterly on any changes in TANF allocations. Given the cuts made to department staff, the state will benefit more from utilizing appropriations for services that directly affect Iowa children and families.

I am unable to approve the item designated as Section 5, subsection 1, paragraph e, in its entirety. This requires the department to conduct an evaluation of the child welfare reform program and child well-being provisions to measure the program's effectiveness. The department may undertake this action, but absent an appropriation to accomplish this task, the state will benefit more from utilizing appropriations for services that directly affect Iowa children and families.

I am unable to approve the item designated as Section 5, subsection 4, paragraph d, subparagraph (3), subparagraph subdivision (d), in its entirety. This requires the department to submit a report regarding community level parental obligation pilot projects by December 15, 1999. The department may undertake this action, but absent an appropriation to accomplish this task, the state will benefit more from utilizing appropriations for services that directly affect Iowa children and families.

I am unable to approve the item designated as Section 5, subsection 4, paragraph e, in its entirety. This item proposes to spend \$100,000 of federal Temporary Assistance to Needy Families funds on a new pilot project for diversion from FIP of persons adjudicated to receive child welfare services who are eighteen years of age. Since federal regulations require that this federal money be directed towards families with children, this appropriation does not fit the federal purpose of the program.

I am unable to approve the item designated as Section 7, subsection 12, in its entirety. This would require the department to convene representatives of interest groups to identify ways to improve home and community-based waiver services and to assess the feasibility of implementing improvements. The department is also directed to submit a report of the findings and recommendations of the group to the General Assembly by December 15, 1999. The department may undertake this action, but absent an appropriation to accomplish this task, the state will benefit more from utilizing appropriations for services that directly affect Iowa children and families.

I am unable to approve the designated portion of Section 7, subsection 17. This would require the department to evaluate the fiscal impact of implementing twelve month continuous eligibility for medical assistance with a report to the General Assembly October 1, 1999. The department may undertake this action, but absent an appropriation to accomplish this task, the state will benefit more from utilizing appropriations for services that directly affect Iowa children and families.

I am unable to approve the item designated as Section 9, subsection 3, in its entirety. This requires the HAWK-I Board to conduct a study of the costs of providing family coverage under the state children's health insurance program and to report to the General Assembly by December 15, 1999. Absent an appropriation to accomplish this task, Iowans will benefit more from utilizing appropriations for services that directly provide health care for children.

I am unable to approve the designated portions of Section 13, subsections 1 and 2. These sections allow the department to add additional positions to child support recoveries if additional recoveries are cost effective. The vetoed portions would require a report to the General Assembly on the ratio of the administrative costs to the total amount of the child support recovered. Absent an appropriation to accomplish these tasks, the state will benefit more from utilizing appropriations for services that directly affect Iowa children and families.

I am unable to approve the designated portion of Section 15, subsection 1. This item requires notification to the Legislature of a transfer of funds to be subject to provisions of section 8.39 of the Code. The language in the bill already authorizes the transfer, and the amounts of the transfer are included in the budget approved by the Legislature. This is an additional, unnecessary notification of items already presented.

I am unable to approve the items designated as Section 15, subsection 2, paragraph b, subparagraph (2), in its entirety and Section 15, subsection 13, in its entirety. These items would require the department to report quarterly on children placed in group foster care and expenditures by county and region to the judicial branch, the Legislative Fiscal Bureau, and decategorization boards. Absent an appropriation to accomplish these tasks, the state will benefit more from utilizing appropriations for services that directly affect Iowa children and families.

I am unable to approve the designated portion of Section 15, subsection 14. This would require the department to report on exceptions granted to group care eligibility guidelines to the Joint Human Services Appropriations Subcommittee before January 1, 2000. Absent an appropriation to accomplish these tasks, the state will benefit more from utilizing appropriations for services that directly affect Iowa children and families.

I am unable to approve the items designated as Section 15, subsection 17, paragraph b, subparagraph (2), and Section 15, subsection 17, paragraph d, in their entirety. These would require each judicial planning group to submit an annual report on court ordered services and would require the department and court administrator to compile a report to be delivered to the Joint Human Services Appropriations Subcommittee and Legislative Fiscal Bureau by October 15, 1999. Absent an appropriation to accomplish these tasks, the state will benefit more from utilizing appropriations for services that directly affect Iowa children and families.

I am unable to approve the item designated as Section 15, subsection 18, in its entirety. This would require the department to evaluate the recidivism rates of public and private treatment programs for juveniles and submit an annual report by December 15, 1999. The department may undertake this action, but absent an appropriation to accomplish this task, the state will benefit more from utilizing appropriations for services that directly affect Iowa children and families.

I am unable to approve the designated portion of Section 15, subsection 22. This would require the department to report quarterly on the maximization efforts to claim additional federal Title IV-E funds. Absent an appropriation to accomplish these tasks, the state will benefit more from utilizing appropriations for services that directly affect Iowa children and families.

I am unable to approve the item designated as Section 18, subsection 1, paragraph d, subparagraph (3), in its entirety. This would require the department, in cooperation with the department of corrections, to develop a proposal to provide the option of treatment at a mental health institution rather than incarceration of an individual who is convicted of use of methamphetamine. The departments are to submit a report by December 15, 1999. The departments may undertake this action, but absent an appropriation to accomplish this task, the state will benefit more from utilizing appropriations for services that directly affect Iowa children and families.

I am unable to approve the item designated as Section 18, subsection 4, in its entirety. This would require each mental health institute to continue the net budgeting accounting test of managing revenues and expenditures attributable to the mental health institutes and submit a status report in October 1999 that identifies the advantages and disadvantages of utilizing this budget approach. Given that budgets for mental health institutions were significantly reduced below my recommendations, and absent an appropriation to accomplish these tasks, the state will benefit more from utilizing appropriations for services that directly assist Iowa children and families.

I am unable to approve the item designated as Section 19, subsection 2, paragraph d, in its entirety. This would require that a state hospital school's report include a listing detailing the items for which depreciation reimbursement funds would have been utilized if the depreciation reimbursement had been retained by the institution. Absent an appropriation to accomplish this task, the state will benefit more from utilizing appropriations for services that directly affect Iowa children and families.

I am unable to approve the designated portion of Section 19, subsection 5. This would require the Glenwood state hospital school to unbundle pharmaceutical services from their per diem costs. While this idea may have potential, the funding and language provided require further study.

I am unable to approve the designated portion of Section 22. This would require the department to provide to the legislative fiscal bureau regular reports regarding special needs grants with the family support subsidy program and an annual report concerning the characteristics of the grantees. Absent an appropriation to accomplish these tasks, the state will benefit more from utilizing appropriations for services that directly affect Iowa children and families.

I am unable to approve the last unnumbered paragraph of Section 22. This section directs the department to issue a request for proposals for developmental disabilities basic support and advocacy grants. The appropriation is for one time special needs grants to assist families in preventing out of home placement for a family member who has a developmental disability. The vetoed language has no real relationship to the appropriation or the other language specifying grants to families in this section.

I am unable to approve the designated portion of Section 27. This would require the department to reimburse a county when it chooses to offset a reduction in state mental health or mental

retardation staff. The department must retain flexibility to make staffing decisions based upon caseload need and funding availability. Further, funding decisions made within the bill will have consequences for services that the state can provide. Requiring the department to reimburse counties for the legislature's funding decisions will reduce funding for state services that directly benefit Iowa children and families.

I am unable to approve the item designated as Section 28, subsection 4, in its entirety. This would require the department to use funds budgeted for salaries for no other purposes and to report on vacant positions. The department must retain the flexibility to make staffing decisions based on the needs necessary to provide services for Iowa children and families. Given that the legislature provided funding significantly below my recommendations for services that Iowans are legally entitled to receive, the department will need budget flexibility to ensure that these required services can be provided.

I am unable to approve the item designated as Section 28, subsection 5, in its entirety. This would require the department to submit quarterly reports to the Legislative Fiscal Bureau specifying the number and type of full time equivalent positions in the department that are funded but vacant. Given the reductions in administrative positions contained in this bill, the state will benefit more from utilizing appropriations for services that directly affect Iowa children and families.

I am unable to approve the item designated as Section 33, subsection 2, paragraph d, in its entirety. This would require the department to compile information on nursing home staffing costs and the starting and average hourly wage for each class of employees and submit it to the General Assembly and any legislative committee. Given the reductions in administrative positions contained in this bill, the state will benefit more from utilizing appropriations for services that directly affect Iowa's residents of nursing homes.

I am unable to approve the item designated as Section 34 in its entirety. This would require the department redirect current staffing to provide community empowerment technical assistance. The result would be that state-county technical support services would be dramatically reduced. The department must retain the flexibility necessary to make staffing decisions based on the needs required to provide services to Iowa children and families.

I am unable to approve the item designated as Section 37 in its entirety. This would require that the department, in cooperation with the department of economic development, coordinate efforts to develop new jobs in an area where a state institution is closed or downsized. The department may undertake this action, but the department should have the flexibility to tailor appropriate services for workers in these situations.

I am unable to approve the designated portion of Section 41, subsection 4, paragraph c. This would require the department to report on laws or rules being waived under a pilot project to the chairpersons and ranking members of the Joint Appropriations Subcommittee on Human services, the Administrative Rules Review Committee, the Administrative Rules Coordinator, the Legislative Fiscal Bureau, and the Legislative Service Bureau. Given the reductions in administrative positions contained in this bill, the state will benefit more from utilizing appropriations for services that directly affect Iowa children and families.

I am unable to approve the item designated as Section 43 in its entirety. This would require the state-county management committee to review statewide availability of services for persons with brain injury and persons with autism with findings to be submitted by January 1, 2000. While the department and I are supportive of efforts to provide services for persons with brain injury and persons with autism, the department should retain the flexibility to undertake these efforts in conjunction with representatives of the affected groups. Given the reductions in administrative positions contained in this bill, the state may benefit more from utilizing appropriations for services that directly affect Iowa children and families than undertaking yet another study.

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 760 are hereby approved as of this date.

Sincerely,
THOMAS J. VILSACK, Governor

CHAPTER 204

APPROPRIATIONS — INFRASTRUCTURE AND CAPITAL PROJECTS

H.F. 772

AN ACT relating to and making appropriations from and to the rebuild Iowa infrastructure fund and the Iowa resources enhancement and protection fund to state departments and agencies, including the department of agriculture and land stewardship, the department of cultural affairs, the department of economic development, the department of corrections, the department of general services, the Iowa state fair foundation, the judicial branch, the legislative council, the department of natural resources, the department of public defense, the department of public safety, the state board of regents, the state department of transportation, office of treasurer of state, and the commission of veterans affairs and providing effective dates.

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

DIVISION I REBUILD IOWA INFRASTRUCTURE FUND DEPARTMENT OF CORRECTIONS

Section 1. There is appropriated from the rebuild Iowa infrastructure fund to the department of corrections for the fiscal biennium beginning July 1, 1999, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For purchase and planning, design, and construction of a 170-bed facility at the Iowa medical and classification center at Oakdale:	
FY 1999-2000	\$ 3,750,000
FY 2000-2001	\$ 2,500,000
2. For purchase and installation of a boiler and related planning, design, and construction at the correctional facility at Rockwell City:	
FY 1999-2000	\$ 1,800,000
FY 2000-2001	\$ 0
3. For planning, design, renovation, and construction of expansion projects at community-based correctional facilities:	
FY 1999-2000	\$ 2,000,000
FY 2000-2001	\$ 0
4. For planning, design, renovation, and construction of expansion projects and for utility upgrades at the correctional facility at Mitchellville:	
FY 1999-2000	\$ 2,700,000
FY 2000-2001	\$ 0

DEPARTMENT OF CULTURAL AFFAIRS

Sec. 2. There is appropriated from the rebuild Iowa infrastructure fund to the department of cultural affairs for the fiscal biennium beginning July 1, 1999, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

For historical site preservation grants, to be used for the restoration, preservation, and development of historical sites:

FY 1999-2000	\$	2,500,000
FY 2000-2001	\$	1,450,000

Except as otherwise provided in this section, historical site preservation grants shall only be awarded for projects which meet the definition of "vertical infrastructure" in section 8.57, subsection 5, paragraph "c".

1. Of the amount appropriated in this section for the fiscal year beginning July 1, 1999, not more than \$600,000 may be used to fund a state contribution toward the restoration and renovation of the Salisbury house in Des Moines.

2. Of the amount appropriated in this section for the fiscal year beginning July 1, 1999, not more than \$50,000 may be used for research, preparation, and completion of a visual documentary of the historical renovation of the state capitol building, notwithstanding section 8.57, subsection 5, paragraph "c".

3. Of the amount appropriated in this section for fiscal year beginning July 1, 1999, not more than \$90,000 may be used to fund a state contribution toward publishing a book about African-American history in Iowa, notwithstanding section 8.57, subsection 5, paragraph "c".

4. Of the amount appropriated in this section for the fiscal year beginning July 1, 1999, \$200,000 shall be used for the restoration of buildings which were designed by Frank Lloyd Wright and are listed on the national register of historic places and on the list of the top ten most endangered structures in the state by the Iowa historic preservation alliance, and up to \$400,000 may be used by the department for major maintenance on facilities under the purview of the department.

In making grants pursuant to this section, the department shall consider the existence and amount of other funds available to an applicant for the designated project. Except as provided in subsection 1, each grant awarded from moneys appropriated in this section shall not exceed \$100,000 per project. Not more than two grants may be awarded in each county.

DEPARTMENT OF ECONOMIC DEVELOPMENT

Sec. 3. There is appropriated from the rebuild Iowa infrastructure fund to the department of economic development for the fiscal biennium beginning July 1, 1999, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. To be deposited in the physical infrastructure assistance fund created in section 15E.175:		
FY 1999-2000	\$	12,500,000
FY 2000-2001	\$	12,500,000

a. Of the amount appropriated in this subsection **for each fiscal year,** up to \$5,000,000 may be used for purposes of the physical infrastructure assistance program. The department shall maximize these moneys, to the extent possible, for physical infrastructure assistance program projects which meet the definition of "vertical infrastructure", or for projects which facilitate the creation of "vertical infrastructure" projects. The department shall report to the general assembly by June 30 of each fiscal year for which funds are appropriated in this subsection regarding the amount of such funds used for "vertical infrastructure" projects and the amount of such funds used for projects which facilitate the creation of "vertical infrastructure".

* Item veto; see message at end of the Act

b. Of the amount appropriated in this subsection *for each fiscal year*, \$7,500,000 shall be used by the department for accelerated career education program capital projects at community colleges which are authorized under chapter 260G, if enacted by 1999 Iowa Acts, Senate File 465,** and which meet the definition of “vertical infrastructure” in section 8.57, subsection 5, paragraph “c”. Of these amounts, \$3,000,000 *in each fiscal year* shall be allocated equally among the community colleges in the state, to be used for such projects which meet all of the requirements in chapter 260G, if enacted by 1999 Iowa Acts, Senate File 465.** If any portion of the equal allocation to a community college is not obligated or encumbered by April 1 of the fiscal year for which the allocation is made, the unobligated and unencumbered portions shall be available for use by other community colleges.

If 1999 Iowa Acts, Senate File 465,** is enacted, the department shall adopt rules regarding development and funding of accelerated career education program capital projects. The rules shall provide for prioritization of funding for those projects which do all of the following:

(1) Demonstrate a lack of existing public or private infrastructure for development of the partnership.

(2) Provide evidence that the jobs which would result from the partnership would include wages, benefits, and other attributes that would improve the quality of employment within the region.

(3) Provide evidence of local public or private contributions which meet the requirements of chapter 260G, if enacted by 1999 Iowa Acts, Senate File 465.**

(4) Enhance the geographic diversity of state investment in Iowa.

2. For deposit in the community attraction and tourism development fund to be used for the community attraction and tourism development program, as established in this Act, notwithstanding section 8.57, subsection 5, paragraph “c”:

FY 1999-2000	\$	12,500,000
FY 2000-2001	\$	12,500,000

The department shall give special consideration to community attraction and development projects which involve public and private sector participation.

a. Of the amount appropriated in this subsection for each fiscal year, up to \$1,200,000 may be used for the development of marketing efforts and promotion of Iowa tourism attractions and events in outside markets. This out-of-state advertising shall be allocated equally among the three tourism regions in the state.

b. Notwithstanding any contrary provision of this subsection, of the amount appropriated in this subsection for the fiscal year beginning July 1, 1999, up to \$400,000 may be used to provide grants to up to three political subdivisions of the state to conduct a study of the feasibility and viability of developing and creating a multiple purpose attraction and tourism facility. No more than three grants shall be awarded under this paragraph. Each grant under this paragraph shall not exceed \$200,000 per study.

3. For deposit in the rural enterprise fund to be used for the dry fire hydrant and rural water supply education and demonstration project, notwithstanding section 8.57, subsection 5, paragraph “c”:

FY 1999-2000	\$	100,000
FY 2000-2001	\$	0

4. For deposit in the local housing assistance program fund created in section 15.354, in addition to the standing appropriation provided for in that section:

FY 1999-2000	\$	1,000,000
FY 2000-2001	\$	0

5. To provide financial assistance in the form of grants, loans, or forgivable loans for advanced research and commercialization projects involving value-added agriculture, advanced technology, or biotechnology:

FY 1999-2000	\$	4,000,000
FY 2000-2001	\$	4,000,000

* Item veto; see message at end of the Act
 ** Chapter 179 herein

**The department shall adopt rules for awarding financial assistance under this subsection. The rules shall provide for prioritization of applications for financial assistance which do all of the following:*

- a. Demonstrate substantial regional or statewide economic impact, as shown by independent analysis.*
- b. Demonstrate capacity for the project to become self-sustaining and self-sufficient.*
- c. Contain substantial local public or private contributions of at least 50 percent of the project costs.*
- d. Enhance the geographic diversity of state investment in Iowa.*
- e. Demonstrate that the project is strategically aligned with or otherwise supportive of existing regional or statewide economic activities or initiatives.**

DEPARTMENT OF GENERAL SERVICES

Sec. 4. There is appropriated from the rebuild Iowa infrastructure fund to the department of general services for the fiscal biennium beginning July 1, 1999, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For major renovation and major repair needs including health, life, and fire safety, for compliance with the federal Americans With Disabilities Act for state-owned buildings and facilities:

FY 1999-2000	\$ 7,500,000
FY 2000-2001	\$ 7,500,000

Notwithstanding section 8.57, subsection 5, paragraph "c", of the amount appropriated for each fiscal year in this subsection, up to \$800,000 may be used by the department for routine maintenance needs for the capitol complex.

2. For critical and deferred maintenance at Terrace Hill:

FY 1999-2000	\$ 50,000
FY 2000-2001	\$ 50,000

3. For relocation of offices and other transition costs associated with renovation projects on the capitol complex:

FY 1999-2000	\$ 2,094,000
FY 2000-2001	\$ 1,668,000

4. For renovation of the Lucas state office building:

FY 1999-2000	\$ 4,026,000
FY 2000-2001	\$ 2,650,000

5. For improvements to parking lot 4 on the capitol complex:

FY 1999-2000	\$ 200,000
FY 2000-2001	\$ 0

6. For construction of a parking structure located at the northwest corner of the capitol complex:

FY 1999-2000	\$ 3,500,000
FY 2000-2001	\$ 0

With respect to the proposed construction, financing, and anticipated operation and maintenance of the parking structure, the department shall, in cooperation and consultation with the department of management, a representative of the general assembly, and the treasurer of state, develop cost data for the construction, operation, and maintenance of the structure.

7. For demolition of executive hills and the capitol annex on the capitol complex:

FY 1999-2000	\$ 750,000
FY 2000-2001	\$ 750,000

8. For renovation of the old historical building:

FY 1999-2000	\$ 5,899,155
FY 2000-2001	\$ 5,842,425

* Item veto; see message at end of the Act

9. For utility upgrades and for construction and renovation of the school, gym, multipurpose center, and living unit at the state training school at Eldora:

FY 1999-2000	\$	4,000,000
FY 2000-2001	\$	0

10. For renovations at the Toledo juvenile home:

FY 1999-2000	\$	250,000
FY 2000-2001	\$	250,000

11. For capitol interior restoration:

FY 1999-2000	\$	4,381,000
FY 2000-2001	\$	4,324,100

The department shall cooperate with the legislative and judicial branches regarding decisions involving the renovation, remodeling, preparation, or assignment of space occupied or used by the respective branches within the state capitol building pursuant to section 2.43.

Of the amount appropriated in this subsection for the fiscal year beginning July 1, 1999, \$50,000 shall be allocated to the department of cultural affairs to be used to conduct a study to stabilize the battle flag collection's condition by a professional flag conservator and for other necessary expenses incurred by the department, notwithstanding section 8.57, subsection 5, paragraph "c".

12. For renovation of office space occupied or used by the governor, governor's staff, and department of management in the state capitol building:

FY 1999-2000	\$	250,000
FY 2000-2001	\$	0

13. For renovations to and shelving for the fifth floor of the law library in the state capitol building:

FY 1999-2000	\$	400,000
FY 2000-2001	\$	0

14. For a study to determine the requirements for and feasibility of constructing a pedestrian bridge across court avenue to connect the new judicial building with other areas of the capitol complex:

FY 1999-2000	\$	25,000
FY 2000-2001	\$	0

15. For the design and construction of an Iowa hall of pride:

FY 1999-2000	\$	1,500,000
FY 2000-2001	\$	275,000

The department may enter into an agreement under chapter 28E with public and private agencies for purposes of planning, designing, constructing, operating, and maintaining an Iowa hall of pride on the capitol complex.

The legislative council shall review and approve design and location proposals for construction of the Iowa hall of pride. The department shall submit a report to the general assembly regarding the operational and maintenance aspects of the Iowa hall of pride.

IOWA STATE FAIR FOUNDATION

Sec. 5. There is appropriated from the rebuild Iowa infrastructure fund to the Iowa state fair foundation for the fiscal biennium beginning July 1, 1999, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purpose designated:

For design and construction of a varied industries building at the state fairgrounds:

FY 1999-2000	\$	5,000,000
FY 2000-2001	\$	5,000,000

It is the intent of the general assembly that the amounts appropriated in this subsection shall be the final appropriations for the designated project.

* Item veto; see message at end of the Act

JUDICIAL BRANCH

Sec. 6. There is appropriated from the rebuild Iowa infrastructure fund to the judicial branch for the fiscal biennium beginning July 1, 1999, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

For planning, design, and construction of a new judicial building:

FY 1999-2000.....	\$	10,000,000
FY 2000-2001.....	\$	10,000,000

LEGISLATIVE COUNCIL

Sec. 7. There is appropriated from the rebuild Iowa infrastructure fund to the legislative council, for the fiscal biennium beginning July 1, 1999, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated, notwithstanding section 8.57, subsection 5, paragraph "c":

For planning, design, and construction of legislative support space in the area of the capitol complex:

FY 1999-2000.....	\$	1,600,000
FY 2000-2001.....	\$	0

DEPARTMENT OF PUBLIC DEFENSE

Sec. 8. There is appropriated from the rebuild Iowa infrastructure fund to the department of public defense for the fiscal biennium beginning July 1, 1999, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purpose designated:

For maintenance and repair of national guard armories and facilities:

FY 1999-2000.....	\$	700,000
FY 2000-2001.....	\$	700,000

DEPARTMENT OF PUBLIC SAFETY

Sec. 9. There is appropriated from the rebuild Iowa infrastructure fund to the department of public safety for the fiscal biennium beginning July 1, 1999, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For construction of a new patrol post in District 2:

FY 1999-2000.....	\$	1,500,000
FY 2000-2001.....	\$	0

2. For a study to determine the requirements for and feasibility of the relocation of department offices and the location of the laboratory for the state medical examiner and the state medical examiner's staff, notwithstanding section 8.57, subsection 5, paragraph "c":

FY 1999-2000.....	\$	150,000
FY 2000-2001.....	\$	0

3. For a study to determine the requirements for and feasibility of a pursuit driving track, notwithstanding section 8.57, subsection 5, paragraph "c":

FY 1999-2000.....	\$	150,000
FY 2000-2001.....	\$	0

*4. For planning, design, and construction of a pursuit driving training track:

FY 1999-2000.....	\$	0
FY 2000-2001.....	\$	1,000,000*

* Item veto; see message at end of the Act

STATE BOARD OF REGENTS

Sec. 10. There is appropriated from the rebuild Iowa infrastructure fund to the state board of regents for the fiscal biennium beginning July 1, 1999, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the projects designated:

1. For construction of a recreation complex at the Iowa school for the deaf:	
FY 1999-2000.....	\$ 3,200,000
FY 2000-2001.....	\$ 0
2. For major maintenance needs at the Iowa school for the deaf and the Iowa braille and sight saving school:	
FY 1999-2000.....	\$ 1,285,000
FY 2000-2001.....	\$ 0
*3. For improvements to Gilman hall at Iowa state university of science and technology:	
FY 1999-2000.....	\$ 0
FY 2000-2001.....	\$ 8,750,000
<i>It is the intent of the general assembly that, in order to supplement the recent gift of \$10,000,000 to the Iowa state university of science and technology for a new business college building, the next capital project which shall be funded at the university is a new business college building.</i>	
4. For continued renovation of the biology complex at the state university of Iowa:	
FY 1999-2000.....	\$ 0
FY 2000-2001.....	\$ 14,086,000
5. For upgrades and improvements to the steam distribution system at the university of northern Iowa:	
FY 1999-2000.....	\$ 0
FY 2000-2001.....	\$ 3,500,000*

STATE DEPARTMENT OF TRANSPORTATION

Sec. 11. There is appropriated from the rebuild Iowa infrastructure fund to the state department of transportation for the fiscal biennium beginning July 1, 1999, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For vertical infrastructure improvements at all 10 of the commercial air service airports within the state:	
FY 1999-2000.....	\$ 1,000,000
FY 2000-2001.....	\$ 1,000,000

For each fiscal year for which funds are appropriated in this subsection, one-half of the funds appropriated shall be allocated equally between each commercial service airport and one-half of the funds shall be allocated based on the percentage that the number of enplaned passengers at each commercial service airport bears to the total number of enplaned passengers in the state during the previous fiscal year. In order for a commercial service airport to receive funding under this subsection, the airport shall be required to submit applications for funding of specific projects to the department for approval by the state transportation commission.

2. For vertical infrastructure improvements at publicly owned airports within the state:	
FY 1999-2000.....	\$ 500,000
FY 2000-2001.....	\$ 0

The state department of transportation shall establish a grant program for disbursement of funds appropriated pursuant to this subsection. The program shall provide grants to publicly owned airports within the state for infrastructure improvements based on an applicant airport's need for the improvements and its financial need. The department shall adopt rules to administer the program.

* Item veto; see message at end of the Act

3. For acquiring, constructing, and improving recreational trails within the state:

FY 1999-2000.....	\$	2,250,000
FY 2000-2001.....	\$	2,250,000

None of the funds appropriated in this subsection shall be used for the acquisition of land by involuntary condemnation for recreational trail projects or for recreational trail projects on land acquired by involuntary condemnation on or after the effective date of this section of this Act.

Of the amount appropriated in this subsection for each fiscal year, \$1,000,000 shall be used 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. Such projects shall be matched by one dollar of private or other funds for each three dollars of state funds.

Of the amount appropriated in this subsection for each fiscal year, up to \$250,000 shall be used for off-road-vehicle trail projects.

OFFICE OF TREASURER OF STATE

Sec. 12. There is appropriated from the rebuild Iowa infrastructure fund to the office of treasurer of state for the fiscal biennium beginning July 1, 1999, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purpose designated:

For county fair infrastructure improvements for distribution in accordance with chapter 174 to qualified fairs which belong to the association of Iowa fairs:

FY 1999-2000.....	\$	1,060,000
FY 2000-2001.....	\$	1,060,000

COMMISSION OF VETERANS AFFAIRS

Sec. 13. There is appropriated from the rebuild Iowa infrastructure fund to the commission of veterans affairs for the fiscal biennium beginning July 1, 1999, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the renovation of facilities at the veterans home:

FY 1999-2000.....	\$	0
FY 2000-2001.....	\$	734,605

2. For expansion of the food preparation area and dining room at the veterans home:

FY 1999-2000.....	\$	0
FY 2000-2001.....	\$	2,424,244

Sec. 14. REVERSION. In accordance with section 8.33, moneys appropriated for capital expenditures in this division of this Act that remain unencumbered or unobligated at the close of the fiscal year that begins July 1, 2003, shall revert at the close of that fiscal year. However, if the projects for which the moneys are appropriated are completed in an earlier fiscal year, unencumbered or unobligated moneys shall revert at the close of that fiscal year.

DIVISION II
 NATURAL RESOURCES —
 REBUILD IOWA INFRASTRUCTURE FUND
 DEPARTMENT OF AGRICULTURE
 AND LAND STEWARDSHIP

Sec. 15. There is appropriated from the rebuild Iowa infrastructure fund, to the division of soil conservation located in the department of agriculture and land stewardship for the fiscal biennium beginning July 1, 1999, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated, notwithstanding section 8.57, subsection 5, paragraph “c”:

* Item veto; see message at end of the Act

1. For deposit in the loess hills development and conservation fund created in section 161D.2 to be allocated as provided in chapter 161D:

FY 1999-2000	\$	2,000,000
FY 2000-2001	\$	2,000,000

Of the amount appropriated in this subsection for each fiscal year, \$1,500,000 shall be allocated to the hungry canyons account created in section 161D.2, as amended by 1999 Iowa Acts, House File 218, if enacted.*

Of the amount appropriated in this subsection for each fiscal year, \$500,000 shall be allocated to the preservation and development account created in section 161D.2, as amended by 1999 Iowa Acts, House File 218, if enacted,* to be used by the loess hills preservation and development alliance.

2. For deposit in the alternative drainage system assistance fund created in section 159.29A to be used for purposes of supporting the alternative drainage system assistance program as provided in section 159.29B:

FY 1999-2000	\$	2,200,000
FY 2000-2001	\$	2,000,000

Of the amount appropriated in this subsection for the fiscal year beginning July 1, 1999, up to \$200,000 may be used to provide assistance for closing agricultural drainage wells and constructing alternative drainage systems in Pocahontas county.

It is the intent of the general assembly that a portion of the funds appropriated in this subsection for the fiscal year beginning July 1, 1999, be used to provide adequate assistance for closing agricultural drainage wells and constructing alternative drainage systems in Humboldt county.

3. To provide financial incentives for soil conservation practices under chapter 161A:

FY 1999-2000	\$	1,000,000
FY 2000-2001	\$	1,500,000

a. Not more than 5 percent of the moneys appropriated in this subsection may be allocated for cost-sharing to abate complaints filed under section 161A.47.

b. Of the moneys appropriated in this subsection, 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.

c. 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.

d. The state soil conservation committee created in section 161A.4 may allocate moneys appropriated in this subsection to conduct research and demonstration projects to promote conservation tillage and nonpoint source pollution control practices.

e. The financial incentive payments may be used in combination with department of natural resources moneys.

4. For accelerating watershed protection efforts to reduce soil erosion, protect water quality, and provide flood control in priority watersheds in the state:

FY 1999-2000	\$	1,250,000
FY 2000-2001	\$	1,250,000

a. On or after February 1, 2000, a retail dealer shall not offer for sale in this state a motor vehicle fuel that contains more than two percent of methyl tertiary butyl ether by volume as provided by rules adopted by the department. The department shall adopt rules necessary in order to ensure that methyl tertiary butyl ether does not cause a threat to the public health or environment by contaminating groundwater or surface water in this state.

b. The legislative council is requested to establish an interim committee to study issues relating to the sale, use, and health and environmental effects of oxygenate enhancers contained in motor vehicle fuel, including but not limited to ethanol and methyl tertiary

* Chapter 119 herein

** Item veto; see message at end of the Act

butyl ether. The interim committee shall report the findings and recommendations of its study, including any proposed legislation, to the general assembly as required by the legislative council prior to the 2000 Session of the Seventy-eighth General Assembly.

c. At sites where groundwater or soil monitoring is required, pursuant to section 455B.474, subsection 1, paragraph “d”, “f”, or “h”, the department of natural resources shall require that monitoring include testing for the presence of methyl tertiary butyl ether from the locations where other sample analyses are required. The department shall provide regular updates to the interim committee established in paragraph “b” as required by the interim committee. The department shall report the findings and recommendations of the testing to the general assembly prior to the 2000 Session of the Seventy-eighth General Assembly.

DEPARTMENT OF NATURAL RESOURCES

Sec. 16. There is appropriated from the rebuild Iowa infrastructure fund to the department of natural resources for the fiscal biennium beginning July 1, 1999, and ending June 30, 2001, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For recreational grants to be used for the restoration or construction of recreational complexes or facilities under the recreational grant matching program:

FY 1999-2000	\$	3,500,000
FY 2000-2001	\$	3,500,000

Matching grants awarded from the funds appropriated in this subsection shall be awarded on a matching basis of one dollar for every two dollars the applicant has raised. Each grant shall not exceed \$100,000 per project.

The department shall give special consideration to recreational complex or facility projects which involve public and private sector participation.

2. For the dredging of lakes, including necessary preparation for dredging, in accordance with the department’s classification of Iowa lakes restoration report, notwithstanding section 8.57, subsection 5, paragraph “c”:

FY 1999-2000	\$	4,200,000
FY 2000-2001	\$	4,200,000

a. Of the amount appropriated in this subsection **for each fiscal year**, up to \$200,000 may be used by the department to conduct feasibility studies for rehabilitation of state-owned or other public lakes in cooperation with local project sponsors. The department shall match the cost of the studies at a rate of one dollar of state moneys for every one dollar of local project moneys raised.

b. Of the amount appropriated in this subsection **for each fiscal year**, up to \$600,000 may be used by the department to provide assistance to qualified applicants for purposes of financing capital improvements to natural or constructed lakes including but not limited to dredging, installation or repair of erosion control measures, and land acquisition. To qualify for assistance, an applicant must be a nonprofit organization based in the community where the lake is located which is active in sponsoring improvements to the lake and is capable of managing or overseeing the improvements or be a governmental body. Assistance shall not be provided to construct a new lake. Notwithstanding any contrary provision of this subsection, the department may consider grants for any public lakes.

c. To qualify for assistance under paragraph “b”, an applicant must demonstrate that existing or planned infrastructure and practices are capable of ensuring long-term benefits to the lake. An applicant must also show that each dollar of assistance will be matched by one dollar contributed by a source other than the state.

d. The department shall adopt rules pursuant to chapter 17A to administer this subsection.

3. For the purpose of funding capital projects from marine fuel tax receipts for the purposes specified in section 452A.79, and notwithstanding section 8.57, subsection 5, paragraph “c”, for expenditures for the local cost share grants to be used for capital expenditures to local governmental units for boating accessibility:

* Item veto; see message at end of the Act

FY 1999-2000	\$	2,300,000
FY 2000-2001	\$	2,300,000

4. For the construction of the Elinor Bedell state park and wildlife conservation area:

FY 1999-2000	\$	275,000
FY 2000-2001	\$	0

5. For establishment and operation of water quality monitoring stations, notwithstanding section 8.57, subsection 5, paragraph "c":

FY 1999-2000	\$	1,015,000
FY 2000-2001	\$	1,015,000

Of the amount appropriated in this subsection **for each fiscal year**, \$15,000 shall be allocated to support a grant to local sponsors of the Lewis and Clark rural water system in order to construct a system to provide safe and adequate municipal and rural water supplies for residential, commercial, agricultural, and industrial uses, to preserve wetlands, and to mitigate water conservation efforts. The local sponsors shall submit a report to the general assembly by January 1 of each of the fiscal years regarding the use of the moneys allocated in this paragraph and the status of the project.

6. For renovation of lake Belva Deer dam, notwithstanding section 8.57, subsection 5, paragraph "c":

FY 1999-2000	\$	200,000
FY 2000-2001	\$	200,000

7. For development and administration of a community-based grant distribution program to provide funding for the planting of trees throughout the state, notwithstanding section 8.57, subsection 5, paragraph "c":

FY 1999-2000	\$	250,000
FY 2000-2001	\$	250,000

The grant distribution program shall be coordinated through public and private partnerships. The department, after consultation with the "A Million More for 2004" legislative ad hoc committee, shall adopt rules to administer the program.

Sec. 17. REVERSION. In accordance with section 8.33, moneys appropriated for capital expenditures in this division of this Act that remain unencumbered or unobligated at the close of the fiscal year that begins July 1, 2003, shall revert at the close of that fiscal year. However, if the projects for which the moneys are appropriated are completed in an earlier fiscal year, unencumbered or unobligated moneys shall revert at the close of that fiscal year.

DIVISION III
RESOURCES ENHANCEMENT AND PROTECTION FUND

Sec. 18. 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 rebuild Iowa infrastructure fund to the Iowa resources enhancement and protection fund, in lieu of the appropriation made in section 455A.18, for the fiscal period beginning July 1, 1999, and ending June 30, 2001, the following amounts, to be allocated as provided in section 455A.19, notwithstanding section 8.57, subsection 5, paragraph "c":

FY 1999-2000	\$	10,500,000
FY 2000-2001	\$	10,500,000

DIVISION IV
SUPPLEMENTAL APPROPRIATIONS

Sec. 19. DEPARTMENT OF GENERAL SERVICES. There is appropriated from the rebuild Iowa infrastructure fund to the department of general services for the fiscal year

* Item veto; see message at end of the Act

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:

For renovations, maintenance, and utility upgrades at the state hospital-schools at Glenwood and Woodward and at the state mental health institute at Independence:
 \$ 3,600,000

Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30, 2001, from the funds remaining on June 30, 2001, from the funds appropriated in this section shall revert to the rebuild Iowa infrastructure fund.

Sec. 20. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION V
 STATUTORY CHANGES

Sec. 21. Section 8.6, subsection 13, Code 1999, is amended to read as follows:

13. CAPITAL PROJECT BUDGETING REQUESTS. To compile annually all capital project budgeting requests of all state agencies, as defined in section 8.3A, and to consolidate the requests, with individual state agency priorities noted, into a report for submission ~~to the legislative capital projects committee not later than November 1~~ with the budget documents by the governor pursuant to section 8.22. Any additional information regarding the capital project budgeting requests or priorities shall be compiled and submitted in the same report.

Sec. 22. Section 8.6, subsection 14, unnumbered paragraph 1, Code 1999, is amended to read as follows:

To prepare annually, in cooperation with the department of general services, a five-year capital project priority plan for all state agencies, as defined in section 8.3A, to be submitted ~~no later than November 1, to the legislative capital projects committee~~ with the budget documents by the governor pursuant to section 8.22. The plan shall include but is not limited to the following:

Sec. 23. NEW SECTION. 15.371 COMMUNITY ATTRACTION AND TOURISM DEVELOPMENT PROGRAM.

1. The department shall establish and administer a community attraction and tourism development program to assist communities in the development and creation of multiple purpose attraction and tourism facilities.

2. A political subdivision of the state or a public organization may submit an application to the department for financial assistance for a project under the program. The assistance shall be in the form of grants, loans, forgivable loans, and loan guarantees. The application shall include, but not be limited to, the following information:

- a. The total capital investment of the project.
- b. The amount or percentage of local and private matching moneys which will be or have been provided for the project.
- c. The total number of jobs to be created or retained by the project.
- d. The need of the community for the project and the financial assistance.
- e. The long-term tax generating impact of the project.

Sec. 24. NEW SECTION. 15.372 COMMUNITY ATTRACTION AND TOURISM DEVELOPMENT FUND.

1. The department shall establish a community attraction and tourism development fund consisting of any moneys appropriated by the general assembly for that purpose and any other moneys available to and obtained or accepted by the department for placement in the fund.

2. Payments of interest, repayments of moneys loaned pursuant to this part, and recaptures of awards shall be deposited in the fund.

3. The fund shall be used to provide grants, loans, forgivable loans, and loan guarantees under the community attraction and tourism development program established in section 15.371.

4. Moneys in the fund are not subject to section 8.33. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund.

Sec. 25. **NEW SECTION. 15.373 COMMUNITY ATTRACTION AND TOURISM DEVELOPMENT PROGRAM REVIEW COMMITTEE — APPLICATION REVIEW.**

*1. A community attraction and tourism development program review committee is established consisting of seven members. The director shall appoint three members representing the travel federation of Iowa, one member representing an association with expertise in the vertical infrastructure industry, one member representing an institution with expertise in economic promotion, and one member representing the professional developers of Iowa. The governor shall appoint the remaining member. The three members representing the travel federation of Iowa shall represent the three tourism regions, with one representing a county with a population of under fifty thousand, one representing a county with a population of at least fifty thousand but not more than one hundred thousand, and one representing a county with a population of more than one hundred thousand.

2. The community attraction and tourism development program review committee shall review applications for community attraction and tourism development fund assistance and make recommendations to the department regarding the applications. Upon review of the recommendations of the committee, the department shall approve, defer, or deny the application.*

3. When reviewing the applications, *the community attraction and tourism development program review committee and* the department shall consider, at a minimum, all of the following:

a. Whether the wages, benefits, including health benefits, safety, and other attributes of the project would improve the quality of attraction and tourism employment in the community.

b. The extent to which such a project would generate additional attraction and tourism opportunities.

c. The ability of the project to produce a long-term tax generating economic impact.

d. The location of the projects and geographic diversity of the applications.

e. The extent to which any part of the proposed project meets the definition of vertical infrastructure in section 8.57, subsection 5, paragraph "c".

Sec. 26. Section 161A.80, subsection 2, unnumbered paragraph 1, Code 1999, is amended to read as follows:

A blufflands protection revolving fund is created in the state treasury. All proceeds shall be divided into two equal accounts. One account shall be used for the purchase of blufflands along the Mississippi river and its tributaries and the other account shall be used for the purchase of blufflands along the Missouri river and its tributaries. The proceeds of the revolving fund are appropriated to make loans to conservation organizations which agree to purchase bluffland properties adjacent to state public lands. The department of agriculture and land stewardship, in conjunction with the department of natural resources, shall adopt rules pursuant to chapter 17A to administer the disbursement of funds. Notwithstanding section 12C.7, interest or earnings on investments made pursuant to this section or as provided in section 12B.10 shall be credited to the blufflands protection revolving fund. Notwithstanding section 8.33, unobligated or unencumbered funds credited to the blufflands protection revolving fund shall not revert at the close of a fiscal year. However, the maximum balance in the blufflands protection fund shall not exceed two million five hundred

* Item veto; see message at end of the Act

thousand dollars. Any funds in excess of two million five hundred thousand dollars shall be credited to the rebuild Iowa infrastructure fund.

Sec. 27. NEW SECTION. 161C.7 WATERSHED PROTECTION.

1. The department of agriculture and land stewardship shall initiate and coordinate the establishment of a watershed protection task force and provide staffing assistance to the task force. It is the intent of the general assembly that the task force include representatives of the department of agriculture and land stewardship, the department of natural resources, the emergency management division of the department of public defense, county conservation boards, soil and water conservation districts, and any other appropriate stakeholders. The task force shall study the condition of watershed protection in the state and provide recommendations to the department of agriculture and land stewardship regarding soil conservation, water quality protection, flood control, and other natural resource conservation issues. The task force shall submit recommendations to the department by January 1 of each year through January 1, 2001.

2. The department of agriculture and land stewardship shall implement and administer a watershed protection program. The department of agriculture and land stewardship, in consultation with the department of natural resources, shall annually establish a prioritized list of watersheds that are of the highest importance to the state's water quality. The watershed protection program shall, to the extent practical, target for assistance those watersheds on the prioritized list. A soil and water conservation district, in cooperation with state agencies, local units of government, and private organizations, may submit an application for assistance to the department which provides a strategy for protecting soil, water quality, and other natural resources, and improving flood control in the watershed. Upon approval of an application, the department may provide a grant to the soil and water conservation district for purposes of carrying out the strategy provided in the application.

3. A watershed protection account is created within the water protection fund created in section 161C.4. Moneys credited to the account shall be distributed under the watershed protection program.

4. Administrative rules used for water quality protection projects under the water protection fund shall be used to administer the watershed protection program.

Sec. 28. Section 173.2, subsection 3, Code 1999, is amended to read as follows:

3. One delegate, a resident of the county, to be appointed by the board of supervisors in each county where there is no such society, or when such society fails to report to the ~~state fair board~~ association of Iowa fairs in the manner provided by law as a basis for state aid. The ~~board~~ association shall promptly report such failure to the county auditor.

Sec. 29. Section 174.3, Code 1999, is amended to read as follows:

174.3 CONTROL OF GROUNDS.

~~During the time a fair is being held, no~~ An ordinance or resolution of ~~any a county or city~~ shall not in any way impair the authority of the society, but it shall have sole and exclusive control over and management of such fair.

Sec. 30. Section 174.9, unnumbered paragraph 1, Code 1999, 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 ~~Iowa state fair foundation, as established in section 173.22,~~ association of Iowa fairs on or before November 1 of each year, a statement which shall show:

Sec. 31. Section 174.9, subsection 4, Code 1999, 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 ~~Iowa state fair foundation~~ association of Iowa fairs may require.

Sec. 32. Section 174.10, subsections 1 and 2, Code 1999, are amended to read as follows:

1. Any moneys appropriated for state aid for county or local fairs shall be paid ~~directly to each eligible society which conducts a fair which qualifies for funding to the office of treasurer of state to be allocated to the association of Iowa fairs for payments to be made by the association to eligible societies pursuant to this chapter.~~

2. a. The association of Iowa fairs shall ~~provide the Iowa state fair foundation with main-~~ tain 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 ~~Iowa state fair foundation~~ association of Iowa fairs shall not ~~authorize payment of state aid~~ make a payment to a society, under this chapter unless the society complies with section 174.9 and the name of the society appears on the association's list.

b. The association shall prepare a report at the end of each fiscal year concerning the state aid appropriated for county or local fairs, the manner in which such aid was allocated to eligible societies, and the manner in which the aid was expended by the societies. The association shall submit the report to the governor and the general assembly by January 1 of each year. The association shall not use moneys appropriated for state aid for county or local fairs, or interest earned on such moneys, for administrative or other expenses.

Sec. 33. Section 174.12, Code 1999, is amended to read as follows:

174.12 PAYMENT OF STATE AID.

The ~~department of revenue and finance~~ association of Iowa fairs shall ~~issue a warrant to pay a society for the amount due in state aid, less five hundred one thousand dollars, as provided in this chapter. The Iowa state fair foundation association of Iowa fairs must certify to the department treasurer that the society is eligible under this chapter to receive the amount due provided in section 174.10 to be paid to the society by the association. The department shall issue a warrant to~~ association shall pay the society ~~for the remaining five hundred one thousand dollars, if all of the following apply:~~

1. The secretary of the state fair board certifies to the ~~department~~ association that the society had an accredited delegate in attendance at the annual convention for the election of members of the state fair board as provided in section 173.2.

2. A district director of the association of Iowa fairs representing the district in which the county is located, and the director of the Iowa state fair board representing the congressional district in which the county is located, certify to the ~~department~~ association that the society had an accredited delegate in attendance at the district meeting.

Any state aid moneys remaining due to the failure of a society to comply with ~~the provisions of this section~~ shall be distributed equally among the societies which have qualified for state aid under this section. The treasurer of state shall allocate to the association of Iowa fairs the total amount to be paid by the association to eligible societies under this chapter.

Sec. 34. NEW SECTION. 174.17 ISSUANCE OF REVENUE BONDS — STANDBY TAX LEVY.

1. The governing body of a society may issue bonds payable from revenue generated by the operations of the county fair and the use or rental of the real and personal property owned or leased by the society. The governing body of a society shall comply with all of the following procedures in issuing such bonds:

a. A society may institute proceedings for the issuance of bonds by causing a notice of the proposal to issue the bonds to be published at least once in a newspaper of general circulation within the county at least ten days prior to the meeting at which the society proposes to take action for the issuance of the bonds. The notice shall include a statement of the amount

and purpose of the bonds, the maximum rate of interest the bonds are to bear, and the right to petition for an election.

b. If at any time before the date fixed for taking action for the issuance of the bonds, a petition signed by three percent of the registered voters of the county is filed with the board of supervisors, asking that the question of issuing the bonds be submitted to the registered voters, the board of supervisors shall either by resolution declare the proposal to issue the bonds to have been abandoned or shall direct the county commissioner of elections to call a special election upon the question of issuing the bonds. The proposition of issuing bonds under this subsection is not approved unless the vote in favor of the proposition is equal to at least sixty percent of the vote cast. If a petition is not filed, or if a petition is filed and the proposition of issuing the bonds is approved at an election, the board of supervisors acting on behalf of the society may proceed with the authorization and issuance of the bonds. Bonds may be issued for the purpose of refunding outstanding and previously issued bonds under this subsection without otherwise complying with the provisions of this subsection.

c. All bonds issued under this subsection shall be payable solely from and shall be secured by an irrevocable pledge of a sufficient portion of the net rents, profits, and income derived from the operation of the county fair and the use or rental of the real and personal property owned or leased by the society. Bonds issued pursuant to this section shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, and shall not be subject to the provisions of any other law or charter relating to the authorization, issuance, or sale of bonds. Bonds issued under this subsection shall not limit or restrict the authority of the society as otherwise provided by law.

2. To further secure the payment of the bonds, the board of supervisors may, by resolution, provide for the assessment of an annual levy of a standby tax upon all taxable property within the county. 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 bonds issued as provided in this section, when the receipt of revenues pursuant to subsection 1 is insufficient to pay the principal and interest. 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 revenues received which are not required for the payment of principal of or interest on bonds due. Reserves shall not be built up in the special fund in anticipation of a projected default. The board of supervisors 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.

3. For purposes of this section, "society" means a society, as defined by section 174.1, that conducts a county or local fair that has a verifiable annual attendance of at least one hundred fifty thousand persons and annual outside gate admission revenues of at least four hundred thousand dollars.

Sec. 35. Section 331.303, subsection 5, Code 1999, is amended to read as follows:

5. Proceed upon a petition to establish an official county fair and pay tax funds to it in accordance with section 174.10, ~~subsection 2.~~

Sec. 36. Section 414.1, Code 1999, is amended to read as follows:

414.1 BUILDING RESTRICTIONS — POWERS GRANTED.

1. For the purpose of promoting the health, safety, morals, or the general welfare of the community or for the purpose of preserving historically significant areas of the community, any city is hereby empowered to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes.

2. The city of Des Moines may, for the purpose of preserving the dominance of the dome of the state capitol building and the view of the state capitol building from prominent public viewing points, regulate and restrict the height and size of buildings and other structures in the city of Des Moines. Any regulations pertaining to such matters shall be made in accordance with a comprehensive plan and in consultation with the capitol planning commission.

Sec. 37. Section 452A.79, subsection 1, Code 1999, is amended to read as follows:

1. Dredging and renovation of ~~natural~~ lakes of this state.

Sec. 38. Section 174.11, Code 1999, is repealed.

Sec. 39. 1998 Iowa Acts, chapter 1219, section 6, subsection 1, unnumbered paragraph 3, is amended to read as follows:

Of the amount appropriated in this subsection, up to \$1,250,000 may be used by the department for the purchase of property located at the southwest corner of Lyon street and East Tenth street, together with the contiguous property south of the southwest corner property and the property between East Tenth street and East Eleventh street between Lyon street and Des Moines street, all in the city of Des Moines.

Of the amount appropriated in this subsection, up to \$430,000 may be used by the department to complete the infrastructure assessment, notwithstanding section 8.57, subsection 5, paragraph "c".

Sec. 40. 1998 Iowa Acts, chapter 1219, section 10, subsection 4, unnumbered paragraph 2, is amended to read as follows:

Of the amount appropriated in this subsection up to \$200,000 shall be used by the department to implement a lake rehabilitation pilot program for state-owned or public lakes in cooperation with local project sponsors. Of this amount, up to \$100,000 may be used to conduct a diagnostic feasibility study. The department shall adopt rules to administer the pilot program to include requirements for the development of diagnostic feasibility lake studies, development of plans for lakes judged suitable for restoration, and provisions for grants to local sponsors by which the department shall match the cost of studies and plans at a rate of one dollar of state appropriated moneys for every ~~three dollars~~ one dollar of local project moneys raised.

Sec. 41. SCHOOL BUILDING FINANCING — STUDY. The legislative council is requested to establish an interim study committee consisting of five members from each house of the general assembly, representing both political parties, to study the financing mechanisms for K-12 school buildings, including construction of, improvements to, and renovation of such buildings. The committee should have seven meeting days and may be authorized to conduct public hearings across the state regarding the issues to be studied 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 2000.

Sec. 42. EFFECTIVE DATES. The following sections of this division of this Act, being deemed of immediate importance, take effect upon enactment:

1. Section 26, amending section 161A.80.
2. Sections 39 and 40, amending 1998 Iowa Acts, chapter 1219.

Approved May 24, 1999, with exceptions noted.

THOMAS J. VILSACK, Governor

Dear Mr. Secretary:

I hereby transmit House File 772, an Act relating to and making appropriations from and to the rebuild Iowa infrastructure fund and the Iowa resources enhancement and protection fund to state departments and agencies, including the department of agriculture and land stewardship, the department of cultural affairs, the department of economic development, the department of corrections, the department of general services, the Iowa state fair foundation, the judicial branch, the legislative council, the department of natural resources, the department of public defense, the department of public safety, the state board of regents, the state department of transportation, office of treasurer of state, and the commission of veterans affairs and providing effective dates.

House File 772 makes appropriations from the rebuild Iowa infrastructure fund. The bill not only appropriates funds for both fiscal year 2000 and fiscal year 2001, in making the appropriations for fiscal year 2001, the general assembly has opted to fund a number of new and on-going programs and projects that I believe may be premature or whose priority has not been fully weighed. Many members of the general assembly will recall that prioritization of project funding from the infrastructure fund, in view of the state's long-term needs, has long been a major concern of mine.

For this reason I determined that a long-term priority plan must be put in place and updated on a continuing basis to assure that the state addresses its infrastructure needs relative to physical infrastructure, recreational enhancements, and technology needs.

Executive Order III, issued in February of this year, is a direct result of these concerns. This Executive Order creates an Iowa Vertical Infrastructure Advisory Council. I believe this is the first necessary step in assuring that these long term needs are addressed in the future on a continuing basis.

This Advisory Council needs time to develop databases, methodology, and make recommendations to the general assembly and myself, before a majority of the resources available are expended. I think it is premature at this time to expend all projected FY 2001 infrastructure funds. It will be better to allow the Advisory Council to do its work and make their recommendations.

For these reasons, House File 772 is, therefore, approved on this date with the following exceptions, which I hereby disapprove.

I am unable to approve the designated portion of Section 2. This item appropriates \$1,450,000 for cultural grants in fiscal year 2001.

I am unable to approve the designated portion of Section 3, subsection 1, and the designated portions of subsections a and b. This item appropriates \$12,500,000 for the physical infrastructure assistance fund in fiscal year 2001.

I am unable to approve the designated portion of Section 3, subsection 5. This would require the department of economic development to establish rules for awarding financial assistance for advanced research and commercialization projects within certain guidelines. I believe the program can be better tailored to the needs if there is greater flexibility allowed in the rules.

I am unable to approve the designated portion of Section 4, subsection 15. This item appropriates \$275,000 for the design and construction of a hall of pride in fiscal year 2001.

I am unable to approve the item designated as Section 9, subsection 4, in its entirety. This item appropriates \$1,000,000 for the construction of a pursuit-driving track in fiscal year 2001, before the study funded in fiscal year 2000 is complete.

I am unable to approve the items designated as Section 10, subsections 3, 4, and 5 in their entirety. These would appropriate \$26,336,000 for construction/renovation projects at the board of regent institutions to commence in fiscal year 2001.

I am unable to approve the designated portion of Section 11, subsection 1. This would provide \$1,000,000 for infrastructure improvements at commercial air service airports in fiscal year 2001.

I am unable to approve the designated portion of Section 11, subsection 3. This would provide that none of the funds appropriated shall be used for the acquisition of land by involuntary condemnation for recreational trail projects. This is an unduly restrictive approach to dealing with recreational trail projects.

I am unable to approve the designated portion of Section 12. This would appropriate \$1,060,000 for county fair infrastructure improvements in fiscal year 2001.

I am unable to approve the designated portions of Section 15, subsection 2 and 3. These items appropriate \$2,000,000 for agriculture drainage wells and \$1,500,000 for soil conservation projects in fiscal year 2001.

I am unable to approve the designated portions of Section 16, subsections 1, 2, 3, 5, and 7. These items appropriate \$3,500,000 for a recreational grants program; \$4,200,000 for lake dredging projects; \$2,300,000 for marine fuel tax projects; \$1,000,000 for water quality monitoring, and \$250,000 for planting of trees in fiscal year 2001.

I am unable to approve the designated portion of Section 18. This item would appropriate \$10,500,000 for the resource enhancement protection fund in fiscal year 2001.

I am unable to approve the designated portions of Section 25, subsections 1, 2, and 3. These items establish a seven-member review committee for the community attraction and tourism development program. The department of economic development has the expertise and resources to make decisions about implementation and administration of the program.

For the above reasons, I hereby respectfully approve House File 772 with the exceptions noted above.

Sincerely,
THOMAS J. VILSACK, Governor

CHAPTER 205

APPROPRIATIONS — EDUCATION

S.F. 464

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, and the state board of regents, providing related statutory changes, and providing effective dates.

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, 1999, and ending June 30, 2000, 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:

.....	\$	331,727
.....	FTEs	5.40

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 261.19:

.....	\$	379,260
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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
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3. STUDENT AID PROGRAMS

For payments to students for the Iowa grant program:

.....	\$	1,161,850
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4. NATIONAL GUARD TUITION AID PROGRAM*

For purposes of providing national guard tuition aid* under the program established in section 261.86:

.....	\$	833,900
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5. CHIROPRACTIC GRADUATE STUDENT FORGIVABLE LOAN PROGRAM

For purposes of providing forgivable loans under the program established in section 261.71:

.....	\$	100,000
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6. TEACHER SHORTAGE FORGIVABLE LOAN PROGRAM

For the teacher shortage forgivable loan program established in section 261.111:

.....	\$	250,000
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***Sec. 2. There is appropriated from the loan reserve account to the college student aid commission for the fiscal year beginning July 1, 1999, and ending June 30, 2000, the following amount, or so much thereof as may be necessary, to be used for the purposes designated:*

For operating costs of the Stafford loan program including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	5,226,983
.....	FTEs	33.61**

Sec. 3. The department of revenue and finance shall deposit interest earned on the Pub. L. No. 105-33 recall account within the office of the treasurer of state during the fiscal year ending June 30, 1999, in the fund 61 default reduction account. Moneys in the fund 61 default reduction account are appropriated to the college student aid commission for the fiscal year beginning July 1, 1999, and ending June 30, 2000, for purposes of issuing emergency loans to assist needy students in avoiding default on a guaranteed or parental loan made under chapter 261.

Sec. 4. REMAINING NATIONAL GUARD TUITION AID PROGRAM BALANCE. Notwithstanding section 8.33, the unencumbered or unobligated moneys remaining at the end of the fiscal year ending June 30, 1999, from the appropriations made in 1998 Iowa Acts, chapter 1215, section 1, subsection 4, shall not revert but shall be available for expenditure during the subsequent fiscal year for the purposes of the national guard tuition aid program.***

Sec. 5. REMAINING INDUSTRIAL TECHNOLOGY FORGIVABLE LOAN PROGRAM BALANCE. Notwithstanding section 8.33 or section 261.25, subsection 4, Code 1999, or any other provision to the contrary, unencumbered or unobligated funds remaining on June 30, 1999, for purposes of the industrial technology forgivable loan program established in section 261.111, shall be available to the college student aid commission for expenditure for

* See chapter 208, §70 herein

** Item veto; see message at end of the Act

*** See chapter 208, §71 herein

the fiscal year beginning July 1, 1999, and for succeeding fiscal years for the purposes of the teacher shortage forgivable loan program established in section 261.111 if enacted by an Act of the 1999 Session.*

DEPARTMENT OF CULTURAL AFFAIRS

Sec. 6. There is appropriated from the general fund of the state to the department of cultural affairs for the fiscal year beginning July 1, 1999, and ending June 30, 2000, 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 and for not more than the following full-time equivalent positions:

.....	\$	1,444,795
.....	FTEs	10.00

2. HISTORICAL DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	3,188,307
.....	FTEs	65.70

3. HISTORIC SITES

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	596,001
.....	FTEs	8.00

4. ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	236,562
.....	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. LOCAL ARTS COMPREHENSIVE EDUCATIONAL STRATEGIES PROGRAM (LACES)

For contracting with the Iowa alliance for arts education to execute their local arts comprehensive educational strategies:

.....	\$	25,000
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6. 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:

.....	\$	713,557
.....	FTEs	0.70

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, 1999, and ending June 30, 2000, 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:

.....	\$	5,719,322
.....	FTEs	98.45

* See this chapter, §41 herein

2. VOCATIONAL EDUCATION ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	554,481
.....	FTEs	15.60

3. BOARD OF EDUCATIONAL EXAMINERS

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	205,396
.....	FTEs	2.00

b. For purposes of implementing a multilevel voluntary para-educator licensing system in accordance with section 272.12:

.....	\$	50,000
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4. VOCATIONAL REHABILITATION SERVICES DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	4,631,873
.....	FTEs	302.25

From the funds appropriated in this lettered paragraph, up to \$2,000,000 shall be used to provide services to persons without regard to an order of selection. The division shall seek additional local matching funds in an amount sufficient to avoid any loss of federal funds.

The division of vocational rehabilitation services shall seek a waiver from the federal government to accept assessments of clients performed by area education agencies or any other governmental subdivision. The division shall also seek additional federal waivers to improve and increase the availability of supported employment services to Iowans.

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 lettered paragraph, for the fiscal year ending June 30, 2000, 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 4.00 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.

The division of vocational rehabilitation services shall enter into a chapter 28E agreement with the creative employment options program at the state university of Iowa, or take whatever other action is necessary, to enable the division to count as a local match the state funds appropriated to the university for purposes of the creative employment options program.

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:

.....	\$	76,067
.....	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.

* Item veto; see message at end of the Act

5. STATE LIBRARY

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	3,153,168
.....	FTEs	21.00

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, 1999, and ending June 30, 2000, 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, 1998, and ending June 30, 1999.

b. For a one-year enrich Iowa pilot program:

.....	\$	700,000
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(1) Funds allocated for purposes of the enrich Iowa pilot program as provided in this lettered paragraph shall be distributed by the division of libraries and information services to eligible public libraries that are in compliance with performance measures adopted by rule by the commission. The funds allocated as provided in this lettered paragraph shall not be used for the costs of administration by the division. The amount distributed to each eligible public library shall be based upon the following:

(a) The level of compliance by the eligible public library with the performance measures adopted by the commission as provided in this subsection.

(b) The number of people residing within an eligible library's geographic service area for whom the library provides services.

(c) The amount of other funding the eligible public library received in the previous fiscal year for providing services to rural residents and to contracting communities.

(2) Moneys received by a public library under this lettered paragraph shall supplement, not supplant, any other funding received by the library.

(3) For purposes of this section, "eligible public library" means a public library that meets at least all of the following requirements:

(a) Submits to the division all of the following:

(i) The report provided for under section 256.51, subsection 1, paragraph "h".

(ii) An application and accreditation report, in a format approved by the commission, that provides evidence of the library's compliance with at least one level of the standards established in accordance with section 256.51, subsection 1, paragraph "k".

(iii) Any other application or report the division deems necessary for the implementation of the enrich Iowa program.

(b) Participates in the library resource and information sharing programs established by the state library.

(c) Is a public library established by city ordinance or a county library as provided in chapter 336.

(4) Each eligible public library shall maintain a separate listing within its budget for payments received and expenditures made pursuant to this section, and shall annually submit this listing to the division.

(5) By January 15, 2000, the division shall submit a program evaluation report to the general assembly and the governor detailing the uses and the impacts of funds allocated under this lettered paragraph. It is the intent of the general assembly to address the continuation of the enrich Iowa pilot program during the 2000 legislative session.

6. REGIONAL LIBRARY

For state aid:

.....	\$	1,687,000
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The division of libraries and information services shall submit a list of current regional library employees and their salaries to the department of management by August 1, 1999. The list shall be used by the department for purposes of calculating the annual salary increase need, based on the salary increases negotiated by the American federation of state,

county, and municipal employees. The amount calculated by the department for salary need shall be included in the regional library budget request submitted to the governor for the fiscal year beginning July 1, 2000, and ending June 30, 2001.

7. PUBLIC BROADCASTING DIVISION

For salaries, support, maintenance, capital expenditures, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	7,661,324
.....	FTEs	106.40

8. VOCATIONAL EDUCATION TO SECONDARY SCHOOLS

For reimbursement for vocational education expenditures made by secondary schools:

.....	\$	3,308,850
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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.

9. 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

10. IOWA EMPOWERMENT FUND

For deposit in the school ready children grants account of the Iowa empowerment fund created in section 71.8:

.....	\$	10,400,000
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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:

.....	\$	650,000
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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
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13. NATIONAL BOARD CERTIFICATION

For the issuance of national board certification awards in accordance with section 256.44, if 1999 Iowa Acts, House File 766, is enacted*:

.....	\$	1,000,000
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Notwithstanding section 8.33, funds appropriated for purposes of this section which remain unencumbered or unobligated at the close of the fiscal year, shall not revert but shall be available for expenditure for purposes of issuing national board certification awards during the succeeding fiscal year.

14. EMPLOYABILITY SKILLS ASSESSMENTS REIMBURSEMENTS

For reimbursement of school district claims for the costs of acquiring and using employability skills assessment tools as provided in this subsection:

.....	\$	185,000
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a. The department of education shall reimburse school district claims for the costs of acquiring, administering, and scoring assessment tools to assess the employability skills of students. The director of education shall identify available employability skills assessment tools that school districts may use to meet the claim reimbursement requirements of this subsection.

* Chapter 142 herein

b. In order to be eligible for reimbursement under this subsection, a school district shall submit a claim on forms provided by the department by July 15, 2000, and the claim shall state the actual costs incurred and shall be accompanied by an affidavit of an officer of the school district affirming the accuracy of the claim.

c. A school district that submits to the department a claim for reimbursement in accordance with this subsection shall develop and integrate specific employability skills goals and activities into the comprehensive school improvement plan required under section 256.7, subsection 21, paragraph "a".

d. The department of education shall certify to the department of revenue and finance the amounts of approved claims to be paid, and the department of revenue and finance shall draw warrants payable to school districts with approved claims, taking into consideration the relative budget and cash position of the state resources.

e. Moneys received under this subsection shall not be commingled with state aid payments made under section 257.16 to a school district and shall be accounted for by the school district separately from state aid payments. Payments made to a school district under this subsection are miscellaneous income for purposes of chapter 257.

f. If the funds appropriated in this subsection are insufficient to pay in full the claims submitted by school districts and approved by the department, the amounts of approved claims shall be prorated among all school districts with approved claims.

15. BEGINNING TEACHER INDUCTION PROGRAM

For purposes of the beginning teacher induction program as provided in section 256E.2:

..... \$ 300,000
Notwithstanding section 8.33, moneys appropriated in this section that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

16. COMMUNITY COLLEGES

For general state financial aid, including general financial aid to merged areas in lieu of personal property tax replacement payments, to merged areas as defined in section 260C.2, for vocational education programs in accordance with chapters 258 and 260C:

.....	\$	141,577,403
The funds appropriated in this subsection shall be allocated as follows:		
a. Merged Area I	\$	6,788,405
b. Merged Area II	\$	7,981,873
c. Merged Area III	\$	7,452,448
d. Merged Area IV	\$	3,638,156
e. Merged Area V	\$	7,598,634
f. Merged Area VI	\$	7,059,555
g. Merged Area VII	\$	10,138,631
h. Merged Area IX	\$	12,444,971
i. Merged Area X	\$	19,480,613
j. Merged Area XI	\$	20,720,212
k. Merged Area XII	\$	8,173,625
l. Merged Area XIII	\$	8,395,697
m. Merged Area XIV	\$	3,684,420
n. Merged Area XV	\$	11,561,901
o. Merged Area XVI	\$	6,458,262

Sec. 8. DISTRIBUTION OF FUNDS APPROPRIATED. For the fiscal year beginning July 1, 1999, and ending June 30, 2000, moneys appropriated by the general assembly from the general fund to the department of education for community colleges for a fiscal year shall be allocated to each community college by the department of education in the following manner:

1. BASE FUNDING. The base funding for a fiscal year shall be equal to the amount each community college received as an allocation from appropriations made from the general fund of the state in the most recent fiscal year.

2. DISTRIBUTION FOR INFLATION. First priority shall be to give each college an increase based upon inflation. The inflation increase shall be not less than 2 percent. However, the inflation increase shall be equal to the national inflation rate, if it exceeds 2 percent, if the amount of state aid appropriated is equal to or greater than the national inflation rate.

3. DISTRIBUTION BASED ON PROPORTIONAL SHARE OF ENROLLMENT. The balance of the growth in state aid appropriations, once the inflation increase has been satisfied, shall be distributed based on each college's proportional share of enrollment. However, a minimum of one percent of the total growth shall be distributed in this manner.

4. If the total appropriation made by the general assembly is less than 2 percent growth, the entire increase shall be distributed as inflation.

Sec. 9. BOARD OF EDUCATIONAL EXAMINERS LICENSING FEES. Notwithstanding section 272.10, up to 85 percent of any funds received annually resulting from an increase in fees approved and implemented for licensing by the state board of educational examiners after July 1, 1997, shall be available for the fiscal year beginning July 1, 1999, to the state board for purposes related to the state board's duties, including, but not limited to, additional full-time equivalent positions. The director of revenue and finance shall draw warrants upon the treasurer of state from the funds appropriated as provided in this section and shall make the funds resulting from the increase in fees available during the fiscal year to the state board on a monthly basis.

Sec. 10. FISCAL YEAR 1999-2000 EXTENDED SCHOOL YEAR GRANT MONEYS — DISTRIBUTION.

1. Notwithstanding section 8.33 and section 256.22, subsection 4, from the funds appropriated in 1998 Iowa Acts, chapter 1216, section 1, subsection 1, to the department of education for extended school year grants, which remain unencumbered or unobligated on June 30, 1999, the sum of \$735,000 shall not revert to the general fund of the state and shall not be available for expenditure for the following fiscal year for purposes of extended school year grants, but shall be reallocated by the department as follows:

a. The sum of \$200,000 to the board of educational examiners for a one-year pilot program study to assess the performance of teacher education graduates at no charge to the graduates. The department of education, the board of educational examiners, and the college student aid commission shall determine the number of students that will be tested at each postsecondary institution that provides an approved practitioner preparation program in a manner that will result in a reliable statistical sampling. It is the intent of the general assembly that if the board recommends statewide implementation of the assessment prior to initial licensure, the costs of an assessment shall be paid by the teacher education graduate applying for initial licensure.

b. The sum of \$100,000 to the division of libraries and information services for promotion of the next decennial federal census.

c. The sum of \$100,000 to the department of education for distribution to the reading recovery center.

d. The sum of \$120,000 to the department of education for support of the family resource center demonstration program established under chapter 256C.

e. The sum of \$165,000 to the department of education for reimbursement of school district claims for the costs of acquiring and using employability skills assessment tools as provided in section 7, subsection 14, of this Act.

f. The sum of \$50,000 to the department of cultural affairs for the local arts comprehensive educational strategies program (LACES) for contracting with the Iowa alliance for arts education to execute their local arts comprehensive educational strategies. The sum reallocated in this lettered paragraph is in addition to funds appropriated in section 6, subsection 5, of this Act.

Sec. 11. REGIONAL LIBRARIES STUDY. The legislative council is requested to establish an interim study committee to review the issues concerning making regional library staff state employees. The interim study committee shall submit a report of recommendations concerning these issues and recommendations for any necessary legislation to the general assembly by December 1, 1999.

Sec. 12. COMMUNITY COLLEGE GOVERNANCE TASK FORCE. The legislative council is requested to establish an interim task force consisting of members of both political parties from both houses of the general assembly, the office of the governor, representatives of the Iowa association of community college trustees, the Iowa association of community college presidents, and the division of community colleges and workforce preparation of the department of education, to identify and study options for restructuring the community college governance system. The goal of the task force shall be to determine a plan for a community college governance structure that causes community colleges to operate more cooperatively, effectively, and efficiently as a state system, while recognizing the strong local character of community colleges. The task force shall review the current community college governance system; ongoing collaborative efforts among the community colleges; the relationships between the community colleges and local school districts, accredited nonpublic schools, other accredited postsecondary institutions in Iowa, and the department of education; and changes necessary to enhance the accountability of community colleges. The task force shall submit its findings and recommendations for a plan for a restructuring of the community college governance system that achieves the goals set forth in this section in a report to the chairpersons and ranking members of the senate and house standing committees on education and the joint appropriations subcommittee on education by December 1, 1999.

STATE BOARD OF REGENTS

Sec. 13. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 1999, and ending June 30, 2000, 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:

.....	\$	1,235,518
.....	FTEs	15.63

The state board of regents, the department of management, and the legislative fiscal bureau shall cooperate to determine and agree upon, by November 15, 1999, the amount that needs to be appropriated for tuition replacement for the fiscal year beginning July 1, 2000.

The state board of regents shall submit a monthly financial report in a format agreed upon by the state board of regents office 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:

.....	\$	27,927,851
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c. For funds to be allocated to the southwest Iowa graduate studies center:

.....	\$	111,113
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d. For funds to be allocated to the siouxland interstate metropolitan planning council for the tristate graduate center under section 262.9, subsection 21:

.....	\$	81,716
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e. For funds to be allocated to the quad-cities graduate studies center:

.....	\$	167,086
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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:

.....	\$	237,554,141
.....	FTEs	4,048.62

b. 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:

.....	\$	31,812,568
.....	FTEs	5,511.67

The university of Iowa hospitals and clinics shall, within the context of chapter 255 and when medically appropriate, make reasonable efforts to extend the university of Iowa hospitals and clinics' use of home telemedicine and other technologies to reduce the frequency of visits to the hospital required by indigent patients. The university of Iowa hospitals and clinics shall submit a report to the general assembly and the legislative fiscal bureau by January 15, 2000, describing its use of these technologies to accomplish this purpose.

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, 1999, shall not be lower than the total quota allocated to the counties for the fiscal year commencing July 1, 1998. The total quota shall be allocated among the counties on the basis of the 1990 census pursuant to section 255.16.

c. Psychiatric hospital

For salaries, support, maintenance, equipment, miscellaneous purposes, for the care, treatment, and maintenance of committed and voluntary public patients, and for not more than the following full-time equivalent positions:

.....	\$	7,968,070
.....	FTEs	292.18

d. Hospital-school

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	6,991,199
.....	FTEs	161.56

From the funds appropriated in this lettered paragraph, \$200,000 shall be allocated for purposes of the creative employment options program.

e. Oakdale campus

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	3,100,866
.....	FTEs	60.58

f. State hygienic laboratory

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	3,870,920
.....	FTEs	102.49

g. Family practice program

For allocation by the dean of the college of medicine, with approval of the advisory board, to qualified participants, to carry out chapter 148D for the family practice program, including salaries and support, and for not more than the following full-time equivalent positions:

.....	\$	2,312,290
.....	FTEs	192.40

h. Child health care services

For specialized child health care services, including childhood cancer diagnostic and treatment network programs, rural comprehensive care for hemophilia patients, and the Iowa high-risk infant follow-up program, including salaries and support, and for not more than the following full-time equivalent positions:

.....	\$	601,434
.....	FTEs	9.36

i. Agricultural health and safety programs

For agricultural health and safety programs, and for not more than the following full-time equivalent positions:

.....	\$	272,634
.....	FTEs	3.48

j. Statewide cancer registry

For the statewide cancer registry, and for not more than the following full-time equivalent positions:

.....	\$	209,730
.....	FTEs	3.07

k. 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:

.....	\$	72,028
.....	FTEs	1.15

l. Center for biocatalysis

For the center for biocatalysis, and for not more than the following full-time equivalent positions:

.....	\$	1,058,058
.....	FTEs	10.40

m. National advanced driving simulator

For the national advanced driving simulator, and for not more than the following full-time equivalent positions:

.....	\$	284,951
.....	FTEs	3.58

n. Primary health care initiative

For the primary health care initiative in the college of medicine and for not more than the following full-time equivalent positions:

.....	\$	865,623
.....	FTEs	11.00

From the funds 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.

o. Birth defects registry

For the birth defects registry and for not more than the following full-time equivalent position:

.....	\$	50,000
.....	FTEs	0.90

p. School of public health and public health initiative

For purposes of establishing an accredited school of public health and to fund an initiative for the health and independence of elderly Iowans, and for not more than the following full-time equivalent positions:

.....	\$	1,050,000
.....	FTEs	16.00

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:

.....	\$	185,808,896
.....	FTEs	3,598.44

From the funds appropriated in this lettered paragraph, \$40,000 shall be allocated for purposes of the institute for public leadership.

b. Agricultural experiment station

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	34,982,675
.....	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:

.....	\$	22,706,446
.....	FTEs	445.80

From the funds appropriated in this lettered paragraph, \$150,000 shall be used for the food, fiber, and environmental science program, and \$1,066,000 shall be used for the value-added agricultural projects as part of the extension 21 program.

The cooperative extension service in agriculture and home economics at Iowa state university of science and technology shall conduct a study, in consultation with the department of human services, that identifies all educational materials, seminars, and assistance offered by the extension service which are duplicative, either directly or in subject area, of educational materials, seminars, and assistance offered by the department of human services. The cooperative extension service shall submit its findings in a report to the general assembly and the legislative fiscal bureau by January 15, 2000.

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:

.....	\$	574,983
.....	FTEs	11.25

* Item veto; see message at end of the Act

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:

.....	\$	277,573
.....	FTEs	3.17

f. Center for excellence in fundamental plant science

For salaries, support, maintenance, equipment, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	2,200,000
.....	FTEs	17.96

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:

.....	\$	83,402,982
.....	FTEs	1,402.86

b. Recycling and reuse center

For purposes of the recycling and reuse center, and for not more than the following full-time equivalent positions:

.....	\$	244,025
.....	FTEs	1.50

c. Masters in social work

For implementation of a masters in social work program and for not more than the following full-time equivalent positions:

.....	\$	300,000
.....	FTEs	4.00

5. STATE SCHOOL FOR THE DEAF

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	7,737,161
.....	FTEs	126.60

6. IOWA BRAILLE AND SIGHT SAVING SCHOOL

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	4,303,242
.....	FTEs	91.05

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:

.....	\$	16,941
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Sec. 14. STATE BOARD OF REGENTS STUDY. The state board of regents shall, in consultation with the Iowa association of independent colleges and universities and the Iowa coordinating council for post-high school education, complete a study of the number and type of undergraduate and graduate degree programs offered at the satellite locations of all institutions of higher learning under the control of the state board of regents and at the satellite locations of all accredited private postsecondary institutions. The study shall include a listing of degree programs currently in operation and those the Iowa coordinating council has approved, but which have not yet begun operation. By January 15, 2000, the state board of regents shall submit a report to the chairpersons and ranking members of the senate and house joint appropriations subcommittee on education, the legislative fiscal bureau, the secretary of the senate, and the chief clerk of the house of representatives, that contains the following information:

1. A listing of all satellite locations where degree programs are offered.
 2. A listing of all degree programs offered, identified by satellite location and postsecondary institution.
 3. The enrollment in each degree program by resident, nonresident, and the combined enrollment total.
 4. The date each degree program was approved by the Iowa coordinating council for post-high school education.
 5. The date each degree program actually began operation.
- For purposes of this section, "satellite" means a facility not attached to the campus of the main postsecondary institution.

Sec. 15. **MEDICAL ASSISTANCE — SUPPLEMENTAL AMOUNTS.** For the fiscal year beginning July 1, 1999, and ending June 30, 2000, 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, 1999, and ending September 30, 2000, pursuant to section 1923(f)(3) of the federal Social Security Act, as amended, or pursuant to federal payments for indirect medical education is greater than the amount necessary to fund the federal share of the supplemental payments specified in the preceding paragraph, the department of human services shall increase the supplemental disproportionate share or supplemental indirect medical education adjustment by the lesser of the amount necessary to utilize fully the state supplemental amount or the amount of state funds appropriated to the state university of Iowa general education fund and allocated to the university for the college of medicine. The state university of Iowa shall transfer from the allocation for the college of medicine to the department of human services, on a monthly basis, an amount equal to the additional supplemental payments made during the previous month pursuant to this paragraph. A qualifying hospital receiving supplemental payments pursuant to this paragraph that are greater than the state appropriation made to the qualifying hospital for treatment of indigent patients as provided in chapter 255 shall be obligated as a condition of its participation in the medical assistance program to transfer to the state university of Iowa general education fund on a monthly basis an amount equal to the funds transferred by the state university of Iowa to the department of human services. To the extent that state funds appropriated to the state university of Iowa and allocated to the college of medicine have been transferred to the department of human services as a result of these supplemental payments made to the

qualifying hospital, the department shall not, directly or indirectly, recoup these supplemental payments made to a qualifying hospital for any reason, unless an equivalent amount of the funds transferred to the department of human services by the state university of Iowa pursuant to this paragraph is transferred to the qualifying hospital by the department.

Continuation of the supplemental disproportionate share and supplemental indirect medical education adjustment shall preserve the funds available to the university hospital for medical and surgical treatment of indigent patients as provided in chapter 255 and to the state university of Iowa for educational purposes at the same level as provided by the state funds initially appropriated for that purpose.

The department of human services shall, in any compilation of data or other report distributed to the public concerning payments to providers under the medical assistance program, set forth reimbursements to a qualifying hospital through the supplemental disproportionate share and supplemental indirect medical education adjustment as a separate item and shall not include such payments in the amounts otherwise reported as the reimbursement to a qualifying hospital for services to medical assistance recipients.

For purposes of this section, "supplemental payment" means a supplemental payment amount paid for medical assistance to a hospital qualifying for that payment under this section.

Sec. 16. STATE UNIVERSITY OF IOWA — DEPARTMENT OF HUMAN SERVICES. The department of human services shall transfer to the state university of Iowa for the purposes of the creative employment options program the same amount of moneys in the fiscal year beginning July 1, 1999, and ending June 30, 2000, as was transferred in the fiscal year beginning July 1, 1997, and ending June 30, 1998.

Sec. 17. For the fiscal year beginning July 1, 1999, and ending June 30, 2000, 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. 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, 1999, 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. Section 256.22, subsection 2, Code 1999, is amended to read as follows:

2. Grant moneys shall be distributed to qualifying school districts by the department no later than October 15, ~~1998~~ 1999. Grant amounts shall be distributed as determined by the department.

Sec. 20. Section 256.44, Code 1999, as amended by 1999 Iowa Acts, House File 766, if enacted,* is amended by adding the following new subsection:

NEW SUBSECTION. 8. Notwithstanding section 8.33, funds appropriated for purposes of this section which remain unencumbered or unobligated at the close 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 purposes of this section.

Sec. 21. NEW SECTION. 256.67A INSURANCE ELIGIBILITY.

Personnel employed by a regional library shall be considered state employees for purposes of eligibility for receiving employee health and dental insurance as provided to state employees by the department of personnel. If a regional library elects to participate in a state employee health and dental insurance program, the regional library shall continue to pay the costs of employee participation in a program from funds appropriated for purposes of the regional libraries by the general assembly.

* Chapter 142 herein

Sec. 22. NEW SECTION. 256E.1 DEFINITIONS.

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

1. "Beginning teacher" means an individual serving under an initial provisional or conditional license, issued by the board of educational examiners under chapter 272, who is assuming a position as a classroom teacher.

2. "Board" means the board of directors of a school district or a collaboration of boards of directors of school districts.

3. "Classroom teacher" means an individual who holds a valid practitioner's license and who is employed under a teaching contract with a school district or area education agency in this state to provide classroom instruction to students.

4. "Department" means the department of education.

5. "Director" means the director of the department of education.

6. "District facilitator" means a licensed professional pursuant to chapter 272 who is appointed by a board to serve as the liaison between the board and the department for the beginning teacher induction program.

7. "Mentor" means an individual employed by a school district or area education agency as a classroom teacher who holds a valid license to teach issued under chapter 272. The individual must have a record of four years of successful teaching practice, must be employed as a classroom teacher on a nonprobationary basis, and must demonstrate professional commitment to the improvement of teaching and learning, and the development of beginning teachers.

Sec. 23. NEW SECTION. 256E.2 BEGINNING TEACHER INDUCTION PROGRAM ESTABLISHED — GRANTS.

1. If the general assembly appropriates moneys for purposes of teacher induction, the department of education shall coordinate a beginning teacher induction program to promote excellence in teaching, build a supportive environment within school districts, increase the retention of promising beginning teachers, and promote the personal and professional well-being of teachers.

2. The department shall adopt rules concerning the grant application and award process, including reasonable cost estimates for beginning teacher induction programs. The department may disapprove a plan submitted by a board if the plan does not meet the minimum criteria set forth in section 256E.3, subsection 2, or the plan exceeds the reasonable costs as determined by the department. If the cost estimates submitted by a board exceed reasonable cost estimates as determined by the department, the department shall work with the board to identify measures for reducing plan costs. If the department determines that moneys appropriated by the general assembly are insufficient to meet the grant requests for all approved beginning teacher induction program plans, the department shall award grants based on the geographic location and district population of the school districts with approved plans. Grants may be awarded in subsequent years based upon the most recent plan on file with the department. It is the intent of the general assembly that the department approve plans that incorporate local innovation and take into consideration local needs.

Sec. 24. NEW SECTION. 256E.3 DISTRICT FACILITATOR AND PLAN.

1. An area education agency shall prepare a model beginning teacher induction program plan and shall provide the model plan to each school district within its area. The plan shall include a model evaluation component by which a school district may measure the effectiveness of its program. Any modifications to the model plan shall be submitted to school districts as soon as practical. A board that wishes to participate in the program shall adopt a beginning teacher induction program plan and written procedures for the program, and may use, alter, or revise the model plan provided by the area education agency at the board's discretion.

2. A board that wishes to participate in the beginning teacher induction program shall appoint a district facilitator, whose duties shall include, but are not limited to, overseeing the

implementation of a plan for meeting the goals of the program as set forth in section 256E.2. The plan shall, at a minimum, provide the process for the selection of and the number of mentors; the mentor training process; the timetable by which the plan shall be implemented; placement of mentors and beginning teachers; the minimum amount of contact time between mentors and beginning teachers; the minimum amount of release time for mentors and beginning teachers for meetings for planning, demonstration, observation, feedback, and workshops; the process for dissolving mentor and beginning teacher partnerships; and the process for measuring the results of the program.

3. The district facilitator shall submit the plan, and the proposed costs of implementing the plan, to the board, which shall consider the plan and, once approved, submit the plan and a reasonable cost proposal to the department of education.

4. The district facilitator is encouraged to work with area education agencies and postsecondary institutions in the preparation and implementation of a plan.

5. The district facilitator shall place beginning teachers participating in the program in a manner that provides the greatest opportunity to work with the largest number of mentors.

Sec. 25. NEW SECTION. 256E.4 BEGINNING TEACHER INDUCTION STATE SUBSIDY — FUND.

1. A mentor in a beginning teacher induction program approved under this chapter shall be eligible for an award of five hundred dollars per semester, at a minimum, for participation in the program, which shall be paid from moneys received pursuant to this chapter by the school district.

2. Moneys received by a school district pursuant to this chapter shall be expended to provide mentors with awards in accordance with subsection 1, to implement the plan, to provide for a stipend for the district facilitator, and to pay any applicable costs of the employer's share of contributions to federal social security and the Iowa public employees' retirement system or a pension and annuity retirement system established under chapter 294, for such amounts paid by the district.

3. Moneys received by a school district under this chapter are miscellaneous income for purposes of chapter 257 or are considered encumbered. A school district shall maintain a separate listing within its budget for payments received and expenditures made pursuant to this section.

4. A beginning teacher induction fund is established in the office of the treasurer of state to be administered by the department. Moneys appropriated by the general assembly for deposit in the fund shall be used to provide funding to school districts pursuant to this section.

Sec. 26. NEW SECTION. 256E.5 REPORTS.

The board implementing an approved beginning teacher induction program as provided in this chapter shall submit an assessment of the program's results by July 1 of the fiscal year succeeding the year in which the school district received moneys under this chapter. The department shall annually report the statewide results of the program to the chairpersons and the ranking members of the senate and house education committees by January 1.

Sec. 27. Section 261.2, Code 1999, is amended by adding the following new subsection: NEW SUBSECTION. 15. Be prohibited from expending interest moneys earned on accounts of the commission located within the office of the treasurer of state unless the general assembly specifically appropriates the interest moneys for use by the commission. If the general assembly appropriates interest moneys transferred from the Pub. L. No. 105-33 recall account within the office of the treasurer of state to the fund 61 default reduction account, the commission shall adopt rules for the expenditure of the interest moneys for purposes of issuing emergency loans to assist needy students in avoiding default on a guaranteed or parental loan made under this chapter.

Sec. 28. Section 261.12, subsection 1, paragraph b, Code 1999, is amended to read as follows:

b. For the fiscal year beginning July 1, ~~1998~~ 1999, and for each following fiscal year, three thousand ~~six~~ nine hundred ~~fifty~~ dollars.

Sec. 29. Section 261.17, subsection 3, unnumbered paragraph 1, Code 1999, is amended to read as follows:

A qualified full-time student may receive vocational-technical tuition grants for not more than four semesters, ~~eight quarters~~ or the trimester or quarter equivalent of two full years of study. ~~The amount of a vocational-technical tuition grant to a~~ 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;~~ may receive vocational-technical tuition grants for not more than eight semesters or the trimester or quarter equivalent of two full years of full-time study.

Sec. 30. Section 261.17, subsection 4, Code 1999, is amended to read as follows:

4. a. The amount of a vocational-technical tuition grant to a qualified full-time student shall not exceed the lesser of six hundred fifty dollars per year or the amount of the student's established financial need.

b. 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 vocational-technical tuition grant that would be paid to a full-time student, except that the commission shall prorate the amount in a manner consistent with the federal Pell grant program proration.

Sec. 31. Section 261.25, subsections 1 through 3, Code 1999, are amended to read as follows:

1. There is appropriated from the general fund of the state to the commission for each fiscal year the sum of ~~forty-four~~ forty-seven million six hundred sixty-four thousand seven hundred fifty dollars for tuition grants.

2. There is appropriated from the general fund of the state to the commission for each fiscal year the sum of four hundred ~~seventy-four~~ ninety-eight thousand ~~eight~~ five hundred ~~forty~~ dollars for scholarships.

3. There is appropriated from the general fund of the state to the commission for each fiscal year the sum of two million ~~two~~ four hundred ~~forty-four~~ eighty-two thousand ~~one~~ four hundred ~~ninety-seven~~ dollars for vocational-technical tuition grants.

Sec. 32. Section 261.25, subsection 4, Code 1999, is amended by striking the subsection.

Sec. 33. Section 261.38, subsection 1, Code 1999, is amended to read as follows:

1. The commission shall establish a loan reserve account ~~from which any default on a guaranteed student loan shall be paid and an agency operating account as authorized by the federal Higher Education Act of 1965.~~ The commission shall credit to ~~this account~~ these accounts all moneys ~~designated exclusively for the reserve fund~~ provided for the state student loan program by the United States, the state of Iowa, or any of their agencies, departments or instrumentalities, as well as any funds accruing to the program which are not required for current administrative expenses. ~~The department of management shall determine the actuarially sound reserve requirement for the amount of guaranteed loans outstanding~~ commission may expend moneys in the loan reserve and agency operating accounts as authorized by the federal Higher Education Act of 1965.

Sec. 34. Section 261.38, subsection 2, Code 1999, is amended by striking the subsection.

Sec. 35. Section 261.38, subsections 3, 4, and 5, Code 1999, are amended to read as follows:

3. The payment of any funds for the default on a guaranteed student loan shall be solely from the loan reserve ~~account and agency operating accounts~~. The general assembly shall not be obligated to appropriate any moneys to pay for any defaults or to appropriate any moneys to be credited to the loan reserve account. The commission shall not give or lend the credit of the state of Iowa.

4. ~~Funds Notwithstanding section 8.33, funds on deposit in the loan reserve account or in the administrative account and operating accounts~~ shall not revert to the state general fund at the close of any fiscal year.

5. The treasurer of state shall invest any funds, including those in the loan reserve ~~account and operating accounts~~, and, ~~notwithstanding section 12C.7~~, the interest income earned shall be credited back to the ~~loan reserve appropriate~~ account.

Sec. 36. Section 261.38, subsection 6, Code 1999, is amended by striking the subsection.

Sec. 37. Section 261.38, subsection 7, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The commission may ~~expend funds in the reserve account and~~ enter into agreements with the Iowa student loan liquidity corporation in order to increase access for students to education loan programs that the commission determines meet the education needs of Iowa residents. The agreements shall permit the establishment, funding, and operation of alternative education loan programs, as described in section 144(b)(1)(B) of the Internal Revenue Code of 1986 as amended, as defined in section 422.3, in addition to programs permitted under the federal Higher Education Act of 1965. In accordance with those agreements, the Iowa student loan liquidity corporation may issue bonds, notes, or other obligations to the public and others for the purpose of funding the alternative education loan programs. This authority to issue ~~such~~ bonds, notes, or other obligations shall be in addition to the authority established in the articles of incorporation and bylaws of the Iowa student loan liquidity corporation.

Sec. 38. Section 261.71, subsection 1, paragraph c, Code 1999, is amended to read as follows:

c. The student ~~practices~~ agrees to practice in an underserved area in the state of Iowa for a period of time to be determined by the commission at the time the loan is awarded.

Sec. 39. Section 261.71, subsections 2 and 3, Code 1999, are amended to read as follows:

2. ~~Of the moneys loaned to an eligible student, for each year of up to and including four years of practice in Iowa, an amount equal to twenty-five percent of the original principal and the proportionate share of accrued interest, or one thousand one hundred dollars, whichever is greater, shall be forgiven. If a student fails to complete a year of practice in the state, as practice is defined by the college student aid commission, the loan amount for that year shall not be forgiven. The contract for the loan repayment shall stipulate the time period the chiropractor shall practice in an underserved area in this state. In addition, the contract shall stipulate that the chiropractor repay any funds paid on the chiropractor's loan by the commission if the chiropractor fails to practice in an underserved area in this state for the required period of time.~~ Forgivable loans made to eligible students shall not become due, for repayment purposes, until one year after the student has graduated. A loan that has not been forgiven may be sold to a bank, savings and loan association, credit union, or non-profit agency eligible to participate in the guaranteed student loan program under the federal Higher Education Act of 1965, 20 U.S.C. § 1071 et seq., by the commission when the loan becomes due for repayment.

3. For purposes of this section "graduate student" means a student who has completed at least ninety semester hours, or the trimester or quarter equivalent, of postsecondary course

work at a public higher education institution or at an accredited private institution, as defined under section 261.9. “Underserved area” means a geographical area included on the Iowa governor’s health practitioner shortage area list, which is compiled by the center for rural health and primary care of the Iowa department of public health. The college student aid commission shall adopt rules, consistent with rules used for students enrolled in higher education institutions under the control of the state board of regents, for purposes of determining Iowa residency status of graduate students under this section. The commission shall also adopt rules which provide standards, guidelines, and procedures for the receipt, processing, and administration of student applications and loans under this section.

Sec. 40. NEW SECTION. 261.86 NATIONAL GUARD EDUCATIONAL ASSISTANCE PROGRAM.

1. A national guard educational assistance program is established to be administered by the college student aid commission for members of the Iowa national guard who are enrolled as undergraduate students in a community college, an institution of higher learning under the state board of regents, or an accredited private institution. The college student aid commission shall adopt rules pursuant to chapter 17A to administer this section. An individual is eligible for the national guard educational assistance program if the individual meets all of the following conditions:

- a. Is a resident of the state and a member of an Iowa army or air national guard unit while receiving educational assistance pursuant to this section.
- b. Satisfactorily completed required initial active duty training.
- c. Maintains satisfactory performance of duty upon return from initial active duty training, including attending a minimum ninety percent of scheduled drill dates and attending annual training.
- d. Is enrolled as an undergraduate student in a community college as defined in section 260C.2, an institution of higher learning under the control of the board of regents, or an accredited private institution as defined in section 261.9, and is maintaining satisfactory academic progress.
- e. Provides proper notice of national guard status to the community college or institution at the time of registration for the term in which tuition benefits are sought.
- f. Submits an application to the adjutant general of Iowa, on forms prescribed by the adjutant general, who shall determine eligibility and whose decision is final.

2. The amount of educational assistance received by a national guard member pursuant to this section shall be determined by the adjutant general and shall not exceed the resident tuition rate established for institutions of higher learning under the control of the state board of regents. If the amount appropriated in a fiscal year for purposes of this section is insufficient to provide educational assistance to all national guard members who apply for the program and who are determined by the adjutant general to be eligible for the program, the adjutant general shall determine the amount of educational assistance each eligible national guard member shall receive. However, educational assistance paid to an eligible national guard member shall not be less than an amount equal to fifty percent of the resident tuition rate established for institutions of higher learning under the control of the state board of regents. The adjutant general shall not determine educational assistance amounts based upon a national guard member’s unit, the location at which drills are attended, or whether the eligible individual is a member of the Iowa army or air national guard.

3. An eligible member of the national guard, attending an institution as provided in subsection 1, paragraph “d”, as a full-time student, shall not receive educational assistance under this section for more than eight semesters, or if attending as a part-time student for not more than sixteen semesters, of undergraduate study, or the trimester or quarter equivalent. A national guard member who has met the educational requirements for a baccalaureate degree is ineligible for educational assistance under this section.

4. The eligibility of applicants and amounts of educational assistance to be paid shall be certified by the adjutant general of Iowa to the college student aid commission, and all amounts that are or become due to a community college, accredited private institution, or

institution of higher learning under the control of the state board of regents under this section shall be paid to the college or institution by the college student aid commission upon receipt of certification by the president or governing board of the educational institution as to accuracy of charges made, and as to the attendance and academic progress of the individual at the educational institution. The college student aid commission shall maintain an annual record of the number of participants and the dollar value of the educational assistance provided.

5. For purposes of this section, unless otherwise required, "educational assistance" means the same as "cost of attendance" as defined in Title IV, part B, of the federal Higher Education Act of 1965 as amended.

Sec. 41. Section 261.111, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

261.111 TEACHER SHORTAGE FORGIVABLE LOAN PROGRAM.

1. A teacher shortage forgivable loan program is established to be administered by the college student aid commission. An individual is eligible for the forgivable loan program if the individual is a resident of this state who is enrolled as a sophomore, junior, senior, or graduate student in an approved practitioner preparation program in a designated area in which teacher shortages are anticipated, at an institution of higher learning under the control of the state board of regents or an accredited private institution as defined in section 261.9.

2. The director of the department of education shall annually designate the areas in which teacher shortages are anticipated. The director shall periodically conduct a survey of school districts, accredited nonpublic schools, and approved practitioner preparation programs to determine current shortage areas and predict future shortage areas.

3. Each applicant shall, in accordance with the rules of the commission, do the following:

a. Complete and file an application for a teacher shortage forgivable loan. The individual shall be responsible for the prompt submission of any information required by the commission.

b. File a new application and submit information as required by the commission annually on the basis of which the applicant's eligibility for the renewed forgivable loan will be evaluated and determined.

4. Forgivable loans to eligible students shall not become due until after the student graduates or leaves school. The individual's total loan amount, including principal and interest, shall be reduced by twenty percent for each year in which the individual remains an Iowa resident and is employed in Iowa by a school district or an accredited nonpublic school as a practitioner in the teacher shortage area for which the loan was approved. If the commission determines that the person does not meet the criteria for forgiveness of the principal and interest payments, the commission shall establish a plan for repayment of the principal and interest over a ten-year period. If a person required to make the repayment does not make the required payments, the commission shall provide for payment collection.

5. The amount of a teacher shortage forgivable loan shall not exceed three thousand dollars annually, or the amount of the student's established financial need, whichever is less.

6. The commission shall prescribe by rule the interest rate for the forgivable loan.

7. A teacher shortage forgivable loan repayment fund is created for deposit of payments made by forgivable loan recipients who do not fulfill the conditions of the forgivable loan program and any other moneys appropriated to or received by the commission for deposit in the fund. Notwithstanding section 8.33, moneys deposited in the fund shall not revert to the general fund of the state at the end of any fiscal year but shall remain in the forgivable loan repayment fund and be continuously available to make additional loans under the program. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the fund shall be credited to the fund.

8. For purposes of this section, unless the context otherwise requires, "teacher" means the same as defined in section 272.1.

Sec. 42. Section 294A.25, subsections 6, 11, and 12, Code 1999, are amended to read as follows:

6. For the fiscal year beginning July 1, ~~1997 1999~~, and ending June 30, ~~1998 2000~~, from phase III moneys the amount of fifty thousand dollars to the department of education for the geography alliance.

11. For the fiscal year beginning July 1, ~~1998 1999~~, and ending June 30, ~~1999 2000~~, 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.

12. For the fiscal year beginning July 1, ~~1998 1999~~, and ending June 30, ~~2000~~, to the department of education from phase III moneys the amount of one hundred fifty thousand dollars to the Iowa public broadcasting division for overnight transmitter feeds.

Sec. 43. Section 294A.25, Code 1999, is amended by adding the following new subsections:

NEW SUBSECTION. 13. For the fiscal year beginning July 1, 1999, and ending June 30, 2000, to the department of education from phase III moneys the amount of fifty thousand dollars for participation in the national assessment of education progress.

NEW SUBSECTION. 14. For the fiscal year beginning July 1, 1999, and ending June 30, 2000, to the department of education from phase III moneys the amount of fifty thousand dollars for the Iowa mathematics and science coalition.

Sec. 44. Section 303.16, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 10. a. The general assembly finds that the country school that served Iowa's educational needs for much of its history offered a unique opportunity to students and communities, providing for multigenerational attendance, high educational performance, a safe environment, a focus for community support, and a caring, attentive environment.

b. A country schools historical resource preservation grant program is therefore established to be administered by the historical division for the preservation of one-room and two-room buildings once used as country schools. In developing grant approval criteria, the division shall place a priority on the educational uses planned for the country school building, which may include, but are not limited to, historical interpretation and use as a teaching museum or as an operational classroom accessible to a school district or accredited nonpublic school for provisional instructional purposes.

c. Notwithstanding any other provision of this section, the amount of a grant shall not exceed twenty-five thousand dollars and applicants shall match grant funding on a dollar-for-dollar basis, of which at least one-half of the local match must be in cash.

Sec. 45. EMERGENCY RULES. The department of education may adopt emergency rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of Code chapter 256E as enacted by this Act and the rules shall be effective immediately upon filing unless a later date is specified in the rules. Any rules adopted in accordance with this section shall also be published as a notice of intended action as provided in section 17A.4.

Sec. 46. EMERGENCY RULES. The commission of libraries shall adopt emergency rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", adopting the performance measures referred to in 286 IAC 3.6 and implement the provisions of section 7, subsection 5, paragraph "b", of this Act, and the rules shall be effective immediately upon filing unless a later date is specified in the rules. Any rules adopted in accordance with this section shall also be published as a notice of intended action as provided in section 17A.4.

Sec. 47. Sections 261.21 and 261.112, Code 1999, are repealed.

Sec. 48. EFFECTIVE DATES.

1. Section 4 of this Act, relating to the remaining national guard tuition aid balance, being deemed of immediate importance, takes effect upon enactment.

2. Section 5 of this Act, relating to the remaining industrial technology forgivable loan program balance, being deemed of immediate importance, takes effect upon enactment.

3. Section 9 of this Act, relating to board of educational examiners licensing fees, being deemed of immediate importance, takes effect upon enactment.

4. Section 10 of this Act, relating to the distribution of FY 1999-2000 extended school year grant moneys, being deemed of immediate importance, takes effect upon enactment.

5. Section 46 of this Act, relating to emergency rules, being deemed of immediate importance, takes effect upon enactment.

Approved May 25, 1999, with exceptions noted.

THOMAS J. VILSACK, Governor

Dear Mr. Secretary:

I hereby transmit Senate File 464, 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, and the state board of regents, providing related statutory changes, and providing effective dates.

This bill, which provides funding for portions of our K-12 education and most of our higher education system, is a vital part of our state's efforts to provide the best educational system in the nation. I believe that this bill will build on our tradition of excellence in many areas of critical importance to Iowa.

I am pleased, for example, that the Legislature adopted my recommendation to fully fund formula increases for our community colleges. Iowa's community colleges are an important local resource for job training, community and economic development, and higher education, and this support will enhance their ability to carry forward with their mission.

I am also pleased that the Legislature supported my recommendations for a new public health initiative at the University of Iowa, a new center for plant science research at Iowa State University, and a new master's degree program in social work at the University of Northern Iowa. These will enhance the educational offerings and stature of our regents institutions and also contribute to key statewide objectives such as making Iowa the food capital of the world and providing affordable health care for all Iowans.

This bill also provides important resources for our communities. I am pleased that the Legislature has adopted my recommendation that we make a statewide commitment to upgrade our public libraries. Our local public libraries are an important community resource, and I would encourage the Legislature to follow up their one-year pilot project with a longer-term commitment to enrich Iowa through improvements to our local libraries.

I am encouraged that the Legislature has adopted a portion of my recommendation to reimburse local school districts for the costs of acquiring and using employability skills assessment tools for students. This is only a small part, however, of my recommendation to provide funds to test all state ninth and twelfth grade students. I recommended use of Work Keys, which is also supported by the Iowa Business Council. I am directing the Department of Education to utilize this tool as well, because it provides us the opportunity to develop a statewide standard for assessment of student work skills. Once implemented, Work Keys will be an outstanding

way for students to judge their progress toward attaining the skills they need in the workforce and for businesses to attain the qualified workers they need. I encourage the Legislature to provide the funding necessary to implement my recommendation statewide.

There are other important initiatives contained within this bill, including my recommendation to double the funding for local empowerment zones to bring needed early childhood services to Iowans, to provide additional support for tuition grants, to create a teacher shortage forgivable loan program and a beginning teacher induction program. I am hopeful that the Legislature will continue to work with me to provide the resources necessary to enhance these opportunities in the future.

Senate File 464 is, therefore, approved on this date with the following exceptions, which I hereby disapprove.

I am unable to approve the item designated as Section 2 in its entirety. Sections 33 through 37 bring the Code in conformance with the Federal Higher Education Act of 1965, eliminating the need for this appropriation.

I am unable to approve the items designated as Section 3 and Section 27 in their entirety. This language limits default reduction services to a few emergency loan recipients. The College Student Aid Commission has designed a comprehensive default reduction program that will help a substantially larger number of needy students at risk of defaulting on their student loans. The Commission's program will provide access to expanded default avoidance resources developed by the Commission's Default Avoidance Task Force for all students attending Iowa colleges and universities, with priority given to low income students. Those who need additional assistance will have the opportunity to access the Commission's counseling service, which will provide individualized services. The Commission is also implementing a five-year pilot grant program for foster children. I encourage the Commission to continue to provide default reduction services to the maximum number of students with priority given to low income students.

I am unable to approve Section 7, subsection 4, paragraph a, unnumbered paragraph 7, which requires the division of vocational rehabilitation to enter into a 28E agreement with Creative Employment Options (CEO) at the University of Iowa for the purpose of counting CEO's state appropriation as a local match. This requirement conflicts with the federal Rehabilitation Act of 1973. Iowa's vocational rehabilitation plan would not be approved if this were implemented.

I am unable to approve the designated portion of Section 13, subsection 3, paragraph c, unnumbered paragraph 3. This would direct the cooperative extension service at Iowa State University, in consultation with the department of human services, to identify educational materials, seminars, and assistance which are duplicative, directly or in subject area, of educational materials, seminars, and assistance offered by the department of human services. The extension service is to submit a report to the General Assembly and the Legislative Fiscal Bureau by January 15, 2000. I have already expressed my concerns, in the human services appropriations bill, for required studies and reports that remove time and resources for the core work of state government, which is to provide services to Iowans. In this case, neither the department of human services nor the extension service was provided additional resources for this task. The broad requirements of the study would unnecessarily divert resources from the important services provided by the extension service.

For the above reasons, I hereby respectfully approve Senate File 464 with the exceptions noted above.

Sincerely,
THOMAS J. VILSACK, *Governor*

CHAPTER 206

APPROPRIATIONS — AGRICULTURE AND NATURAL RESOURCES

H.F. 746

AN ACT relating to and making appropriations for agriculture and natural resources and providing effective dates.

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

DIVISION I
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, 1999, and ending June 30, 2000, 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:

Table with 2 columns: Description and Amount. Row 1: \$ 2,175,536. Row 2: FTEs 48.88

(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", \$55,000 shall be allocated to the state 4-H foundation to foster the development of Iowa's youth and to encourage them to study the subject of agriculture.

(3) Of the amount appropriated and full-time equivalent positions authorized in this paragraph "a", \$227,489 and 7.00 FTEs shall be allocated to the statistics bureau to provide county-by-county information on land in farms, production by crop, acres by crop, and county prices by crop. This information shall be made available to the department of revenue and finance for use in the productivity formula for valuing and equalizing the values of agricultural land.

(4) Of the amount appropriated in this paragraph "a", \$12,000 shall be used by the agricultural statistics bureau for purposes of collecting, summarizing, and publishing marketing information on a monthly basis, regarding finished cattle in cooperation with the Iowa cattlemen's association, including unfinished cattle for market, cattle placed on feed, and cattle on hand under marketing arrangements.

(5) Of the amount appropriated in this paragraph "a", \$24,000 shall be used by the domestic marketing bureau through an existing federal and state cooperative agreement to develop accurate, reliable market information regarding segregated early-weaned pigs and alternate feeder pigs marketing systems.

(6) Of the amount appropriated and the number of full-time equivalent positions authorized in this paragraph "a", at least \$61,500 shall be used for livestock market news reporting.

(7) Of the amount appropriated in this paragraph "a", \$24,939 shall be used to support one full-time equivalent position on contract basis for six part-time staff to perform functions related to livestock market news reporting.

b. For the operations of the dairy trade practices bureau:

Table with 2 columns: Description and Amount. Row 1: \$ 72,507

c. For the purpose of performing commercial feed audits:

Table with 2 columns: Description and Amount. Row 1: \$ 70,055

d. For the purpose of performing fertilizer audits:

Table with 2 columns: Description and Amount. Row 1: \$ 70,055

2. REGULATORY DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	4,152,418
.....	FTEs	123.00

Of the amount appropriated in this paragraph "a", \$10,000 shall be used by the regulatory division for purposes of inspecting livestock exhibited at the Iowa state fair, with particular attention to the inspection of livestock for club-lamb fungus.

b. For the costs of inspection, sampling, analysis, and other expenses necessary for the administration of chapters 192, 194, and 195:

.....	\$	687,716
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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:

.....	\$	926,703
.....	FTEs	83.00

Of the amount appropriated and the number of full-time equivalent positions authorized in this paragraph "a", \$150,000 shall be allocated and 4.93 FTEs shall be supported from the allocations to administer a program relating to the detection, surveillance, and eradication of the gypsy moth. The department shall allocate and use the appropriation made in this paragraph before moneys other than those appropriated in this paragraph are used to support the program.

b. For the operations of the commercial feed programs:

.....	\$	806,666
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Of the amount appropriated in this paragraph "b", \$13,247 shall be used to support one full-time equivalent position to operate the switchboard and perform other clerical duties within the feed bureau.

c. For the operations of the pesticide programs:

.....	\$	1,248,514
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(1) Of the amount appropriated in this paragraph "c", \$200,000 shall be allocated to Iowa state university of science and technology for purposes of training commercial pesticide applicators.

(2) Of the amount appropriated in this paragraph "c", \$21,757 shall be used to support one full-time equivalent position who is a temporary employee to assist with the administration of pesticide certification examinations.

d. For the operations of the fertilizer programs:

.....	\$	673,123
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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:

.....	\$	6,789,882
.....	FTEs	190.98

(1) Of the amount appropriated in this paragraph "a", \$418,376 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.

(2) Of the number of full-time equivalent positions authorized in this paragraph "a", 20.00 FTEs shall be supported from allocations made pursuant to § 319 of the federal Water Quality Act of 1987, as codified in 33 U.S.C. § 1329, and appropriations to the department from the Iowa resources enhancement and protection fund.

(3) The number of full-time equivalent positions provided in paragraph "a" shall be increased by 2.00 FTEs if the general assembly appropriates moneys for the fiscal year

beginning July 1, 1999, and ending June 30, 2000, to accelerate watershed protection efforts to reduce soil erosion, protect water quality, and provide flood control in priority watersheds in the state, during the 1999 Session of the Seventy-eighth General Assembly.

b. To provide financial incentives for soil conservation practices under chapter 161A:
..... \$ 6,500,850

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 appropriated in paragraph "b" 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. Notwithstanding section 8.33, moneys appropriated in paragraph "b" that remain unencumbered or unobligated moneys at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the fiscal year that begins July 1, 2002.

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, 1999, and ending June 30, 2000, 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:

.....	\$	301,373
.....	FTEs	2.00

DIVISION II
DEPARTMENT OF NATURAL RESOURCES

Sec. 3. 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, 1999, and ending June 30, 2000, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADMINISTRATIVE AND SUPPORT SERVICES

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	2,046,623
.....	FTEs	120.25

b. Of the amount appropriated in paragraph "a", \$12,000 shall be allocated to pay dues for membership in the upper Mississippi, Illinois, and Missouri river basin commission.

c. Of the amount appropriated and the number of full-time equivalent positions authorized in paragraph "a", 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.

d. Of the amount appropriated and the number of full-time equivalent positions authorized in paragraph "a", not less than \$34,000 and 1.00 FTE shall be used by administrative and support services to support the inspection and oversight of manure management plans associated with confinement feeding operations regulated by the department.

2. PARKS AND PRESERVES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	6,157,037
.....	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:

.....	\$	1,707,347
.....	FTEs	48.71

4. ENERGY AND GEOLOGICAL RESOURCES DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,898,002
.....	FTEs	54.00

b. Of the amount appropriated and the number of full-time equivalent positions authorized in paragraph "a", not less than \$76,000 and 2.00 FTEs shall be used by the energy and geological resources division to review soil and hydrology data for construction permits and manure management plans associated with confinement feeding operations regulated by the department.

5. ENVIRONMENTAL PROTECTION DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	4,906,116
.....	FTEs	243.50

b. Of the amount appropriated in paragraph "a", at least \$1,350,000 shall be used by the department to carry out the provisions of the federal Clean Air Act, including amendments to the Act, and regulations adopted pursuant to the Act by the United States environmental protection agency.

c. The number of full-time equivalent positions provided in paragraph "a" shall be increased by 7.00 FTEs if the general assembly appropriates moneys for the fiscal year beginning July 1, 1999, and ending June 30, 2000, to establish and operate water quality monitoring stations during the 1999 Session of the Seventy-eighth General Assembly.

d. Of the amount appropriated and the number of full-time equivalent positions authorized in paragraph "a", at least \$424,600 and 9.00 FTEs shall be primarily used to support the regulation of animal feeding operations.

e. Of the amount appropriated and the number of full-time equivalent positions authorized in paragraph "a", at least \$370,000 and 9.00 FTEs shall be used to support on-site inspections and the oversight of manure management plans associated with confinement feeding operations regulated by the department. It is the intent of the general assembly that 3 FTEs and moneys used to support those full-time equivalent positions not be available after June 30, 2002.

f. Of the amount appropriated in paragraph "a", \$105,564 shall be used to contract with persons to process manure management plans as required by the department.

g. Of the amount appropriated and the number of full-time equivalent positions authorized in paragraph "a", 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.

6. WATER QUALITY PROTECTION FUND

a. For deposit in the administration account of the water quality protection fund administered by the department, to carry out the purpose of that account:

..... \$ 729,000

b. Of the number of full-time equivalent positions authorized for the environmental protection division in subsection 5, paragraph "a", 32.50 FTEs shall be dedicated to carrying out relevant Code provisions relating to the administration, regulation, and enforcement of the federal Safe Drinking Water Act and to support the program to assist water supply systems. However, the limitation on full-time equivalent positions provided in subsection 5, paragraph "a", shall not limit the number of additional full-time equivalent positions supported by moneys deposited in the water quality protection fund in order to carry out Code provisions 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.

c. In providing assistance to water supply systems, the department shall give 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.

d. Of the amount appropriated in paragraph "a", \$300,000 shall be allocated to the department of natural resources for purposes of conducting a study of groundwater and surface water contamination in this state originating from municipal lagoons. The department shall not collect any fee for administering moneys appropriated in this section. The department shall submit interim reports to the general assembly on January 10, 2000, and January 8, 2001. The department shall submit a final report to the general assembly regarding the results of its study not later than January 14, 2002.

7. FISH AND WILDLIFE DIVISION

For not more than the following full-time equivalent positions:

..... FTEs 344.18

8. WASTE MANAGEMENT ASSISTANCE DIVISION

For not more than the following full-time equivalent positions:

..... FTEs 16.75

Sec. 4. 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, 1999, and ending June 30, 2000, 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:

..... \$ 23,574,548

b. Of the amount appropriated in paragraph "a", \$250,000 may be used for purposes of providing compensation to conservation peace officers employed in a protection occupation who retire, pursuant to section 97B.49B.

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. 5. SNOWMOBILE FEES — TRANSFER FOR ENFORCEMENT PURPOSES. There is transferred on July 1, 1999, 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, 1999, and ending June 30, 2000, 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. 6. VESSEL FEES — TRANSFER FOR ENFORCEMENT PURPOSES. There is transferred on July 1, 1999, 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, 1999, and ending June 30, 2000, 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:

..... \$ 1,475,000

1. Of the amount appropriated in this section and the full-time equivalent positions authorized in this Act for the fish and wildlife division, not more than \$100,000 and 1.00 FTE may be used for purposes of controlling and eradicating eurasian milfoil.

2. Of the amount appropriated in this section, not more than \$75,000 shall be used by the department to carry out the provisions of 1999 Iowa Acts, Senate File 187, if enacted by the Seventy-eighth General Assembly, 1999 Session.* However, if Senate File 187 is not enacted,* the amount appropriated from the state fish and game protection fund under section 4 and the amount transferred under this section for the administration and enforcement of navigation laws and water safety shall both be reduced by \$75,000.

3. Notwithstanding section 8.33, moneys transferred and appropriated in this section that remain unencumbered or unobligated at the close of the fiscal year shall not revert to the credit of the fish and game protection fund but shall be credited to the special conservation fund established by section 462A.52 to be used as provided in that section.

Sec. 7. MARINE FUEL TAX RECEIPTS — BOATING FACILITIES. 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, 1999, and ending June 30, 2000, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of maintaining and developing boating facilities and access to public waters by the parks and preserves division:

..... \$ 411,311

DIVISION III
ANIMAL HEALTH AND INDUSTRY

Sec. 8. 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, 1999, and ending June 30, 2000, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes for the administration of section 99D.22:

..... \$ 281,606

Sec. 9. 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, 1999, and ending June 30, 2000, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For support of the pseudorabies eradication program:

..... \$ 900,600

* Senate File 187 not enacted

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. 10. JOHNE'S DISEASE.

1. a. There is appropriated from the general fund of the state to the livestock disease research fund created in section 267.8 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 the purpose of supporting research and to evaluate procedures and tests by Iowa state university of science and technology to accurately diagnose Johnne's disease:

..... \$ 5,330

b. There is appropriated from the state federal animal health laboratory fund within the laboratory division of the department of agriculture and land stewardship to the livestock disease research fund created in section 267.8 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 the purpose of supporting research and to evaluate procedures and tests by Iowa state university of science and technology to accurately diagnose Johnne's disease:

..... \$ 44,670

Notwithstanding section 8.33, moneys appropriated in this paragraph "b" that remain unencumbered or unobligated at the close of the fiscal year shall be deposited in the general fund of the state.

2. As a condition of the appropriation made in this section, each dollar from the appropriation expended under this section must be matched by one dollar contributed by a nonstate source.

3. Moneys appropriated in this section shall be expended in accordance with the direction of the livestock health advisory council established pursuant to section 267.2.

DIVISION IV
RELATED APPROPRIATIONS

Sec. 11. REVENUE ADMINISTERED BY THE IOWA COMPREHENSIVE UNDERGROUND STORAGE TANK FUND BOARD. 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, 1999, and ending June 30, 2000, 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. 12. WILD ANIMAL CONTROL. There is appropriated from the general fund of the state to the department of natural resources 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 allocation to the United States department of agriculture, animal and plant health inspection service, to be used for wild animal damage control in this state:

..... \$ 50,000

The department's wild animal depredation unit shall cooperate with the United States department of agriculture animal and plant health inspection service in carrying out this section. A landowner cooperating with the animal and plant health inspection service is not required to pay a fee in order to obtain a depredation permit. The department shall not collect any fee for administering moneys appropriated in this section.

Sec. 13. APPROPRIATION — AGRICULTURAL MANAGEMENT ACCOUNT. There is appropriated from those unexpended moneys designated for use by county conservation boards in the agriculture management account of the groundwater protection fund, as provided in section 455E.11, subsection 2, paragraph “b”, to the following designated departments for the fiscal year beginning July 1, 1999, and ending June 30, 2000, the following amounts for use as provided in this section:

1. a. To the department of agriculture and land stewardship to allocate to the Iowa junior angus association for purposes related to shows:

..... \$ 5,000

b. The department shall not collect any fee for administering moneys appropriated in this subsection.

2. a. To the department of natural resources to be used to contract with persons to process manure management plans as required by the department:

..... \$ 10,109

b. The department shall not collect any fee for administering moneys appropriated in this subsection.

Sec. 14. BROWNFIELDS. There is appropriated from the hazardous substance remedial fund to the department of natural resources 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 deposit in the land recycling fund for purposes of carrying out the purposes of the fund, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... \$ 100,000
..... FTEs 2.00

Sec. 15. AGRICULTURAL CHEMICALS — RESPONSE TRAINING. Notwithstanding section 455E.11, subsection 2, paragraph “b”, prior to any other appropriation from the agriculture management account of the groundwater protection fund, as provided in section 455E.11, subsection 2, paragraph “b”, there is appropriated from the agriculture management account to the department of public safety 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 purposes designated:

For allocation to the state fire marshal for purposes of training volunteer fire fighters and persons providing emergency medical services to respond to emergencies involving agricultural chemicals including but not limited to fertilizers:

..... \$ 50,000

Sec. 16. DEPARTMENT OF NATURAL RESOURCES — GENERAL FUND SICK LEAVE PAYOUT. There is appropriated from the general fund of the state to the department of natural resources 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 value of sick leave payout that needs to be paid out due to retirement of personnel in the parks and preserves division:

..... \$ 200,000

Sec. 17. DEPARTMENT OF NATURAL RESOURCES — FISH AND GAME PROTECTION FUND SICK LEAVE PAYOUT. There is appropriated from the state fish and game protection fund created in section 456A.17 to the department of natural resources 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 value of sick leave pay that needs to be paid out due to retirement of personnel in the fish and wildlife division:

..... \$ 150,000

Sec. 18. REGENTS — COOPERATIVE EXTENSION. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 1998, and ending June 30, 1999, the following amounts, or so much thereof as may be necessary, to be used for the purposes designated:

To Iowa state university of science and technology, cooperative extension service in agriculture and home economics, to support the Iowa concern hotline in providing stress counseling, information, and referral to farm families facing financial distress:

..... \$ 150,000

Notwithstanding section 8.33, moneys appropriated in this section which remain unobligated or unexpended at the close of the fiscal year shall not revert but shall remain available to be used for the purposes designated in the succeeding fiscal year.

DIVISION V
MISCELLANEOUS

Sec. 19. 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. 20. WATER CONTAMINATION STUDIES — REVERSION. Notwithstanding section 8.33, moneys allocated to Iowa state university of science and technology for purposes of conducting studies regarding groundwater and surface water contamination in this state as provided in 1998 Iowa Acts, chapter 1220, section 3, subsection 6, paragraph “b”, that remain at the close of the fiscal year shall not revert to the water quality protection fund but shall remain available for expenditure for the purpose designated until January 1, 2000. The university shall make its report as provided in that Act on or before January 10, 2000.

Sec. 21. FLOOD PLAIN PERMIT BACKLOG. Notwithstanding any provision of state law, for the fiscal year beginning July 1, 1999, and ending June 30, 2000, the department of natural resources may use additional funds available to the department from stormwater discharge permit fees for the staffing of the following additional full-time staff members to reduce the department’s flood plain permit backlog:

..... FTEs 2.00

Sec. 22. IMPLEMENTATION OF THE FEDERAL TOTAL MAXIMUM DAILY LOAD PROGRAM. Notwithstanding any provision of state law, for the fiscal year beginning July 1, 1999, and ending June 30, 2000, the department of natural resources may use additional funds available to the department from stormwater discharge permit fees, for the staffing of the following additional full-time equivalent positions for implementation of the federal total maximum daily load program:

..... FTEs 2.00

Sec. 23. PUBLICATION OF FARM PROGRAMS.

1. As used in this section, “farm programs” includes, but is not limited to, financial incentive programs established within the division of soil conservation of the department of agriculture and land stewardship as provided in section 161A.70 and the beginning farmer loan program administered by the agricultural development authority as provided in section 175.12.

2. The department shall publicize the availability of farm programs to women and minority persons. The department shall disseminate the information electronically or by publishing

printed brochures for distribution to locations and institutions serving farmers, including departmental offices, financial institutions participating in farm programs, and soil and water conservation district offices.

3. The department shall cooperate with private institutions and public agencies in order to carry out this section, including the department of economic development and the United States department of agriculture.

Sec. 24. FINDINGS. The general assembly finds that due to an inadequate number of department of natural resources' forestry staff, an extensive backlog of requests for forester assistance exists; that a substantial number of unfunded timber management cost share project requests have been made; that an inadequate amount of timber stand improvement has been completed; that current and future woodland owners exhibit a general lack of timber management education; that turnover of woodland owners will significantly increase in the next twenty years; that managed timberland in Iowa could produce three times more volume in half the time with improved information and education; and that due to the long time frame for timber development, many landowners are unable to invest abundant personal finances in timber development.

DIVISION VI CODE CHANGES

Sec. 25. Section 456A.20, Code 1999, is amended to read as follows:

456A.20 LIMITATION ON NURSERY STOCK — EXCEPTION.

1. ~~All funds~~ Moneys appropriated to the department which are used in growing or handling nursery stock shall be used for growing or handling of the nursery stock for distribution only on state-owned lands. However, the department may ~~produce~~ do any of the following:

a. ~~Produce~~ and sell at ~~private sale~~ game cover packets and trees for erosion control, ~~may produce at private sale.~~

b. Produce trees for a demonstration windbreak in each township in the state, ~~and may dispose.~~

c. Dispose of growing trees under a departmental plan of distribution.

2. The department shall deposit a portion of the moneys that it receives from selling trees and shrubs as provided in this section to the forestry management and enhancement fund as created in section 456A.21A. The amount deposited in the fund shall equal five cents for each coniferous tree and ten cents for each hardwood tree and shrub received from the sales.

Sec. 26. NEW SECTION. 456A.21A FORESTRY MANAGEMENT AND ENHANCEMENT FUND.

1. A forestry management and enhancement fund is created in the state treasury under the control of the department's forests and forestry division created in section 455A.7. The fund is composed of moneys deposited into the fund pursuant to section 456A.20, moneys appropriated by the general assembly, and moneys available to and obtained or accepted by the division or the department from the United States or private sources for placement in the fund.

2. Moneys in the fund are subject to an annual audit by the auditor of state. The fund is subject to warrants written by the director of revenue and finance, drawn upon the written requisition of the division.

3. The fund shall be used exclusively to support the management and enhancement of forests, including woodlands or timber stands in this state, on private lands in cooperation with the owners of those lands. The department shall use moneys in the fund to support the following full-time equivalent positions in addition to those supported from the general fund of the state:

a. Four forestry technicians who shall serve regions of the state as designated by the division.

b. One professional forester who shall serve the southwest region of the state.

4. The commission may adopt rules pursuant to chapter 17A to administer this section.

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. 27. NEW SECTION. 461A.31A SALE OF TIMBER.

If the estimated quantity of timber grown in a state park or a preserve to be sold by the department in a sixty-day period is ten thousand board feet or more or if the estimated value of the timber grown in a state park or a preserve to be sold by the department during the same period of time is five thousand dollars or more, the department shall conduct a public hearing on the proposed sale. Notice of the hearing shall be published as provided in section 331.305. After the public hearing, the department may proceed with the sale of the timber.

Sec. 28. NEW SECTION. 461A.35A ENTRANCE FEE.

The department shall not impose a fee upon a person for entering into a state park or preserve.

**DIVISION VII
EFFECTIVE DATE**

Sec. 29. EFFECTIVE DATE. The following provisions of this Act, being deemed of immediate importance, take effect upon enactment:

1. Section 16, relating to department of natural resources general fund sick leave payout.
2. Section 17, relating to department of natural resources fish and game protection fund sick leave payout.
3. Section 18, relating to educational assistance to farm families provided by Iowa state university of science and technology.
4. Section 20, relating to water contamination studies authorized in 1998 Iowa Acts, chapter 1220, section 3.
5. Section 461A.35A, as enacted by this Act, relating to a fee to enter parks and preserves charged by the department of natural resources.

Approved May 26, 1999

CHAPTER 207

APPROPRIATIONS — STATE GOVERNMENT TECHNOLOGY AND OPERATIONS

H.F. 762

AN ACT relating to state government technology and operations, by making and relating to appropriations to the Iowa communications network for the support of certain Part III users, making appropriations to various entities for other technology-related purposes, providing for the procurement of information technology, providing for the use of the network, providing for electronic access to public information by creating an IowaAccess network, authorizing fees, and providing an effective date.

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

DIVISION I

Section 1. TREASURER OF STATE. There is appropriated from the general fund of the state to the treasurer of state 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 debt service:

..... \$ 12,861,000

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 Iowa telecommunications and technology 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. IOWA COMMUNICATIONS NETWORK OPERATIONS.

1. There is appropriated from the general fund of the state to the Iowa telecommunications and technology commission for the fiscal year beginning July 1, 1999, and ending June 30, 2000, the following amounts, or so much thereof as is necessary, to be used for the purposes designated in this subsection:

For operations of the network consistent with chapter 8D and for the following full-time equivalent positions:

..... \$ 3,435,000
..... FTEs 100.00

2. Notwithstanding section 8.57, subsection 5, paragraph "c", there is appropriated from the rebuild Iowa infrastructure fund to the Iowa telecommunications and technology commission 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 purposes designated:

To the Iowa telecommunications and technology commission to be used solely for maintenance and lease costs associated with Part III connections:

..... \$ 2,681,685

It is the intent of the general assembly that moneys appropriated in this section shall be used solely for the purpose indicated and that the moneys shall not be transferred for any other purpose.

3. Notwithstanding section 8.33 or 8.39, 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 for the purposes designated in the succeeding fiscal year, and shall not be transferred to any other program.

4. a. It is the intent of the general assembly that the Iowa telecommunications and technology commission annually review the hourly rates established, as provided in section 8D.3, subsection 3, paragraph "i", consistent with this paragraph. Such rates shall be established in a manner to minimize any subsidy provided through state general fund appropriations.

b. Notwithstanding paragraph "a", 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 libraries, public or nonpublic schools for grades kindergarten through twelve, private universities and colleges, community colleges, and institutions under the control of the state board of regents. Except for original debt service, the Iowa telecommunications and technology commission shall develop and implement a long-term plan for establishing rates that will eliminate, by June 30, 2007, the need for legislatively appropriated funds to be used for subsidization of network costs for authorized users other than the network costs associated with video rates charged to public or nonpublic schools for grades kindergarten through twelve, private universities and colleges, community colleges, and institutions under the control of the state board of regents.

*5. *By no later than July 1, 1999, the staff of the Iowa telecommunications and technology commission shall establish budget units and accounts using the state budget system and the Iowa finance and accounting system as determined jointly by the department of management and the legislative fiscal bureau.**

* Item veto; see message at end of the Act

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, 1999, and ending June 30, 2000, the following amount, or so much thereof as is necessary, to be used for the purposes designated in subsections 1 and 2 and for the following full-time equivalent positions:

.....	\$	2,327,217
.....	FTEs	9.00

1. Of the amount appropriated, \$469,025 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: 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, \$1,858,192 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. DEPARTMENT OF GENERAL SERVICES. There is appropriated from the general fund of the state to the division of information technology services of 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 the purpose of providing information technology services to state agencies and for the following full-time equivalent positions:

.....	\$	4,719,993
.....	FTEs	155.61

Sec. 5. REVERSION TECHNOLOGY INITIATIVES ACCOUNT.

1. The reversion technology initiatives account established pursuant to 1998 Iowa Acts, chapter 1224, section 7, subsection 1, shall continue to be maintained in the office of the treasurer of state under the control of the division of information technology services of the department of general services and shall be used for the purpose of supporting various technology programs as provided in this section.

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, 1998, 75 percent of the unexpended or unencumbered moneys subject to section 8.62 are appropriated to the reversion technology initiatives account. The remaining 25 percent of such moneys shall remain with the entity to which the operational 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, 1998, 100 percent of the unexpended or unencumbered moneys are appropriated to the reversion technology initiatives account.

2. After the fiscal year beginning on July 1, 1999, and ending on June 30, 2000, moneys appropriated to the reversion technology initiatives account shall not be appropriated from amounts which are subject to reversion pursuant to section 8.62.

3. Moneys in the reversion technology initiatives account are allocated, to the extent available, in the descending priority order for use during the fiscal year beginning July 1, 1999, and ending June 30, 2000, as follows:

a. To the public broadcasting division of the department of education for the conversion to high definition television broadcasts:

.....	\$	5,000,000
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Notwithstanding section 8.33, moneys allocated to the public broadcasting division of the department of education in this paragraph "a" that remain unencumbered or unobligated at the close of the fiscal year shall not revert to the general fund of the state but shall remain available for the purpose designated in this paragraph "a" until the close of the succeeding fiscal year.

b. To the department of agriculture and land stewardship for the purchase of cell phones for all field staff in the regulatory division, and for one-year service contracts associated with the phones:

..... \$ 32,500

c. To the department of agriculture and land stewardship for the purchase of computer and printer replacements for field staff in the grain warehouse bureau:

..... \$ 28,975

d. To the department of human services for a welfare reform system (TANF):

..... \$ 742,555

e. To the department of human services for a child support recovery project:

..... \$ 1,131,976

f. To the division of criminal and juvenile justice planning in the department of human rights for the creation of a justice data warehouse:

..... \$ 500,000

Moneys appropriated under this paragraph shall only be used for the lease of necessary computer equipment and related expenses for the justice data warehouse. The division of criminal and juvenile justice planning, in consultation with the division of information technology services, shall include in the budget requests for the division of criminal and juvenile justice planning for the fiscal years beginning July 1, 2000, and July 1, 2001, funds to continue equipment leasing, operations, and support for the justice data warehouse.

g. To the department of education for electronic data exchange (EASIER):

..... \$ 500,000

h. To the department of inspections and appeals for a criminal history, single contact repository:

..... \$ 152,000

i. To the division of information technology services in the department of general services for reengineering projects:

..... \$ 1,750,000

Of the amounts appropriated in this paragraph "i", \$750,000 shall be allocated as follows:

(1) One hundred thousand dollars for the development of a business licensure center for the department of economic development.

(2) Five hundred thousand dollars for a community resources directory for the department of Iowa workforce development.

(3) One hundred fifty thousand dollars for the implementation of an enterprise-wide information security system plan.

j. To the department of corrections for a department-wide information system (ICON):

..... \$ 948,338

k. To the department of inspections and appeals for implementation of a report card for state-licensed health care facilities pursuant to section 135C.20A:

..... \$ 50,000

l. To the office of the governor for technology upgrades:

..... \$ 45,000

m. To the department of elder affairs for computer hardware and software:

..... \$ 40,000

n. To the state board of regents for technology improvement:

..... \$ 100,000

4. A department or agency receiving an appropriation under subsection 3 shall consult with the division of information technology services in the department of general services

regarding any technology purchase, lease, or contract, prior to making a purchase or entering into a lease or contract.

5. Effective July 1, 2000, the division of information technology in the department of general services shall not deposit any additional moneys into the reversion technology initiatives account, unless reauthorized to do so by the general assembly during the 2000 regular session. Funds allocated to a project pursuant to this section which are encumbered prior to July 1, 2000, may be spent for the specified purpose as provided in this Act. Funds which are allocated but unencumbered as of July 1, 2000, shall revert to the general fund.

6. The department of management, in cooperation with the information technology services division of the department of general services, shall develop a standard budget request form for technology or business reengineering projects. A department requesting funding for projects which will cost more than \$100,000 shall use the request form. The form shall require consistent reporting criteria including, but not limited to, project description, project goals, project performance measures, return on investment, cost, time frame, funding sources, and customer base.

Sec. 6. INFORMATION TECHNOLOGY DEPARTMENT. It is the intent of the general assembly that an information technology department be created effective July 1, 2000. The mission of this department is to foster the development and application of information technology to improve the lives of Iowans.

The department shall consist of four divisions including all of the following:

1. Planning, security, and standards division. This division shall initially include IowAccess.

2. Customer support and training division.

3. Finance and administration division. In addition to other duties, this division shall be given responsibility for purchasing.

4. Information technology operations division.

The information technology department shall have a formal noncontrolling link to the division of public broadcasting in the department of education and the Iowa telecommunications and technology commission, until such time as legislation is enacted creating the information technology department and otherwise setting forth the organizational relationship of the information technology department with the division of public broadcasting in the department of education and the Iowa telecommunications and technology commission.

An information technology council shall be created to provide recommendations to the director of the department concerning departmental operations. The council shall consist of no less than fifteen members and no more than twenty members. Appointments to the council shall be made to provide a diversity of interest, educational background, and experience. The council shall include, in addition to other appropriate individuals, a person representing the Iowa communications network, a person representing IowAccess, and a person representing the public broadcasting division in the department of education.

The director of the information technology department shall be appointed by the governor to a four-year term and be subject to confirmation by the senate. The division administrators of each of the five divisions in the information technology department shall also be appointed by the governor to three-year terms and be subject to confirmation by the senate.

It is the intent of the general assembly that the structure and operation of the information technology department be reviewed by no later than during the 2001 regular session for the purpose of determining, among other issues, if the intent of the general assembly in creating the department has been satisfied.

Sec. 7. TRANSITION TEAM ESTABLISHED — APPROPRIATION.

1. a. A transition team shall be established for purposes of developing a written proposal for submission to the general assembly concerning the creation of the information technology department. The written proposal shall be developed consistent with section 6 of this Act. The transition team shall be composed of the following members:

(1) The administrative head of the division of information technology services in the department of general services, who shall serve as chairperson of the transition team.

(2) Three designees of the governor.

(3) A person representing the Iowa communications network.

(4) A person representing the public broadcasting division of department of education.

(5) A person representing the information management and technology committee.

(6) Four members of the general assembly with not more than one member from each chamber being from the same political party. The two senators shall be designated by the president of the senate after consultation with the majority and minority leaders of the senate. The two representatives shall be designated by the speaker of the house of representatives after consultation with the majority and minority leaders of the house of representatives. Legislative members shall serve in an ex officio, nonvoting capacity. A legislative member is eligible for per diem and expenses as provided in section 2.10.

b. The department of management and the legislative fiscal bureau shall provide staffing services to the transition team at no cost to the transition team.

c. The transition team shall develop a request for proposal for the purpose of retaining a consultant to assist in developing and implementing the transition plan. The transition plan shall include a proposed structure for the new department; a plan to provide for the transfer of existing public entities to the new department, including any interim transition provisions; identification of potential savings resulting from the consolidation of such public entities into the department; and other items deemed necessary by the transition team. The transition team shall submit a final report in writing to the legislative oversight committee of the legislative council by October 15, 1999.

2. There is appropriated from the general fund of the state to the division of information technology services in 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 the activities of the transition team created in subsection 1, including the costs associated with any consultant retained by the transition team to assist in its duties:

..... \$ 200,000

Moneys appropriated pursuant to this subsection shall only be used for payment of costs associated with the activities of the transition team and shall not be transferred or used for any other purpose by the division.

3. The director of the division of information technology services shall develop a unified budget proposal for the proposed information technology department. The initial budget proposal shall be for the fiscal year beginning July 1, 2000, and ending June 30, 2001.

Sec. 8. Section 8D.3, subsection 3, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. k. Provide necessary telecommunications cabling to provide state communications.

Sec. 9. Section 18.8, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The director shall provide necessary ~~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. 10. TRANSFER OF FULL-TIME EQUIVALENT POSITIONS AND RELATED FUNDING.

1. Consistent with sections 8 and 9 of this Act, full-time equivalent positions in the department of general services associated with the provision of telecommunications cabling and funding provided for such full-time equivalent positions shall be moved from the department to the Iowa telecommunications and technology commission.

2. Any funds in the telecommunications and electric cabling revolving fund in the department of general services shall be transferred to the commission to be used for the same

purposes. The commission shall eliminate the revolving fund account upon completion of the merger of existing funds.

DIVISION II

Sec. 11. NEW SECTION. 18.187 IOWACCESS REVOLVING FUND.

An IowAccess revolving fund is created in the state treasury. The revolving fund shall be administered by the division and shall consist of moneys collected by the division as fees, moneys appropriated by the general assembly, and any other moneys obtained or accepted by the division for deposit in the revolving fund. The proceeds of the revolving fund are appropriated to and shall be used by the division to maintain, develop, operate, and expand the IowAccess network consistent with this chapter. The division shall submit an annual report not later than January 31, to the members of the general assembly and the legislative fiscal bureau, of the activities funded by and expenditures made from the revolving fund during the preceding fiscal year. Section 8.33 does not apply to any moneys in the revolving fund and, notwithstanding section 12C.7, subsection 2, earnings or interest on moneys deposited in the revolving fund shall be credited to the revolving fund.

Sec. 12. Section 22.3A, subsection 2, paragraph a, Code 1999, is amended to read as follows:

a. ~~If access to the data processing software is provided to a person solely for the purpose of accessing a public record, the~~ The amount charged for access to a public record shall be not more than that required to recover direct publication costs, including but not limited to editing, compilation, and media production costs, incurred by the government body in developing the data processing software, and preparing the data processing software for transfer to the person. The amount shall be in addition to any other fee required to be paid under this chapter for the examination and copying of a public record. ~~If a person requests the reproduction of accesses~~ a public record stored in an electronic format that does not require formatting, editing, or compiling to ~~reproduce~~ access the public record, the charge for providing the ~~reproduced~~ accessed public record shall not exceed the reasonable cost of ~~reproducing and transmitting~~ accessing that public record. The government body shall, if requested, provide documentation which explains and justifies the amount charged. This paragraph shall not apply to any publication for which a price has been established pursuant to another section, including section 7A.22.

Sec. 13. Section 321.491, unnumbered paragraph 2, Code 1999, 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 of the record of the case must be certified by the person preparing it to be true and correct. A certified abstract of the record of the case prepared for the department shall only be available to the public from the department. A noncertified record of conviction or forfeiture of bail shall be available to the public from the judicial branch. The clerk of the district court shall collect a fee of fifty cents for each ~~individual noncertified~~ copy of any record of conviction or forfeiture of bail furnished to any requestor ~~at the clerk's office~~ except for 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. Notwithstanding any other provision in this section or chapter 22, the judicial branch shall be the provider of public electronic access to the clerk's records of convictions and forfeitures of bail through the Iowa court information system and shall, if all such records are provided monthly to a vendor, ~~the judicial branch shall~~ collect a fee from

such vendor for the period beginning on July 1, 1997, and ending on June 30, 1999, which is the greater of three thousand dollars per month or the actual direct cost of providing the records. On and after July 1, 1999, if all such records are provided monthly to a vendor, the judicial branch shall collect a fee from such vendor which is the greater of ten thousand dollars per month or the actual direct cost of providing the records.

Sec. 14. Section 321A.3, subsections 1, 2, and 7, Code 1999, are amended to read as follows:

1. The department shall upon request furnish any person a certified abstract of the operating record of a person subject to chapter 321, 321J, or this chapter. The abstract shall also fully designate the motor vehicles, if any, registered in the name of the person. If there is no record of a conviction of the person having violated any law relating to the operation of a motor vehicle or of any injury or damage caused by the person, the department shall so certify. A fee of five dollars and fifty cents shall be paid for each abstract except for state, county, or city officials, court officials, public transit officials, or other officials of a political subdivision of the state. The department shall transfer the moneys collected under this section to the treasurer of state who shall credit to the general fund all moneys collected.

2. A sheriff may provide an abstract of the operating record of a person to the person or an individual authorized by the person. The sheriff shall charge a fee of five dollars and fifty cents for each abstract which the sheriff shall transfer to the department quarterly. The sheriff may charge an additional fee sufficient to cover costs incurred by the sheriff in producing the abstract.

7. Notwithstanding chapter 22 or any other law of this state, except as provided in subsection 5, the department shall not make available ~~an a certified~~ operating record in a manner which would result in a fee of less than that provided under subsection 1. Should the department make available certified copies of abstracts of operating records on magnetic tape or on disk or through electronic data transfer, the five dollar and fifty cent fee under subsection 1 applies to each abstract supplied, and an additional access fee may be charged for each abstract supplied through electronic data transfer.

Sec. 15. DIRECTIONS TO IOWACCESS ADVISORY COUNCIL. The IowAccess advisory council established pursuant to executive order number 66 signed May 21, 1998, shall by no later than October 15, 1999, develop and make a written recommendation to the legislative oversight committee concerning the establishment of a permanent governing board for IowAccess and the implementation of a fee-for-service-based model of operation for the IowAccess network. The advisory council, in developing the fee-for-service-based model of operation shall consult with the director of the division of information technology services in the department of general services.

In developing the fee-for-service-based model of operation, the advisory council and the director of the division shall not make any recommendations which would result in the charging of a fee for information which can currently be accessed without charge in a manner other than through IowAccess. This section does not prohibit the charging of a fee for accessing such free information through IowAccess.

DIVISION III

Sec. 16. FUNDING FOR IOWACCESS. Notwithstanding section 321A.3, subsection 1, for the fiscal year beginning July 1, 1999, and ending June 30, 2000, the first one million dollars collected and transferred by the department to the treasurer of state with respect to five dollar and fifty cent transactions involving the furnishing of a certified abstract of a vehicle operating record under section 321A.3, subsection 1, shall be transferred to the IowAccess revolving fund created in section 18.187 and administered by the division of information technology services of the department of general services for the purposes of developing, implementing, maintaining, and expanding electronic access to government records in accordance with the requirements set forth in chapter 18, division VII.

Sec. 17. 1997 Iowa Acts, chapter 210, section 10, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. Notwithstanding subsection 1, the year 2000 program office, with the approval of the director of the department of management, may allocate funds to the emergency management division of the department of public defense for projects identified by the emergency management division of the department of public defense as necessary for maintaining critical functions in state government during implementation of the century date change.

Sec. 18. 1998 Iowa Acts, chapter 1224, section 7, subsection 2, paragraphs b, c, k, m, n, p, r, and t, are amended to read as follows:

b. To the department of human services for a child support recovery systems development:

..... \$ 1,131,976

Notwithstanding section 8.33, moneys allocated to the department of human services in paragraphs "a" and "b" which remain unobligated and unexpended at the close of the fiscal year shall not revert but shall remain available for the purposes for which allocated in these paragraphs for the fiscal year beginning July 1, 1999, and ending June 30, 2000.

c. To the department of workforce development for an integrated information system:

..... \$ 2,513,000

Notwithstanding section 8.33, moneys allocated to the department of workforce development in this paragraph "c" 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 the purpose designated in this paragraph "c" in the succeeding fiscal year.

k. To the department of revenue and finance for telefiling of tax returns:

..... \$ 150,000

Notwithstanding section 8.33, moneys allocated to the department of revenue and finance in paragraphs "i", "j", and "k" which remain unobligated or unexpended at the close of the fiscal year shall not revert but shall remain available for the purposes for which allocated in these paragraphs for the fiscal year beginning July 1, 1999, and ending June 30, 2000.

m. To the Iowa communications network operations account for use by the Iowa telecommunications and technology commission ~~only~~ for the replacement of optical components of the network which become unusable and which are necessary or conversion to new technology components for the ~~continued operation and~~ use of the network:

..... \$ 4,000,000

Notwithstanding section 8.33, moneys allocated to the Iowa telecommunications and technology commission in this paragraph "m", and any other funds appropriated to the commission, which remain unobligated or unexpended at the close of the fiscal year shall not revert but shall remain available for the purpose designated in this paragraph "m" for the fiscal year beginning July 1, 1999, and ending June 30, 2000.

The commission shall consult with the director of the division of information technology services in the department of general services concerning, and prior to, the replacement of optical components or conversion to new technology components. The commission and the director shall ensure, to the extent possible, that such components comply with open standards.

n. To the department of workforce development for a sustaining community resource directory pilot project:

..... \$ 178,000

Notwithstanding section 8.33, moneys allocated to the department of workforce development in this paragraph "n" 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 the purpose designated in this paragraph "n" in the succeeding fiscal year.

p. To the department of inspections and appeals for the office of public defender for an indigent defense claims processing redesign project:

..... \$ 75,000

Notwithstanding section 8.33, moneys allocated to the department of inspections and appeals for the office of public defender in this paragraph "p" which remain unobligated or unexpended at the close of the fiscal year shall not revert but shall remain available for the purpose designated in this paragraph "p" for the fiscal year beginning July 1, 1999, and ending June 30, 2000.

r. To the department of general services for a purchasing system:

..... \$ 2,500,000

Notwithstanding section 8.33, moneys allocated to the department of general services in this paragraph "r" which remain unobligated or unexpended at the close of the fiscal year shall not revert but shall remain available for the purpose designated in this paragraph "r" for the fiscal year beginning July 1, 1999, and ending June 30, 2000.

t. To the department of public health for a telephone verification system:

..... \$ 400,000

Notwithstanding section 8.33, moneys allocated to the department of public health in this paragraph "t" 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 the purpose designated in this paragraph "t" for the fiscal year beginning July 1, 1999, and ending June 30, 2000.

Sec. 19. Notwithstanding chapter 22, information, plans, data, or other communications, including emergency continuity of operation plans, that are in the custody or control of state governmental entities, and that are necessary to protect the life, safety, or property of government employees or persons in the care or custody of government entities shall be considered to be confidential records under section 22.7 and shall be kept confidential.

This section is repealed effective July 1, 2000.

Sec. 20. YEAR 2000 REPORTING.

1. Every department, institution under the control of the board of regents, and office of a statewide elected official, other than the governor, shall report monthly on forms as provided by the year 2000 program office on the progress of such department, regents institution, or office in implementing century date change programming. Such reports shall be submitted to the legislative oversight committee, the legislative fiscal bureau, and the year 2000 program office.

2. The judicial branch shall report monthly on forms as provided by the year 2000 program office on the progress of the branch in implementing century date change programming. Such report shall be submitted to the legislative oversight committee.

3. The computer support bureau shall report monthly on forms as provided by the year 2000 program office on the progress of the bureau in implementing century date change programming. Such report shall be submitted to the legislative oversight committee.

Sec. 21. 1999 Iowa Acts, Senate File 468,* section 4, subsection 1, paragraph e, if enacted, is amended to read as follows:

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:

..... \$ 20,529,274
..... FTEs 337.26
343.26

Sec. 22. EFFECTIVE DATE. ****Section 2, subsection 5,**** sections 5, and 18, and section 7, subsection 1, of this Act, relating to ****the use of the state budget system by the Iowa telecommunications and technology commission,**** the reversion technology initiatives

* Chapter 202 herein
** Item veto; see message at end of the Act

account, amending 1998 Iowa Acts, chapter 1224, section 7, and establishing an information technology department transition team, respectively, being deemed of immediate importance, take effect upon enactment.

Approved May 26, 1999, with the exceptions noted.

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 762, an Act relating to state government technology and operations, by making appropriations to the Iowa Communications Network for the support of certain part III users, making appropriations to various entities for other technology related purposes, providing for the procurement of information technology, providing for the use of the network, providing for electronic access to public information by creating an IowAccess network, authorizing fees, and providing an effective date.

House File 762 is, therefore, approved on this date with the following exceptions, which I hereby disapprove.

I am unable to approve the item designated as Section 2, subsection 5, in its entirety. This item directs that no later than July 1, 1999, the Iowa Telecommunications and Technology Commission shall establish budget and accounting units using the state budget and accounting systems. This cannot be accomplished by July 1, 1999. I will, however, instruct the Iowa Communications Network to continue jointly working with the Department of Management and the Legislative Fiscal Bureau so that implementation will be accomplished by December 1, 1999. The Legislative Oversight Committee may request periodic reports as to the progress being made.

I am unable to approve the designated portions of Section 22 dealing with Section 2, subsection 5 of the Act. This is an effective date clause for the above item, which I have item vetoed.

For the above reasons, I hereby respectfully approve House File 762 with the exceptions noted above.

Sincerely,
THOMAS J. VILSACK, *Governor*

CHAPTER 208

**MISCELLANEOUS SUPPLEMENTAL AND OTHER
APPROPRIATIONS AND PROVISIONS**

H.F. 782

AN ACT relating to public expenditure and regulatory matters, making appropriations, and providing effective dates.

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

DIVISION I

MH/MR/DD ALLOWED GROWTH

Section 1. COUNTY MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES ALLOWED GROWTH FACTOR ADJUSTMENT AND ALLOCATIONS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, 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, and chapter 426B:

..... \$ 21,773,602

The funding appropriated in this section is the allowed growth factor adjustment of 1.57 percent for fiscal year 2000-2001, and is allocated as follows:

1. For distribution to counties for fiscal year 2000-2001 in accordance with the formula in section 331.438, subsection 2, paragraph "b":

..... \$ 12,000,000

2. For deposit in the per capita expenditure target pool created in the property tax relief fund pursuant to section 426B.5, subsection 1:

..... \$ 5,773,602

3. For deposit in the incentive and efficiency pool created in the property tax relief fund pursuant to section 426B.5, subsection 2:

..... \$ 2,000,000

4. For deposit in the risk pool created in the property tax relief fund pursuant to section 426B.5, subsection 3:

..... \$ 2,000,000

DIVISION II

LOTTERY PROCEEDS

Sec. 2. Section 99E.10, subsection 1, unnumbered paragraph 3, Code 1999, is amended to read as follows:

~~The committing the lottery to environment, agriculture, and natural resources fund, also to be known as the CLEAN fund, is created in the office of the treasurer of state. Lottery revenue remaining after expenses are determined shall be transferred to the CLEAN general fund of the state on a monthly basis. Revenues generated during the last month of the fiscal year which are transferred to the CLEAN fund during the following fiscal year shall be considered revenues transferred during the previous fiscal year for purposes of the allotments made to and appropriations made from the separate accounts in the CLEAN fund for that previous fiscal year.~~ However, upon the request of the director and subject to approval by the treasurer of state, an amount sufficient to cover the foreseeable administrative expenses of the lottery for a period of twenty-one days may be retained from the lottery revenue. Prior to the monthly transfer to the CLEAN general fund of the state, the director may direct that lottery revenue shall be deposited in the lottery fund and in interest-bearing

accounts designated by the treasurer of state in the financial institutions of this state or invested in the manner provided in section 12B.10. Interest or earnings paid on the deposits or investments is considered lottery revenue and shall be transferred to the CLEAN general fund of the state in the same manner as other lottery revenue. ~~Money in the CLEAN fund shall be deposited in interest bearing accounts in financial institutions in this state or invested in the manner provided in section 12B.10. The interest or earnings on the deposits or investments shall be considered part of the CLEAN fund and shall be retained in the fund unless appropriated by the general assembly.~~

Sec. 3. Section 99E.10, subsection 2, Code 1999, is amended to read as follows:

2. The director of management shall not include lottery revenues in the director's fiscal year revenue estimates. ~~Moneys in the CLEAN fund shall not be considered a part of the Iowa economic emergency fund.~~

Sec. 4. Section 99E.20, subsection 2, Code 1999, is amended to read as follows:

2. A lottery fund is created in the office of the treasurer of state. The fund consists of all revenues received from the sale of lottery tickets or shares and all other moneys lawfully credited or transferred to the fund. The commissioner shall certify monthly that portion of the fund that is transferred to the CLEAN general fund of the state under section 99E.10 and shall cause that portion to be transferred to the CLEAN general fund of the state. The commissioner shall certify before the twentieth of each month that portion of the lottery fund resulting from the previous month's sales to be transferred to the CLEAN general fund of the state.

Sec. 5. Section 99E.34, Code 1999, is repealed.

DIVISION III STATE MEDICAL EXAMINER

Sec. 6. Section 691.5, Code 1999, is amended to read as follows:

691.5 STATE MEDICAL EXAMINER.

The office and position of state medical examiner is created under the control, direction, and supervision of the commissioner of public safety. The commissioner of public safety may assign the office of the state medical examiner to a division or bureau within the public safety department established for administrative purposes within the Iowa department of public health. Other state agencies shall cooperate with the state medical examiner in the use of state-owned facilities when appropriate for the performance of nonadministrative duties of the state medical examiner. The state medical examiner shall be a physician and surgeon or osteopathic physician and surgeon, be licensed to practice medicine in the state of Iowa, and possess special knowledge in be board certified or eligible to be board certified in anatomic and forensic pathology by the American board of pathology. The state medical examiner shall be appointed by and serve at the pleasure of the ~~commissioner of public safety~~ director of public health upon the advice of and in consultation with the director of public safety and the governor. The state medical examiner, in consultation with the director of public health, shall be responsible for developing and administering the medical examiner's budget and for employment of medical examiner staff and assistants. The state medical examiner may be a faculty member of the college of medicine or the college of law at the University of Iowa, and any of the examiner's assistants or staff may be members of the faculty or staff of the college of medicine or the college of law at the University of Iowa.

Sec. 7. Section 691.6, subsection 3, Code 1999, is amended to read as follows:

3. To adopt rules pursuant to chapter 17A, and subject to the approval of the ~~commissioner of public safety~~ director of public health, with the advice and approval of the state medical examiner advisory council, regarding the manner and techniques to be employed while conducting autopsies, the nature, character, and extent of investigations to be made in

~~eases of homicide or suspected homicide necessary to allow a medical examiner to render a full and complete analysis and report; the format and matters to be contained in all reports rendered by medical examiners; and all other things necessary to carry out this section. All county medical examiners and peace officers are subject to the rules.~~

Sec. 8. NEW SECTION. 691.6A DEPUTY STATE MEDICAL EXAMINER — CREATION AND DUTIES.

The position of deputy state medical examiner is created within the office of the state medical examiner. The deputy state medical examiner shall report to and be responsible to the state medical examiner. The deputy state medical examiner shall meet the qualification criteria established in section 691.5 for the state medical examiner and shall be subject to rules adopted by the state medical examiner as provided in section 691.6, subsection 3. The state medical examiner and the deputy state medical examiner shall function as a team, providing peer review as necessary, fulfilling each other's job responsibilities during times of absence, and working jointly to provide services and education to county medical examiners, law enforcement officials, hospital pathologists, and other individuals and entities. The deputy medical examiner may be, but is not required to be, a full-time salaried faculty member of the department of pathology of the college of medicine at the university of Iowa. If the medical examiner is a full-time salaried faculty member of the department of pathology of the college of medicine at the university of Iowa, the Iowa department of public health and the state board of regents shall enter into a chapter 28E agreement to define the activities and functions of the deputy medical examiner, and to allocate deputy medical examiner costs, consistent with the requirements of this section.

Sec. 9. NEW SECTION. 691.6B INTERAGENCY COORDINATING COUNCIL.

An interagency coordinating council is created to advise the state medical examiner concerning the assurance of effective coordination of the functions and operations of the office of the state medical examiner with the needs and interests of the departments of public safety and public health. Members of the interagency coordinating council shall include the state medical examiner, or when the state medical examiner is not available, the deputy state medical examiner; the commissioner of public safety or the commissioner's designee; the director of public health or the director's designee; and the governor or the governor's designee. The interagency coordinating council shall meet on a regular basis.

Sec. 10. NEW SECTION. 691.6C STATE MEDICAL EXAMINER ADVISORY COUNCIL.

A state medical examiner advisory council is established to advise and consult with the state medical examiner on a range of issues affecting the organization and functions of the office of the state medical examiner and the effectiveness of the medical examiner system in the state. Membership of the state medical examiner advisory council shall be determined by the state medical examiner, in consultation with the director of public health, and shall include, but not necessarily be limited to, representatives from the office of the attorney general, the Iowa county attorneys association, the Iowa medical society, the Iowa association of pathologists, the Iowa association of county medical examiners, the departments of public safety and public health, the statewide emergency medical system, and the Iowa funeral directors association. The advisory council shall meet on a quarterly or more frequent basis, and shall be organized and function as established by the state medical examiner by rule.

Sec. 11. Section 691.7, Code 1999, is amended to read as follows:

691.7 COMMISSIONER TO ACCEPT FEDERAL OR PRIVATE GRANTS.

The commissioner of public safety may accept federal or private funds or grants to aid in the establishment or operation of the state criminalistics laboratory, and the ~~commissioner of public safety~~ director of public health or the state board of regents may accept federal or private funds or grants to aid in the establishment or operation of the position of state medical examiner.

Sec. 12. STATE MEDICAL EXAMINER SYSTEM STUDY AND REPORT. The state medical examiner, in consultation with the state medical examiner advisory council, shall conduct a study regarding the organization, needs, and operations of a statewide medical examiners system. The study shall consider the findings and recommendations of the 1998 consultants' report of the national association of medical examiners submitted to the commissioner of public safety, and shall gather and analyze such additional information as the state medical examiner and the advisory council determine necessary. The state medical examiner shall make a report of the study's recommendations to the governor and the general assembly by January 1, 2000. The report shall take into account the public health, criminalistic, educational, and advisory purposes of the office of the state medical examiner; the relationship of the office to and effective utilization by the office of existing state, county, and community resources; future facility needs for performing autopsies; support for forensic activities throughout the state; transportation costs to conduct autopsies and to perform other forensic pathology activities; and any other factors identified by the state medical examiner and the advisory council impacting a quality statewide medical examiners system.

Sec. 13. APPROPRIATIONS FOR STATE MEDICAL EXAMINER. Funds appropriated by the general assembly to the department of public safety for the position of state medical examiner, and for the state medical examiner's office, for the fiscal year beginning July 1, 1998, and ending June 30, 1999, which remain unobligated shall be transferred to the Iowa department of public health on the effective date of this division of this Act. Funds appropriated by the general assembly for the position of state medical examiner, and for the state medical examiner's office, for the fiscal year beginning July 1, 1999, and ending June 30, 2000, are appropriated to the Iowa department of public health in lieu of the original entity designated in the appropriation.

Sec. 14. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION IV
FISCAL YEAR 1999-2000
APPROPRIATIONS AND RELATED PROVISIONS

Sec. 15. Section 8.8, Code 1999, is amended to read as follows:

8.8 SPECIAL OLYMPICS FUND — APPROPRIATION.

A special olympics fund is created in the office of the treasurer of state under the control of the department of management. There is appropriated annually from the general fund of the state to the special olympics fund ~~twenty~~ thirty thousand dollars for distribution to one or more organizations which administer special olympics programs benefiting the citizens of Iowa with disabilities.

Sec. 16. Section 8.63, subsection 4, Code 1999, is amended to read as follows:

4. a. In order for the innovations fund to be self-supporting, the innovations fund committee shall establish repayment schedules for each innovation fund loan awarded. Agencies shall repay the funds over a period not to exceed five years with interest, at a rate to be determined by the innovations fund committee.

b. If the department of management and the department of revenue and finance certify that the savings from a proposed innovations fund project will result in a net increase in the balance of the general fund of the state without a corresponding cost savings to the requesting agency, and if the requesting agency meets all other eligibility requirements, the innovations fund committee may approve the loan for the project and not require repayment by the requesting agency. There is appropriated from the general fund of the state to the department of revenue and finance an amount sufficient to repay the loan amount.

Sec. 17. Section 437A.23, Code 1999, is amended to read as follows:
437A.23 DEPOSIT OF TAX PROCEEDS.

All revenues received from imposition of the statewide property tax shall be deposited in the general fund of the state. Fifty percent of the revenues shall be available, as appropriated by the general assembly, to the department of management for salaries, support, services, and equipment to administer the replacement tax. The balance of the revenues shall be available, as appropriated by the general assembly, to the department of revenue and finance for salaries, support, services, and equipment to administer and enforce the replacement tax and the statewide property tax.

Sec. 18. STATEWIDE PROPERTY TAX ADMINISTRATION. There is appropriated from the general fund of the state from revenues received from the imposition of the statewide property tax pursuant to chapter 437A to the following departments for the fiscal year beginning July 1, 1999, and ending June 30, 2000, the following amounts, or so much thereof as is necessary, to be used for the following designated purposes:

1. To the department of management for salaries, support, services, and equipment to administer the replacement tax pursuant to chapter 437A and for not more than the following full-time equivalent position:

.....	\$	75,000
.....	FTEs	1.00

2. To the department of revenue and finance for salaries, support, services, and equipment to administer and enforce the replacement tax and the statewide property tax pursuant to chapter 437A:

.....	\$	75,000
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Sec. 19. INSTITUTE FOR DECISION MAKING FULL-TIME EQUIVALENT POSITIONS. The number of full-time equivalent positions authorized for the institute for decision making at the university of northern Iowa for the fiscal year beginning July 1, 1999, in 1999 House File 745,* if enacted, is increased by 1 FTE.

Sec. 20. 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, 1999, and ending June 30, 2000, 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 statewide coordination of the drug abuse resistance education (D.A.R.E.) program:
..... \$ 80,000

DIVISION V
FISCAL YEAR 1998-1999
APPROPRIATIONS

Sec. 21. INTERNATIONAL TRADE OPERATIONS. Notwithstanding section 8.33 and section 8.57, subsection 5, paragraph "c", unencumbered or unobligated moneys remaining on June 30, 1999, from the appropriation made in 1997 Acts, chapter 215, section 7, subsection 1, paragraph "c", are appropriated to the department of economic development for the fiscal year beginning July 1, 1999, and ending June 30, 2000, for international trade operations, including but not limited to travel expenses for designated state officials.

Sec. 22. REENGINEERING PROJECTS. Notwithstanding section 8.33, moneys appropriated in 1997 Iowa Acts, chapter 210, section 8, subsection 2, that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure as determined by the department of management for the purposes designated until the close of the succeeding fiscal year.

* Chapter 197 herein

Sec. 23. EXTENDED SCHOOL YEAR GRANT REALLOCATION FOR A SCHOOL VIOLENCE CRISIS INTERVENTION TASK FORCE. Notwithstanding section 8.33 and section 256.22, subsection 4, and in addition to the provisions of 1999 Iowa Acts, Senate File 464,* section 10, if enacted, from the funds appropriated in 1998 Iowa Acts, chapter 1216, section 1, subsection 1, to the department of education for extended school year grants, which remain unencumbered or unobligated on June 30, 1999, the following amounts shall not revert to the general fund of the state and shall not be available for expenditure for the following fiscal year for purposes of extended school year grants, but shall be reallocated by the department of education as follows:

1. For purposes of the school violence crisis intervention task force established pursuant to this subsection:

..... \$ 50,000

The director of education shall collaborate with the commissioner of public safety and the attorney general to appoint members to and organize a school violence crisis intervention task force to review the preparedness of public school districts to react to or prevent violent crisis situations. The director, in consultation with the commissioner and the attorney general, shall invite participation on the task force from other appropriate agencies, associations, and law enforcement officials. The task force shall develop guidelines that can be utilized by school districts to raise their level of awareness and preparedness to respond to violent crisis situations. The task force shall provide its recommendations in a report to the general assembly by December 1, 1999.

2. For a contract to purchase internet connectivity from an internet service provider which provides internet filter services for school districts who wish to receive such services:

..... \$ 50,000

The department of education shall work with the boards of directors of school districts and area education agencies in establishing service requirements and selecting an internet service provider to provide internet filter services through servers located at the area education agencies. The goal of providing a filtering service to a school district is to protect students from inappropriate internet websites and to promote the use of the internet for educational purposes. School districts that wish to receive filtering services shall assume the ongoing costs of the services.

Sec. 24. DEPARTMENT OF EDUCATION — GEOGRAPHY ALLIANCE. There is appropriated from the general fund of the state to the department of education 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 geography alliance:

..... \$ 25,000

Notwithstanding section 8.33, moneys appropriated in this section that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

Sec. 25. REGENTS — WASTE REDUCTION CENTER. There is appropriated from the general fund of the state to the state board of regents 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:

To the university of northern Iowa, Iowa waste reduction center for the safe and economic management of solid waste and hazardous substances established in section 268.4, for costs of establishing and implementing the environmental auditor training program in accordance with 1998 Iowa Acts, chapter 1109, section 10, as codified in section 455K.10:

..... \$ 220,000

Notwithstanding section 8.33, moneys appropriated in this section that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purpose designated until the close of the succeeding fiscal year.

* Chapter 205 herein

Sec. 26. RUNAWAY TREATMENT. There is appropriated from the general fund of the state to the department of human 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 a grant to a county with a population between 168,000 and 175,000 for implementation of the county's runaway treatment plan under section 232.195:

..... \$ 80,000

The grant shall be administered by the county's board of supervisors in consultation with the local runaway and treatment task force. Notwithstanding section 8.33, moneys appropriated in this section which remain unobligated or unexpended at the close of the fiscal year shall not revert but shall remain available to be used for the purpose designated in the succeeding fiscal year.

Sec. 27. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION VI
MISCELLANEOUS

Sec. 28. Section 137F.1, subsection 8, paragraph f, Code 1999, is amended by striking the paragraph and inserting in lieu thereof the following:

f. Premises of a residence in which food that is nonpotentially hazardous is sold for consumption off the premises to a consumer customer, if the food is labeled to identify the name and address of the person preparing the food and the common name of the food.

Sec. 29. Section 137F.2, subsection 6, Code 1999, is amended to read as follows:

6. 3-201.11(B) shall be amended to allow food prepared by a home food establishment licensed under chapter 137D ~~or by an operation specified under section 137F.1, subsection 8, paragraph "F"~~, to be used or offered for sale.

Sec. 30. Section 137F.2, Code 1999, is amended by adding the following new subsection: NEW SUBSECTION. 12. 3-201.16(B) shall be amended to exclude wild morel mushrooms.

Sec. 31. Section 137F.2, Code 1999, is amended by adding the following new subsection: NEW SUBSECTION. 13. 3-501.17 shall be amended to provide that paragraphs (C) and (D) shall not apply to aged cheese.

Sec. 32. Section 137F.2, Code 1999, is amended by adding the following new subsection: NEW SUBSECTION. 14. 3-603.11 shall be amended so that the rule shall not apply to whole muscle red meats.

Sec. 33. Section 232.2, subsection 22, paragraph b, subparagraph (7), if enacted by 1999 Iowa Acts, Senate File 193,* section 1, is amended by striking the subparagraph.

Sec. 34. Section 232.2, subsection 22, paragraph c, if enacted by 1999 Iowa Acts, Senate File 193,* section 1, is amended to read as follows:

c. The order appointing the guardian ad litem shall ~~specify the duties of and grant authorization to the guardian ad litem to interview any relevant person and inspect and copy any records relevant to the proceedings, if not prohibited by federal law. The order shall specify that the guardian ad litem may interview any person providing medical, mental health, social, educational, or other services to the child, may attend any departmental staff meeting, case conference, or meeting with medical or mental health providers, service providers, organizations, or educational institutions regarding the child, if deemed necessary by the guardian ad litem, and may inspect and copy any records relevant to the proceedings.~~

Sec. 35. Section 232.52, subsection 2, paragraph a, subparagraph (4), Code 1999, is amended by adding the following new subparagraph subdivisions:

* Chapter 164 herein

NEW SUBPARAGRAPH SUBDIVISION. (g) Section 708.1, if the assault is committed upon an employee of the school at which the child is enrolled, and the child intended to inflict serious injury upon the school employee or caused bodily injury or mental illness.

NEW SUBPARAGRAPH SUBDIVISION. (h) Section 724.4, if the child carried the dangerous weapon on school grounds.

NEW SUBPARAGRAPH SUBDIVISION. (i) Section 724.4B.

Sec. 36. Section 484B.4, subsection 2, paragraph c, Code 1999, is amended by striking the paragraph.

Sec. 37. Section 490A.1504, Code 1999, is amended to read as follows:
490A.1504 WHO MAY ORGANIZE.

~~Two~~ One or more individuals having capacity to contract, ~~each of whom is and~~ licensed to practice a profession in this state in which the professional limited liability company is to be authorized to practice, may ~~act as organizers of~~ organize a professional limited liability company.

Sec. 38. Section 514I.5, subsection 7, paragraph d, Code 1999, is amended to read as follows:

d. Develop, with the assistance of the department, an outreach plan ~~for implementation by the administrative contractor,~~ and provide for periodic assessment of the effectiveness of the outreach plan. The plan shall provide outreach to families of children likely to be eligible for assistance under the program ~~or for other health insurance coverage or care programs,~~ to inform them of the availability of and to assist the families in enrolling children in the program. The outreach efforts ~~shall~~ may include, but are not limited to, a comprehensive statewide media campaign, solicitation of cooperation from programs, agencies, and other persons who are likely to have contact with eligible children, including but not limited to those associated with the educational system, and the development of community plans for outreach and marketing.

Sec. 39. Section 514I.7, subsection 2, paragraph a, Code 1999, is amended by striking the paragraph.

Sec. 40. The general assembly shall enact legislation no later than March 1, 2000, to address alternative high school program funding as provided under section 257.11. The general assembly's interim committee on school finance shall study and make recommendations for funding alternative high school programs offered within a school district, by another school district, or with a community college. The committee's report shall be forwarded to the members of the general assembly no later than December 1, 1999.

Sec. 41. Section 137D.9, Code 1999, is repealed.

DIVISION VII CORRECTIVE AMENDMENTS

Sec. 42. Section 12C.1, subsection 3, paragraph b, Code 1999, as amended, by 1999 Iowa Acts, House File 571,* section 4, if enacted, is amended to read as follows:

b. If a depository is a bank, public deposits in the bank shall be secured pursuant to sections ~~12C.23~~ 12C.23A and 12C.24.

Sec. 43. Section 12C.23, subsection 3, paragraph d, Code 1999, as amended by 1999 Iowa Acts, House File 571,* section 11, if enacted, is amended to read as follows:

d. If the loss to public funds is not covered by insurance and the proceeds of the failed credit union's assets which are liquidated within thirty days of the closing of the credit union and pledged collateral, the treasurer shall provide coverage of the remaining loss from the state sinking fund for public deposits in credit unions. If the funds are inadequate

* Chapter 117 herein

to cover the entire loss, then the treasurer shall make an assessment against other credit unions who hold public funds. The assessment shall be determined by multiplying the total amount of the remaining loss to public depositors by a percentage that represents the average of public funds deposits held by all credit unions during the preceding twelve-month period ending on the last day of the month immediately preceding the month the credit union was closed. Each credit union shall pay its assessment to the treasurer within three business days after it receives notice of assessment. If a credit union fails to pay its assessment when due, the treasurer of state shall initiate a lawsuit to collect the assessment. If a credit union is found to have failed to pay the assessment as required by this ~~subparagraph~~ paragraph, the court shall order it to pay the assessment, court costs, reasonable attorney's fees based upon the amount of time the attorney general's office spent preparing and bringing the action, and reasonable expenses incurred by the treasurer of state's office. Idle balances in the fund are to be invested by the treasurer with earnings credited to the fund. Fees paid by credit unions for administration of this chapter will be credited to the fund and the treasurer may deduct actual costs of administration from the fund.

Sec. 44. Section 12C.23A, subsection 3, paragraph b, if enacted by 1999 Iowa Acts, House File 571,* section 12, is amended to read as follows:

b. The recovery of any loss to public depositors shall begin with applicable deposit insurance. The priority of claims are those established pursuant to section 524.1312, subsection 2, ~~section 533.22, subsection 1, paragraph "b", or section 534.517.~~ To the extent permitted by federal law, in the distribution of an insolvent federally chartered bank's assets, the order of payment of liabilities if its assets are insufficient to pay in full all its liabilities for which claims are made shall be in the same order as for a state-chartered bank as provided in section 524.1312, subsection 2.

Sec. 45. Section 12C.23A, subsection 3, paragraph d, if enacted by 1999 Iowa Acts, House File 571,* section 12, is amended to read as follows:

d. If the loss to public funds is not covered by insurance and the proceeds of the failed bank's assets which are liquidated within thirty days of the closing of the bank, are not sufficient to cover the loss, then any further payments to cover the loss will come from the state sinking fund for public deposits in banks. If the balance in that sinking fund is inadequate to pay the entire loss, then the treasurer shall obtain the additional amount needed by making an assessment against other banks whose public funds deposits exceed deposit insurance coverage. A bank's assessment shall be determined by multiplying the total amount of the remaining loss to all public depositors by a percentage that represents that bank's proportional share of the ~~average total~~ of uninsured public funds deposits held by all banks. Each bank shall pay its assessment to the treasurer within three business days after it receives notice of assessment. If a bank fails to pay its assessment when due, the treasurer of state shall initiate a lawsuit to collect the assessment. If a bank is found to have failed to pay the assessment as required by this ~~subparagraph~~ paragraph, the court shall order it to pay the assessment, court costs, reasonable attorney fees based on the amount of time the attorney general's office spent preparing and bringing the action, and reasonable expenses incurred by the treasurer of state. Idle balances in the fund shall be invested by the treasurer with earnings credited to the fund. Fees paid by banks for administration of this chapter shall be credited to the fund and the treasurer may deduct actual costs of administration from the fund.

Sec. 46. Section 13B.4, subsection 1, Code 1999, as amended by 1999 Iowa Acts, House File 573,** section 1, is amended to read as follows:

1. The state public defender shall coordinate the provision of legal representation of all indigents under arrest or charged with a crime, on appeal in criminal cases, ~~and~~ on appeal in proceedings to obtain postconviction relief when ordered to do so by the district court in which the judgment or order was issued, and on a reopening of a sentence proceeding, and

* Chapter 117 herein

** Chapter 12 herein

may provide for the representation of indigents in proceedings instituted pursuant to chapter 908. The state public defender shall not engage in the private practice of law.

Sec. 47. Section 37.10, unnumbered paragraph 1, Code 1999, as amended by 1999 Acts, House File 224,*¹ section 2, is amended to read as follows:

Each commissioner, except for a memorial hospital ~~commissioner~~, shall be an honorably discharged soldier, sailor, marine, airman, or coast guard member and be a resident of the county in which the memorial hall or monument is located. Each commissioner for a memorial hospital shall be a resident of the county in which the memorial hospital is located.

Sec. 48. Section 124.401F, subsection 1, Code 1999, as enacted by 1999 Iowa Acts, House File 573,*² section 6, is amended to read as follows:

1. A person shall not intentionally tamper with anhydrous ammonia equipment. Tampering occurs when a person who is not authorized by the owner of anhydrous ammonia equipment uses the equipment in violation of a provision of this section. A person shall not in any manner or for any purpose sell, fill, refill, deliver, permit to be delivered, or use an anhydrous ammonia container or receptacle, including for the storage of any gas or compound, unless the person owns the container or receptacle or is authorized to do so by the owner. A person shall not possess or transport anhydrous ammonia in a container or receptacle which is not authorized by the secretary of agriculture to hold anhydrous ammonia.

Sec. 49. Section 172C.1, subsection 3, as enacted by 1999 Iowa Acts, Senate File 436,*³ if enacted, is amended to read as follows:

3. "Packer" means a person who is engaged in the business of slaughtering livestock or receiving, purchasing, or soliciting livestock for slaughter, if the meat products of the slaughtered livestock which are directly or indirectly to be offered for resale or for public consumption ~~and the meat products~~ have a total annual value of ten million dollars or more. As used in this chapter, "packer" includes an agent of the packer engaged in buying or soliciting livestock for slaughter on behalf of a packer. "Packer" does not include a frozen food locker plant regulated under chapter 172.

Sec. 50. Section 249A.3, subsection 2, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Medical assistance may also, within the limits of available funds and in accordance with section 249A.4, subsection 1, be provided to, or on behalf of, other individuals and families who are not excluded under subsection 4 ~~5~~ of this section and whose incomes and resources are insufficient to meet the cost of necessary medical care and services in accordance with the following order of priorities:

Sec. 51. Section 256E.7, subsection 4, as enacted by 1999 Iowa Acts, House File 743,*⁴ section 7, is amended to read as follows:

4. Prior to receiving funds pursuant to section 256E.5, subsection 2, 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, shall each submit to the departments of education and human services 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. Each institution developing a plan under this subsection needs to develop only one plan to send to the departments of education and human services while this chapter is effective. Each institution shall submit an annual progress report to the departments of education and human services. ~~Each institution shall submit an annual progress report to the departments of education and human services.~~

*¹ Chapter 36 herein

*² Chapter 12 herein

*³ Chapter 88 herein

*⁴ Chapter 18 herein

Sec. 52. Section 321.471, subsection 1, unnumbered paragraph 1, Code 1999, as amended by 1999 Iowa Acts, House File 651,* section 8, if enacted, is amended to read as follows:

Local authorities with respect to a highway under their jurisdiction may by ordinance or resolution prohibit the operation of vehicles upon the highway or impose restrictions as to the weight of vehicles to be operated upon the highway for a total period of not to exceed ninety days in any one calendar year, whenever the highway by reason of deterioration, rain, snow, or other climatic conditions will be seriously damaged or destroyed unless the use of vehicles on the highway is prohibited or the permissible weights reduced. The ordinance or resolution shall not apply to implements of husbandry as defined in section 321.1, implements of husbandry loaded on hauling units for transporting the implements to locations for repair, or fire apparatus and road maintenance equipment owned by ~~or~~, under lease to, or used in the performance of a contract with a state or local authority.

Sec. 53. Section 321.471, subsection 2, Code 1999, paragraph a, as enacted and amended by 1999 Iowa Acts, House File 651,* section 8, if enacted, is amended to read as follows:

a. Upon a finding that a bridge or culvert does not meet established standards set forth by state and federal authorities, local authorities may by ordinance or resolution impose limitations for an indefinite period of time on the weight of vehicles upon bridges or culverts located on highways under their sole jurisdiction. The limitations shall be effective when signs giving notice of the limitations are erected. The ordinance or resolution shall not apply to implements of husbandry loaded on hauling units for transporting the implements to locations for purposes of repair or to fire apparatus or road maintenance equipment owned by ~~or~~, under lease to, any or used in the performance of a contract with a state or local authority.

Sec. 54. Section 321.474, unnumbered paragraph 1, Code 1999, as amended by 1999 Iowa Acts, House File 651,* section 9, if enacted, is amended to read as follows:

The department shall have authority, as granted to local authorities, to determine by resolution and to impose restrictions as to the weight of vehicles, except implements of husbandry as defined in section 321.1, implements of husbandry loaded on hauling units for transporting the implements to locations for repair, and fire apparatus and road maintenance equipment owned by ~~or~~, under lease to, any or used in the performance of a contract with a state or local authority, operated upon any highway under the jurisdiction of the department for a definite period of time not to exceed twelve months. The restrictions shall be effective when signs giving notice of the restrictions and the expiration date of the restrictions are erected upon the affected highway or portion of highway.

Sec. 55. Section 321.474, unnumbered paragraph 2, if enacted by 1999 Iowa Acts, House File 651,* section 9, is amended to read as follows:

Upon a finding that a bridge or culvert does not meet established standards set forth by state and federal authorities, the department may impose, by resolution, restrictions for an indefinite period of time on the weight of vehicles operated upon bridges or culverts located on highways under its jurisdiction. The restrictions shall be effective when signs giving notice of the restrictions are erected. The restrictions shall not apply to implements of husbandry loaded on hauling units for transporting the implements to locations for purposes of repair or to fire apparatus or road maintenance equipment owned by ~~or~~, under lease to, any or used in the performance of a contract with a state or local authority.

Sec. 56. Section 427.1, subsection 30, if enacted by 1999 Iowa Acts, House File 758,** is amended to read as follows:

30. MOBILE HOME PARK STORM SHELTER. A structure constructed as a storm shelter at a mobile home park as defined in section 435.1. ~~If the structure serves a use in addition to use as a storm shelter, the exemption shall apply only to that portion of the structure which serves as a storm shelter.~~ An application for this exemption shall be filed with the assessing

* Chapter 108 herein

** Chapter 186 herein

authority not later than April fifteenth of the first year for which the exemption is requested, on forms provided by the department of revenue and finance. The application shall describe and locate the storm shelter to be exempted. If the storm shelter structure is used exclusively as a storm shelter, all of the structure's assessed value shall be exempt from taxation. If the storm shelter structure is not used exclusively as a storm shelter, the storm shelter structure ~~which is not used exclusively as a storm shelter~~ shall be assessed for taxation at seventy-five percent of its value as commercial property.

Sec. 57. Section 476.86, unnumbered paragraph 1, as enacted by 1999 Iowa Acts, Senate File 224,*¹ section 2, is amended to read as follows:

As used in this section and section 476.87, unless the context otherwise requires:

Sec. 58. Section 514C.14, subsection 2, paragraph b, if enacted by 1999 Iowa Acts, Senate File 8,*² section 1, is amended to read as follows:

b. This ~~chapter section~~ shall not apply to accident only, specified disease, short-term hospital or medical, hospital confinement indemnity, credit, dental, vision, Medicare supplement, long-term care, basic hospital and medical-surgical expense coverage as defined by the commissioner, disability income insurance coverage, coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, or automobile medical payment insurance.

Sec. 59. Section 524.1406, subsection 3, paragraph b, if enacted by 1999 Iowa Acts, House File 445,*³ section 1, is amended to read as follows:

b. ~~If, prior~~ Prior to giving notice of a meeting at which a shareholder would be entitled to assert dissenter's rights, a bank may seek a declaratory judgment to establish the fair value for purposes of section 490.1301, subsection 4, of shares held by shareholders who would have a right to dissent. Another cause of action or a counterclaim shall not be joined with such a declaratory action. A declaratory judgment shall be filed in the county where the bank's principal place of business is located. The court shall appoint an attorney to represent minority shareholders. All shareholders of the bank shall be served with notice of the action and be advised of the name, address, and telephone number of the attorney appointed to represent minority shareholder interests. The bank may select an appraiser to give an opinion on fair value and the attorney shall select an appraiser to give an opinion on fair value. Any shareholder may participate individually and present evidence of the fair value of such shareholder's shares. All court costs, appraiser's fees, and the fees and expenses of the attorney shall be assessed against the bank. A judgment in the action shall not determine fair value for a share to be less than the stockholders' equity in the bank in its last statement of condition filed under section 524.220 divided by the number of shares outstanding. A final judgment in the action shall establish fair value for the purposes of chapter 490, division XIII and shall be disclosed to the shareholders in the notice to shareholders of the meeting to approve the transaction that gives rise to dissenters' rights. If the proposed transaction is approved by the shareholders, upon consummation of the proposed transaction the fair value so established shall be paid to all shareholders entitled to payment for their shares upon receipt of such shareholders' share certificates.

Sec. 60. Section 602.7103, subsection 2, Code 1999, as amended by*⁴ House File 647,*⁵ section 7, as subsection 1, if enacted, is amended to read as follows:

1. An associate juvenile judge shall have the same jurisdiction to conduct juvenile court proceedings, to issue warrants, nontestimonial identification orders, and contempt arrest warrants for adults in juvenile court proceedings, and to issue orders, findings, and decisions as the judge of the juvenile court. However, the ~~appointing~~ chief judge may limit the exercise of juvenile court jurisdiction by the associate juvenile judge.

*¹ Chapter 20 herein

*² Chapter 75 herein

*³ Chapter 162 herein

*⁴ 1999 Iowa Acts probably intended

*⁵ Chapter 93 herein

Sec. 61. Section 602.7103B, subsection 5, if enacted by 1999 Iowa Acts, House File 647,* section 9, is amended to read as follows:

5. A full-time associate juvenile judge who seeks to resign from the office of ~~district associate~~ full-time associate juvenile judge shall notify in writing the chief judge of the judicial district as to the full-time associate juvenile judge's intention to resign and the effective date of the resignation. The chief judge of the judicial district, upon receipt of the notice, shall notify the county magistrate appointing commission and the state court administrator of the actual or impending vacancy in the office of full-time associate juvenile judge due to resignation.

Sec. 62. Section 633.20B, subsection 5, if enacted by 1999 Iowa Acts, House File 647,* section 13, is amended to read as follows:

5. A full-time associate probate judge who seeks to resign from the office of ~~district associate~~ full-time associate probate judge shall notify in writing the chief judge of the judicial district as to the full-time associate probate judge's intention to resign and the effective date of the resignation. The chief judge of the judicial district, upon receipt of the notice, shall notify the county magistrate appointing commission and the state court administrator of the actual or impending vacancy in the office of full-time associate probate judge due to resignation.

Sec. 63. Section 808B.5, subsection 11, Code 1999, as amended by 1999 Iowa Acts, Senate File 309,** section 21, if enacted, is amended to read as follows:

11. An aggrieved person in a trial, hearing, or proceeding in or before any court, department, officer, agency, regulatory body, or other authority of this state, may move to suppress the contents of an intercepted wire, oral, or electronic communication, or evidence derived from the wire, oral, or electronic communication, on the grounds that the communication was unlawfully intercepted, the order of authorization under which it was intercepted was insufficient on its face, or the interception was not made in conformity with the order of authorization. The motion shall be made before the trial, hearing, or proceeding unless there was no opportunity to make the motion or the person was not aware of the grounds of the motion. If the motion is granted, the contents of the intercepted wire, oral, or electronic communication, or evidence derived from the wire ~~communication or, oral, or electronic~~ communication, shall be treated as having been obtained in violation of this chapter.

Sec. 64. Section 808B.11, subsections 1 and 2, if enacted by 1999 Iowa Acts, Senate File 309,** section 26, are amended to read as follows:

1. An application for an order or an extension of an order authorizing or approving the installation and use of a pen register or a trap and trace device shall be made in writing by a prosecuting attorney upon oath or affirmation to a district court. Only a special state agent may ~~only~~ conduct an investigation authorized under this section or section 808B.12. An application shall include the following information:

a. The identity of the prosecuting attorney, and the identity of the special state agent authorized to conduct the investigation.

b. A certified statement by the special state agent that the information likely to be obtained is relevant to an ongoing criminal investigation of an offense listed under section 808B.3 or an offense that may lead to an immediate danger of death of or serious bodily injury of to a person.

2. Upon application the court may enter an ex parte order or an ex parte extension of an order, authorizing the installation and use of a pen register or trap and trace device within the territorial jurisdiction of the court, if the court finds that the special state agent has certified to the court that the information likely to be obtained by the use of a pen register or trap and trace device is relevant to an ongoing criminal investigation of an offense listed under section 808B.3 or an offense that may lead to ~~the~~ an immediate danger of death of or serious bodily injury of to a person.

* Chapter 93 herein

** Chapter 78 herein

Sec. 65. Section 808B.11, subsection 4, if enacted by 1999 Iowa Acts, Senate File 309,*¹ section 26, is amended to read as follows:

4. ~~Any~~ Except as otherwise provided in paragraph "b", any order granted under this section shall be sealed until otherwise ordered by the court.

a. Any person owning or leasing the telephone line to which the pen register or trap and trace device is attached, or who has been ordered by the court to furnish information, facilities, or technical assistance to the applicant, shall not disclose the existence of the pen register or trap and trace device or the existence of the investigation of the listed subscriber, to any person, unless or until otherwise ordered by the court.

b. ~~Notwithstanding subsection 4, a~~ A prosecuting attorney or special state agent may utilize or share any information obtained from the use of a pen register or trap and trace device with other prosecuting attorneys or law enforcement agencies while acting within the scope of their employment.

c. A violation of this subsection may be punished as contempt of court.

Sec. 66. Section 808B.12, subsection 1, paragraph a, if enacted by 1999 Iowa Acts, Senate File 309,*¹ section 27, is amended to read as follows:

a. The court reasonably determines that an emergency situation exists that involves an immediate danger of death of or serious ~~bodily~~ injury to any person.

Sec. 67. Section 808B.12, subsection 3, if enacted by 1999 Iowa Acts, Senate File 309,*¹ section 27, is amended to read as follows:

3. An investigative or law enforcement officer who knowingly uses a pen register or trap and trace device pursuant to this section after the effectiveness of the ~~authorizing~~ emergency order has terminated pursuant to subsection 2 due to the lapse of the forty-eight hours commits a serious misdemeanor.

Sec. 68. 1999 Iowa Acts, House File 745,*² section 19, if enacted, is amended to read as follows:

SEC. 19. Notwithstanding section 8.33, all unencumbered and unobligated moneys remaining in the economic development deaf interpreters revolving fund established in section 15.108, shall transfer to the rural community 2000 program revolving fund established in section 15.287 on the effective date of this section of this Act.

Sec. 69. 1999 Iowa Acts, Senate File 460,*³ section 10, subsection 7, unnumbered paragraph 2, if enacted, is amended to read as follows:

The employment appeal board shall be reimbursed by the labor services division of the department of ~~employment services~~ workforce development 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.

Sec. 70. 1999 Iowa Acts, Senate File 464,*⁴ section 1, subsection 4, if enacted, is amended to read as follows:

4. NATIONAL GUARD ~~TUITION AID~~ EDUCATIONAL ASSISTANCE PROGRAM

For purposes of providing national guard ~~tuition aid~~ educational assistance under the program established in section 261.86:

..... \$ 833,900

Sec. 71. 1999 Iowa Acts, Senate File 464,*⁴ section 4, if enacted, is amended to read as follows:

*¹ Chapter 78 herein
*² Chapter 197 herein
*³ Chapter 199 herein
*⁴ Chapter 205 herein

SEC. 4. REMAINING NATIONAL GUARD TUITION AID PROGRAM BALANCE. Notwithstanding section 8.33, the unencumbered or unobligated moneys remaining at the end of the fiscal year ending June 30, 1999, from the appropriations made in 1998 Iowa Acts, chapter 1215, section 1, subsection 4, shall not revert but shall be available for expenditure during the subsequent fiscal year for the purposes of the national guard ~~tuition aid~~ educational assistance program established by this Act.

Sec. 72. STRATEGIC INVESTMENT FUND TRANSFER EFFECTIVE DATE. The provision in 1999 Iowa Acts, House File 745,* section 1, subsection 2, paragraph "e", if enacted, relating to the transfer of moneys from the strategic investment fund to the physical infrastructure assistance fund, being deemed of immediate importance, takes effect upon enactment.

Sec. 73. Sections 15E.152 through 15E.155, 15E.157 through 15E.161, 15E.165, and 15E.166, Code 1999, are repealed.

Sec. 74. EFFECTIVE DATES. The following sections of this division of this Act, being deemed of immediate importance, take effect upon enactment or as otherwise specified:

1. Section 42, amending section 12C.1.
2. Section 43, amending section 12C.23, subsection 3, paragraph "d".
3. Section 44, amending section 12C.23A, subsection 3, paragraph "b".
4. Section 45, amending section 12C.23A, subsection 3, paragraph "d".
5. Section 49, amending section 172C.1, takes effect July 1, 2000.
6. Section 57, amending section 476.86.
7. Section 68, amending 1999 Iowa Acts, House File 745,* section 19.
8. Section 71, amending 1999 Iowa Acts, Senate File 464,** section 4.
9. Section 72, relating to the effective date of 1999 Iowa Acts, House File 745,* section 1, subsection 2, paragraph "e".

Approved May 27, 1999

CHAPTER 209

OLA BABCOCK MILLER STATE OFFICE BUILDING — COMMEMORATION

S.J.R. 2

A JOINT RESOLUTION relating to the designation of the Old State Historical Building as the Ola Babcock Miller State Office Building.

WHEREAS, it has become accepted procedure to name state office buildings in the Capitol Complex in honor of persons significant in Iowa's history and heritage; and

WHEREAS, the state office building located at 1112 East Grand Avenue, which houses the State Library, the Board of Regents, and the Crime Victim Assistance Division of the Attorney General's Office, has not had a name change since the construction of the New Historical Building and has therefore simply been called the Old State Historical Building; and

WHEREAS, the Iowa Commission on the Status of Women has recommended that this building be named in commemoration of a distinguished Iowa native and member of the Iowa Women's Hall of Fame, Viola "Ola" Babcock Miller, who made a lifetime commitment to public service in the State of Iowa; and

* Chapter 197 herein

** Chapter 205 herein

WHEREAS, Ola Babcock Miller began her service as an advocate and a leader in the state for women's suffrage; and

WHEREAS, Ola Babcock Miller was elected in 1932 as Iowa's first female Secretary of State and was reelected twice, dying at age 65 while serving her third term; and

WHEREAS, Ola Babcock Miller's most outstanding achievement was that of founding the Iowa State Patrol, after convincing the state legislature that a statewide law enforcement agency was needed, particularly to enforce highway safety laws; and

WHEREAS, the Iowa State Patrol was created in 1935 and placed under Ola Babcock Miller's control where it grew from a force of 50 men to 150 patrol officers by 1938; and

WHEREAS, today, the Iowa State Patrol, part of the Department of Public Safety, has 439 patrol officers, 13 of whom are women; and

WHEREAS, in her position as Secretary of State, Ola Babcock Miller lobbied for other issues of import, which included a 1935 campaign against drunken drivers; and

WHEREAS, Ola Babcock Miller, in her private life, served in leadership positions in numerous organizations, including the PEO Sisterhood, serving at different times as both its state and national president; NOW THEREFORE,

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

That the state office building located at 1112 East Grand Avenue, which houses the State Library, the Board of Regents, and the Crime Victim Assistance Division of the Attorney General's Office is named the Ola Babcock Miller State Office Building in honor of Viola "Ola" Babcock Miller; and that an appropriate commemorative plaque be placed near the entrance of the Ola Babcock Miller State Office Building in recognition of Ola Babcock Miller and the outstanding contributions she made to the state in her public and private service.

Approved April 23, 1999

CHAPTER 210

ROCK ISLAND ARSENAL — ADDITIONAL PRODUCTION WORK REQUEST

H.J.R. 13

A JOINT RESOLUTION requesting the United States Department of Defense and the United States Army to place additional production work at the Rock Island Arsenal.

WHEREAS, the United States army has indicated that there will be a layoff of several hundred skilled production employees at the Rock Island Arsenal manufacturing facilities during the fiscal year beginning July 1, 1999; and

WHEREAS, the placement of additional work at the Rock Island Arsenal by the United States Army could be facilitated through the Arsenal Act, which allows for noncompetitive work loading of the Arsenal, and the Competition in Contracting Act, which would designate the Arsenal an industrial preparedness facility; and

WHEREAS, indications of recent increased tension in the Middle East region and in North Korea may require an increased level of production for needed war fighting equipment and materiel; and

WHEREAS, achieving an increased level of production would more readily be accomplished by placing additional production work at a facility which is maintained in a mobilized status with experienced employees working to protect American interests; and

WHEREAS, the Rock Island Arsenal has proven capable of producing many weapons systems at a lower cost than producers of such systems in the private sector and thus accordingly warrants a greater share of the production and rehabilitation of these systems being placed at the Arsenal; and

WHEREAS, an immediate response to any conflict or emergency can be made by the Rock Island Arsenal in contrast to potential private sector delays; NOW THEREFORE,

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

That the United States Department of Defense and the United States Army are urged to place additional production work at the Rock Island Arsenal to maintain the current employment level, increase production work, and lower overall production costs at the Arsenal; and

BE IT FURTHER RESOLVED, That copies of this resolution be sent to the President of the United States, the United States Secretary of Defense, the Secretary of the Army, the Commander of Headquarters of the Army Material Command, the Majority and Minority Leaders of the United States Senate, the Speaker, Majority Leader, and Minority Leader of the United States House of Representatives, and to members of the Illinois and Iowa congressional delegations.

CHAPTER 211

NULLIFICATION OF ADMINISTRATIVE RULE — PREPARATION OF DESCRIPTIONS OF BALLOT ISSUES

H.J.R. 15

A JOINT RESOLUTION to nullify an administrative rule of the secretary of state concerning preparation of descriptions of constitutional amendments and statewide public measures and providing an effective date.

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

Section 1. 721 Iowa administrative code, rule 21.200, subrule 3, paragraph a, lines 1 and 2 through the word “voters,” is nullified.

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

CHAPTER 212**PROPOSED CONSTITUTIONAL AMENDMENTS — STATE
EXPENDITURES AND TAXES**

S.J.R. 1

Second Time Passed

A JOINT RESOLUTION proposing amendments to the Constitution of the State of Iowa relating to the state budget by limiting state general fund expenditures and restricting certain state tax revenue changes.

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: The Constitution of the State of Iowa is amended by adding the following new section to new Article XIII:

**ARTICLE XIII.
EXPENDITURE LIMITATION.****GENERAL FUND EXPENDITURE LIMITATION. Section 1.**

1. For the purposes of this section:

a. "Adjusted revenue estimate" means the most recent revenue estimate determined before January 1, or a later and lesser revenue estimate determined before adjournment of the regular session of the General Assembly, for the general fund for the following fiscal year as determined by a revenue estimating conference which shall be established by the General Assembly by law, adjusted by subtracting estimated refunds payable from that estimated revenue and adding any available surplus in accordance with subsection 5.

b. "General fund" means the principal operating fund of the state which shall be established by the General Assembly by law.

c. "New revenues" means moneys which are received by the state due to increased tax rates or fees or newly created taxes or fees over and above those moneys which are received due to state taxes or fees which are in effect as of January 1 following the most recent state revenue estimating conference. "New revenues" also includes moneys received by the general fund due to new transfers over and above those moneys received by the general fund due to transfers which are in effect as of January 1 following the most recent state revenue estimating conference. The state revenue estimating conference shall determine the eligibility of transfers to the general fund which are to be considered as new revenue in determining the state general fund expenditure limitation.

2. A state general fund expenditure limitation is created and calculated in subsection 3, for each fiscal year beginning on or after July 1 following the effective date of this section.

3. Except as otherwise provided in this section, the state general fund expenditure limitation for a fiscal year shall be ninety-nine percent of the adjusted revenue estimate.

4. The state general fund expenditure limitation shall be used by the Governor in the preparation of the budget and by the General Assembly in the budget process. If a new revenue source is proposed, the budget revenue projection used for that new revenue source for the period beginning on the effective date of the new revenue source and ending in the fiscal year in which the source is included in the adjusted revenue estimate shall be ninety-five percent of the amount remaining after subtracting estimated refunds payable from the projected revenue from that source. If a new revenue source is established and implemented, the original state general fund expenditure limitation amount provided for in subsection 3 shall be readjusted to include ninety-five percent of the estimated revenue from that source.

5. Any surplus existing at the end of a fiscal year which exceeds ten percent of the adjusted revenue estimate of that fiscal year shall be included in the adjusted revenue estimate for the following fiscal year. Any surplus equal to ten percent or less of the adjusted revenue estimate of the fiscal year may be included in the adjusted revenue estimate for the following fiscal year if approved in a bill receiving the affirmative votes of at least three-fifths of the whole membership of each house of the General Assembly. For purposes of this section, "surplus" means the cumulative excess of revenues and other financing sources over expenditures and other financing uses for the general fund at the end of a fiscal year.

6. The scope of the expenditure limitation under subsection 3 shall not include federal funds, donations, constitutionally dedicated moneys, and moneys in expenditures from a state retirement system.

7. The Governor shall submit and the General Assembly shall pass a budget which does not exceed the state general fund expenditure limitation.

8. The Governor shall not submit and the General Assembly shall not pass a budget which in order to balance assumes reversion of any part of the total of the appropriations included in the budget.

9. The state shall use consistent standards, in accordance with generally accepted accounting principles, for all state budgeting and accounting purposes.

10. The General Assembly shall enact laws to implement this section.

Sec. 2. The following amendment to the Constitution of the State of Iowa is proposed:

The Constitution of the State of Iowa is amended by adding the following new sections to new Article XIII:

ARTICLE XIII.

THREE-FIFTHS MAJORITY FOR TAX LAW CHANGES.

THREE-FIFTHS MAJORITY TO INCREASE TAXES. Section 1. A bill containing provisions enacting, amending, or repealing the state income tax or enacting, amending, or repealing the state sales and use taxes, in which the aggregate fiscal impact of those provisions relating to those taxes results in a net increase in state tax revenues, as determined by the General Assembly, shall require the affirmative votes of at least three-fifths of the whole membership of each house of the General Assembly for passage. This section does not apply to income tax or sales and use taxes imposed at the option of a local government.

THREE-FIFTHS MAJORITY TO ENACT NEW STATE TAX. Sec. 2. A bill that establishes a new state tax to be imposed by the state shall require the affirmative votes of at least three-fifths of the whole membership of each house of the General Assembly for passage.

ENFORCEMENT OF THREE-FIFTHS MAJORITY REQUIREMENT. Sec. 3. A lawsuit challenging the proper enactment of a bill pursuant to section 1 or 2 shall be filed no later than one year following the enactment. Failure to file such a lawsuit within the one-year time limit shall negate the three-fifths majority requirement as it applies to the bill.

Each bill to which section 1 or 2 applies shall include a separate provision describing the requirements for enactment prescribed by section 1 or 2.

IMPLEMENTATION. Sec. 4. The General Assembly shall enact laws to implement sections 1 through 3.

Sec. 3. The foregoing proposed amendments to the Constitution of the State of Iowa, having been adopted and agreed to by the Seventy-seventh General Assembly, 1998 Session, thereafter duly published, and now adopted and agreed to by the Seventy-eighth General Assembly in this joint resolution, shall be submitted to the people of the State of Iowa at a special election called for that purpose to be held on Tuesday, the 29th of June of the year 1999, in the manner required by the Constitution of the State of Iowa and the laws of the State of Iowa.

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